

EU Consumer Law Acquis Compendium

Legislation

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Full name and/or number of the statute (in original language):

Tarbijakaitseadus

Translation of the name:

Consumer Protection Act

Reference in Official Journal (if appropriate):

Riigi Teataja 1994, No.12, p. 13

Date of coming into force:

15.04.2004

Subsequent amendments:

Riigi Teataja 2004, No. 13, 86, No.41, 278

Text:

Chapter 1
General Provisions

§ 1. Scope of application of Act

(1) The purpose of this Act is to safeguard consumer rights.

(2) This Act regulates the offering and sale, or marketing in any other manner, of goods or services to consumers by traders, determines the rights of consumers as the purchasers or users of goods or services, and provides for the organisation and supervision of consumer protection and liability for violations of this Act.

(3) This Act also applies if traders arrange for the transfer of goods or provision of services to consumers.

(4) This Act, the Law of Obligations Act (RT I 2001, 81, 487; 2002, 60, 374; 2003, 78, 523), the Product Safety Act (RT I 1998, 40, 613; 1999, 82, 753; 2000, 86, 546; 2002, 47, 297; 61, 375; 63, 387; 2003, 20, 120; 26, 156; 32, correction notice) and other Acts apply to the offering, sale and marketing in any other manner of goods or services to consumers.

(5) The provisions of the Administrative Procedure Act (RT I 2001, 58, 354; 2002, 53, 336; 61, 375; 2003, 20, 117; 78, 527) apply to administrative proceedings prescribed in this Act, taking account of the specifications provided for in this Act. The settlement of disputes between a consumer and a trader is not deemed to be an administrative proceeding within the meaning of the Administrative Procedure Act.

§ 2. Definitions

For the purposes of this Act:

1) "consumer" means a natural person to whom goods or services are offered or who acquires or uses goods or services for purposes not related to his or her business or professional activities;

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2) "trader" means a person who offers and sells, or markets in any other manner, goods or provides services to consumers within the scope of the person's business or professional activities;

3) "goods" means a thing or right offered, sold or otherwise marketed by a trader;

4) "service" means a benefit offered, sold or otherwise marketed by a trader which are not goods;

(11.10.07 entered into force 12.12.07 - RT I 2007, 56, 375)

5) "producer" means a person defined in the Product Safety Act;

6) "universal service" means a service provided in the public interest and used by the overwhelming majority of the population of the state or a certain region, such as gas, electricity, heating, water, sewerage, waste handling, communications and other similar services.

§ 3. Fundamental consumer rights

Consumers have the right to:

- 1) demand and obtain goods and services which meet the requirements, are harmless to the life, health and property of the consumers, and are not prohibited from being owned or used;
- 2) obtain necessary and truthful information on the goods and services offered in order to make a conscious choice, and timely information on any risks relating to the goods or services;
- 3) obtain information on consumer law and other issues relating to consumption;
- 4) obtain advice and assistance if their rights are violated;
- 5) demand compensation for any patrimonial or non-patrimonial damage caused to them;
- 6) request that their interests be taken into account and that they be represented through consumers' federations and associations in the decision-making process on consumer policy issues.

Chapter 2

Informing Consumers

§ 4. Right of consumers to obtain information

(1) Consumers have the right to obtain information on the safety of goods and services offered as well as on aspects concerning protection of health, property and economic interests.

(2) Before consumers acquire goods or use services, traders and producers are required to provide the consumers with detailed information concerning the characteristics and conditions of use of the goods or services and, if a warranty specified in § 10 of this Act applies, concerning the warranty, as well as on the price, conditions of payment, performance of the contract, and the rights, obligations and liability arising from the contract, including the possibilities for submitting complaints regarding the goods or services, taking into account the provisions of subsection (1) of this section.

(3) In addition to the information specified in subsection (2) of this section, consumers have the right to obtain additional information concerning the goods or services offered.

(4) Information provided to consumers shall be truthful, understandable and in Estonian.

(5) Information provided to consumers concerning goods or services shall not attribute to the goods or services any characteristics which they do not have and shall not imply that the goods or services have any special characteristics if all goods or services of the same type possess such characteristics.

(6) Upon payment for goods or services, the trader shall provide the consumer with a document certifying the purchase of the goods or services and setting out at least:

- 1) the name or business name of the trader and the address of the place of business;
- 2) the date of the sale;
- 3) the price of each of the goods or each service and the total amount paid.

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(7) If the total amount to be paid by a consumer is less than 300 kroons, the document specified in subsection (6) of this section shall be given to the consumer at his or her request.

(8) If necessary, the Government of the Republic or a minister authorised thereby may establish requirements for providing consumers with information concerning certain goods or services.

(9) The provisions of §§ 5-7 of this Act apply to goods which are offered as movables.

§ 5. General requirements for labelling of goods

(1) The labelling of goods or on the packaging of goods or the label attached to goods offered or sold to consumers shall be legible, understandable and unambiguous and shall meet all the requirements established for the labelling of such goods.

(2) If no requirements have been established by legislation concerning the labelling of particular goods, the labelling on the goods shall at least set out the trade name of the goods, if the lack of this information could mislead the consumer.

(3) The trade name specified in subsection (2) of this section shall be the fixed expression used in practice to designate the goods, accompanied, if necessary, by a reference to the intended use of the goods or the materials used in manufacturing the goods, or any other name necessary to identify the goods. The trade name shall not be replaced by a trade mark or an invented name.

(4) In addition to the information specified in subsection (2) of this section and taking into account the type, characteristics and intended purpose of the goods, the following information shall be added:

1) the quantity or dimensions of the goods in relevant units of measurement according to the international system of units;

2) the composition of the goods and the quantities of the components;

3) instructions for washing, cleaning and maintaining the goods;

4) instructions for using the goods and the storage conditions for the goods;

5) warnings and precautions to prevent hazards relating to the use or destruction of the goods;

6) the shelf life of the goods, or

7) the main technical information concerning the goods.

(5) The information specified in subsection (4) of this section may be presented on the labelling of the goods, on a label attached to the goods or in the instruction manual accompanying the goods. The information presented shall enable the safe use of the goods for their intended purpose.

(6) The information specified in subsections (2) and (4) of this section shall be presented in writing and in Estonian. Instructive or warning drawings, pictograms, signs and symbols may also be used provided that the information they communicate is understandable to consumers.

(7) The original information presented on the labelling of goods shall not be covered by additional information, pictures or stickers.

(8) The general requirements set out in this section do not apply to second-hand goods unless warnings and precautions relating to the use or destruction of the goods are necessary to ensure the safety of consumers and to protect their health and property.

§ 6. Instruction manual

(1) Goods which are technically complex, contain hazardous substances or require special skills when using them shall be accompanied by an instruction manual from the producer.

(2) The instruction manual shall contain the necessary information for the consumer to use the goods correctly, economically and for their intended purpose and to assemble, install, connect, maintain or store and, if necessary, destroy the goods in the correct manner. If the goods consist of several parts, the instruction manual shall contain a list of the parts constituting the goods (the components of the set).

(3) An instruction manual which is in a foreign language shall be translated into Estonian at least as far as the information specified in subsection (2) of this section is concerned and it shall be unambiguous.

§ 7. Indication of price of goods

(1) When offering goods, including in shop windows, and selling goods, a trader shall indicate the selling price and the unit price of the goods to consumers, unless legislation established on the basis of subsection (10) of this section provides otherwise with regard to the unit price.

(2) "The selling price" is the final price to be paid by a consumer for a unit of goods or a given quantity of the goods.

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(3) "The unit price" is the final price for one kilogram, one litre, one metre, one square metre or one cubic metre of the goods. If the goods are not measured in the units specified above, the price for any other single unit of the goods may be considered as the unit price.

(4) The selling price and unit price of the goods shall be indicated in writing and be clearly legible and the prices shall be unambiguous and easily identifiable for consumers.

(15.12.2005 entered into force 08.01.2006 - RT I 2005, 71, 547)

(5) The selling price and unit price shall be indicated on the goods or their sales packaging or displayed in close proximity to the goods. It must be possible to remove the price indicated on the goods without damaging the goods.

(6) The unit price need not be indicated:

- 1) if it is identical to the selling price of the goods;
- 2) for goods offered in the course of the provision of a service;
- 3) for antiques and works of art;
- 4) for goods sold by auction.

(7) In the case of unpackaged goods sold in bulk according to quantity, volume or dimension in accordance with the wishes of the consumer, the unit price shall be indicated before measuring. The selling price shall be indicated after measuring.

(8) Repealed

(9) If an advertisement addressed to consumers contains information concerning the selling price of goods, the advertisement shall also indicate the unit price of the goods, unless otherwise provided by legislation.

(10) If necessary, the Minister of Economic Affairs and Communications may establish more specific requirements for indicating the prices of goods and services.

§ 8. Indication of prices for services

(15.12.2005 entered into force 08.01.2006 - RT I 2005, 71, 547)

(1) When offering a service or immediately before providing a service to a consumer, the trader shall notify the consumer of the selling price of the service. If it is not possible to determine the selling price of the service beforehand, the trader shall notify the consumer of the components of the price of the service, the rates or the bases on which the price is calculated such as to enable the consumer to calculate the selling price of the service with sufficient accuracy.

(15.12.2005 entered into force 08.01.2006 - RT I 2005, 71, 547)

(1¹) The selling price of a service is the final price to be paid by a consumer.

(15.12.2005 entered into force 08.01.2006 - RT I 2005, 71, 547)

(2) Upon offering a service, the price list for the services offered or any other document stating the bases on which the price of the service is calculated shall be displayed to consumers in a visible place. If a service is offered or provided outside business premises, the price list for services or the document stating the bases on which the price of the service is calculated shall be presented to the consumers.

(3) If it is not practical to indicate all the prices or the bases for their calculation in the price list due to the large number of services offered or for any other similar reason, it is sufficient to indicate the more general prices or the bases for their calculation. In such cases, the complete list of prices or the bases for their calculation shall be available to consumers and a reference to the complete list shall be made in the price list.

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(4) (Repealed -11.100.2007 entered into force 12.12.07 - RT I 2007, 56, 375)

Chapter 3

Offering and Sale of Goods or Services to Consumers

Division 1

Safety and Quality of Goods or Services

§ 9. General requirements

(1) Goods and services shall meet the established requirements, be harmless to the life, health and property of the consumer if used for their intended purpose and have the characteristics which can normally be expected of them by consumers. Goods sold or services provided to consumers shall conform to the contract conditions in accordance with the provisions of the Law of Obligations Act.

(2) Requirements for ensuring the safety of goods and services and the obligations and liability of producers and traders regarding safety are provided for in the Product and Service Safety Act and other legislation.

(11.10.07 entered into force 12.12.07 - RT I 2007, 56, 375)

(3) (Repealed -11.100.2007 entered into force 12.12.07 - RT I 2007, 56, 375)

§ 10. Warranty on goods or services

It is permitted to use the word warranty or any other word with the same meaning in any form or any word combination when offering goods or services provided that the meaning of the word is in compliance with the provisions of the Law of Obligations Act concerning warranty against defects, the provisions of the Law of Obligations Act concerning the contractor's guarantee and the provisions of the Building Act concerning guarantee on construction works.

§ 11. Defective goods

(1) Goods are defective if they do not meet the requirements established by legislation or other technical conditions. Goods are also defective if the minimum durability period, including the "best before" date, indicated on the goods has expired.

(2) Defective goods may be offered and sold to consumers only if the goods are harmless to life, health and property and if the consumers are notified of the defects of the goods.

(3) The provisions of subsection (2) of this section also apply to second-hand goods.

(4) Defective or second-hand goods shall be displayed separately from new goods and goods which meet the requirements, and corresponding information shall be displayed at the place of sale of the defective or second-hand goods. Information concerning a reduction in the price of the goods is not deemed to be information concerning the defects of the goods.

(5) The provisions of this section apply to goods offered as movables.

(11.10.07 entered into force 12.12.07 - RT I 2007, 56, 375)

2. Division 2

Business-to-consumer commercial practices

(11.10.07 entered into force 12.12.07 - RT I 2007, 56, 375)

§ 12. Commercial practices

(1) For the purpose of this Act, commercial practices means any act, omission, course of conduct or representation, commercial communication including advertising and marketing, by a trader, directly connected with the advertising, offering, sale or supply of a product to consumers.

(2) The provisions of this Division relating to commercial practices do not affect the application of legislation regulating private law. Violation of the prohibition of the use of unfair commercial practices do not result, in itself, in the nullity of the transaction.

(3) The provisions of this Division relating to commercial practices do not affect the application of legislation which, above all, establish:

1) health protection and safety requirements for goods and services or for the offering and marketing of goods and services;

2) requirements for the certification and marking of precious metal content in precious metal articles;

3) terms of foundation of undertakings, procedure for grant or registration of licences necessary for operation in certain areas of activity, and requirements for professions.

(11.10.07 entered into force 12.12.07 - RT I 2007, 56, 375)



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§ 12¹. Prohibition on use of unfair commercial practices

(1) The offering, sale and marketing in any other manner of goods and services to consumers shall follow good trade practice and be honest with regard to the consumers. The offering of goods or services shall be planned and carried out in a manner whereby the commercial purpose of the offer is clear to the consumers.

(2) The use of unfair commercial practices is prohibited before, during and after a commercial transaction in relation to a product.

§ 12². Unfair commercial practices

(1) A commercial practice shall be unfair if it is contrary to the requirements for professional diligence to be applied by a trader in the economic or professional activities thereof (hereinafter professional diligence), and it materially distorts or is likely to materially distort the economic behaviour with regard to the product or service of the average consumer whom it reaches or to whom it is addressed.

(2) The average consumer specified in subsection (1) of this section is deemed to be a consumer, who is reasonably well-informed and reasonably observant and circumspect, taking into account social, cultural and linguistic factors. Where a commercial practice is specifically aimed at a particular group of consumers, the average member of this group is deemed to be an average consumer.

(3) A commercial practice likely to distort the economic behaviour of groups of consumers who are particularly susceptible to the commercial practice or to the underlying product or service due to their physical or mental infirmity, age or credulity in a way that the trader can reasonably foresee shall be assessed based on the effect of the practice on the average member of that group.

(4) The provisions of subsection (3) of this section are without prejudice to the common and legitimate advertising practice of making exaggerated statements or statements which are not meant to be taken literally.

(5) In the case of the professional diligence specified in subsection (1) of this section, the standard of special skill and care which a trader may reasonably be expected to exercise towards consumers, commensurate with honest market practice and/or the general principle of good faith shall be taken as the basis.

(6) The codes of conduct applicable to the economic or professional activities of traders may be used for assessing the compliance of the traders to the requirements of professional diligence. Code of conduct means a set of rules or an agreement not imposed by legislation which defines the behaviour, in certain economic or professional activities, of traders acceded to such code undertake to follow. The entity responsible for the formulation of a code of conduct, including a trader or group of traders, may prescribe monitoring compliance with the code by the traders who have undertaken to be bound by it, and settlement of the complaints related to their activities.

(7) To materially distort the economic behaviour of consumers means using a commercial practice to appreciably impair the consumer's ability to make an informed decision, thereby causing the consumer to take a transactional decision that he would not have taken otherwise.

(8) The transactional decision specified in subsection (7) of this section means any decision taken by a consumer concerning whether the consumer decides to act or to refrain from acting, including whether, how and on what terms to purchase, make payment in whole or in part for, retain or dispose of a product or to exercise a contractual right in relation to the product.

(9) In particular, commercial practices shall be unfair which are misleading or are aggressive with respect to the consumer.

§ 12³. Misleading commercial practices

(1) Both misleading actions and misleading omissions are deemed to be misleading commercial practices.

(2) A commercial practice shall be regarded as misleading if it contains false information and therefore deceives or is likely to deceive the average consumer, even if the information is factually correct, and causes or is likely to cause the average consumer to take a transactional decision that he or she would not have taken otherwise. Information is deemed to be false if it is untruthful in relation to one or more of the following elements:

- 1) the existence or nature of the product or service;
- 2) the main characteristics of the product or service;
- 3) the extent of the trader's commitments, the motives for the commercial practice and the nature of the sales process, any statement or symbol in relation to direct or indirect sponsorship or approval of the trader or the product;
- 4) the price or the manner in which the price is calculated, or the existence of a specific price advantage;
- 5) the need for a service, part, replacement or repair;

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- 6) the nature, attributes and rights of the trader or his agent, such as his identity and assets, his qualifications, status, approval, affiliation or connection and ownership of industrial, commercial or intellectual property rights or his awards and distinctions;
- 7) the consumer's rights, including the right to replacement or reimbursement under the Law of Obligations Act.
- (3) The main characteristics of the product or service specified in clause (2) 2) of this section are, among other, the following:
- 1) availability;
 - 2) benefits;
 - 3) risks;
 - 4) execution, composition, accessories;
 - 5) method and date of manufacture or provision;
 - 6) fitness for purpose, usage;
 - 7) quantity;
 - 8) specification and origin;
 - 9) results to be expected from its use;
 - 10) results and material features of tests or checks carried out on the product;
 - 11) terms of delivery;
 - 12) after-sale customer assistance and complaint handling.
- (4) A commercial practice shall also be regarded as misleading if, in its factual context, taking account of all its features and circumstances, it causes or is likely to cause the average consumer to take a transactional decision that he would not have taken otherwise, and it involves:
- 1) any marketing of a product or service, including comparative advertising, which creates confusion with any products or services, trade marks, trade names or other distinguishing marks of a competitor;
 - 2) non-compliance by the trader with commitments contained in codes of conduct by which the trader has undertaken to be bound.
- (5) A commercial practice specified in clause (4) 2) of this section is not deemed to be misleading if the commitment contained in codes of conduct is aspirational but is not firm and not capable of being verified.
- (6) A commercial practice shall be regarded as misleading if, in its factual context, taking account of all its features and circumstances and the limitations of the communication medium, it omits material information that the average consumer needs to take an informed transactional decision, where the trader hides or provides in an unclear, unintelligible, ambiguous or untimely manner such material information or fails to identify the commercial intent of the commercial practice if not already apparent from the context, and thereby causes or is likely to cause the average consumer to take a transactional decision that he would not have taken otherwise..
- (7) Where the medium used to communicate the information imposes limitations of space or time, only a part of the material information shall be transmitted by this medium provided that the trader makes the information which was not communicated available to the consumer by other means.
- (8) The following commercial practices are in all circumstances considered unfair and shall be prohibited:
- 1) claiming to be a signatory to a code of conduct when the trader is not;
 - 2) claiming that a code of conduct has an endorsement from a public or other body which it does not have;
 - 3) displaying a trust mark, quality mark or equivalent without having obtained the necessary authorisation;
 - 4) claiming that a trader, including his commercial practices, or a product or service has been approved, endorsed or authorised by a public or private body when he/it has not or making such a claim without complying with the terms of the approval, endorsement or authorisation;
 - 5) making an invitation to purchase products or services at a specified price without disclosing the existence of any reasonable grounds the trader may have for believing that he will not be able to offer for supply or to procure another trader to supply, those products or services or equivalent products or services at that price for a period that is, and in quantities that are, reasonable having regard to the product or service, the scale of advertising of the product or service and the price offered (bait advertising);
 - 6) Making an invitation to purchase products or services at a specified price and then refusing to show the advertised product or service to consumers, or demonstrating a defective sample of it, or refusing to take orders for the relevant product or service or deliver it within a reasonable time with the intention of promoting a different product or service (bait and switch);
 - 7) falsely stating that a product or service will only be available for a very limited time, or that it will only be available on particular terms for a very limited time, in order to elicit an immediate decision and deprive consumers of sufficient opportunity or time to make an informed choice;

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- 8) undertaking to provide after-sales service to consumers with whom the trader has communicated prior to a transaction in a foreign language and then making such service available only in another language without clearly disclosing this to the consumer before the consumer is committed to the transaction;
- 9) stating or otherwise creating the impression that a product or service can legally be sold when it cannot;
- 10) presenting rights given to consumers in law as a distinctive feature of the trader's offer;
- 11) using editorial content in the media to promote a product or service where a trader has paid for the promotion without making that clear in the content or by images or sounds clearly identifiable by the consumer (advertorial);
- 12) making a materially inaccurate claim concerning the nature and extent of the risk to the personal security of the consumer or his family if the consumer does not purchase the product or service;
- 13) promoting a product similar to a product made by a particular manufacturer in such a manner as deliberately to mislead the consumer into believing that the product is made by that same manufacturer when it is not;
- 14) establishing, operating or promoting a promotional scheme where a consumer gives consideration for the opportunity to receive compensation that is derived primarily from the introduction of other consumers into the scheme rather than from the sale or consumption of products (pyramid promotional scheme);
- 15) claiming that the trader is about to cease trading or move premises when he is not;
- 16) claiming that products or services are able to facilitate winning in games of chance;
- 17) falsely claiming that a product is able to cure illnesses, dysfunction or malformations;
- 18) passing on materially inaccurate information on market conditions or on the possibility of finding the product or service with the intention of inducing the consumer to acquire the product or service at conditions less favourable than normal market conditions;
- 19) claiming in a commercial practice to offer a competition or prize promotion without awarding the prizes described or a reasonable equivalent;
- 20) describing a product or service as "gratis", "free", "without charge" or similar if the consumer has to pay anything other than the unavoidable cost of responding to the commercial practice and collecting or paying for delivery of the item;
- 21) including in marketing material an invoice or similar document seeking payment which gives the consumer the impression that he has already ordered the marketed product or service when he has not;
- 22) falsely claiming or creating the impression that the trader is not acting for purposes relating to his trade, business, craft or profession, or falsely representing oneself as a consumer;
- 23) creating the false impression that after-sales service in relation to a product or service is available in a Member State other than Estonia.

§ 12⁴. Material information upon invitation to purchase

(1) Invitation to purchase means a commercial communication by a trader which indicates characteristics of the product or service and the price in a way appropriate to the means of the commercial communication used and thereby enables the consumer to make a purchase.

(2) In the case of an invitation to purchase, the following information shall be regarded as material information within the meaning of subsection 12³ (6) of this Act if not already apparent from the context:

- 1) the main characteristics of the product or service, to an extent appropriate to the medium and the product or service;
- 2) the geographical address and the identity of the trader, such as his trading name and, where applicable, the geographical address and the identity of the trader on whose behalf he is acting;
- 3) the price inclusive of taxes, or where the nature of the product or service means that the price cannot reasonably be calculated in advance, the manner in which the price is calculated;
- 4) all additional freight, delivery or postal charges or, where these charges cannot reasonably be calculated in advance, the fact that such additional charges may be payable;
- 5) the procedure for payment for the product or service;
- 6) the arrangements for delivery, performance and the complaint handling policy, if they depart from the requirements of professional diligence;
- 7) for transactions involving a right of withdrawal or cancellation, the existence of such a right.

(3) In the case of an invitation to purchase, the information the communication of which upon the marketing of a product or service is required by the legislation of the European Union shall be regarded as material information in addition to the information specified in subsection (2) of this section.

§ 12⁵. Aggressive commercial practices

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(1) A commercial practice shall be regarded as aggressive if, in its factual context, taking account of all its features and circumstances, by harassment, coercion, including the use of physical force, or undue influence, it significantly impairs or is likely to significantly impair the average consumer's freedom of choice or conduct with regard to the product or service and thereby causes him or is likely to cause him to take a transactional decision that he would not have taken otherwise.

(2) The undue influence specified in subsection (1) of this section means exploiting a position of power in relation to the consumer so as to apply pressure in a way which significantly limits the consumer's ability to make an informed decision. Pressure can be applied to the consumer even without using or threatening to use physical force.

(3) In determining whether a commercial practice uses harassment, coercion, or undue influence, account shall be taken of:

- 1) its timing, location, nature or persistence;
- 2) the use of threatening or abusive language or behaviour;
- 3) the exploitation by the trader of any specific misfortune or circumstance of such gravity as to impair the consumer's judgement, of which the trader is aware, to influence the consumer's decision with regard to the product or service;
- 4) any onerous or disproportionate non-contractual barriers imposed by the trader where a consumer wishes to exercise rights under the contract, including rights to terminate a contract or to switch to another product or service, or another trader;
- 5) any threat to take any action that cannot legally be taken.

(4) The following commercial practices are in all circumstances considered aggressive and shall be prohibited:

- 1) creating the impression that the consumer cannot leave the premises until a contract is formed;
- 2) conducting personal visits to the consumer's home ignoring the consumer's request to leave or not to return except in circumstances and to the extent justified, under national law, to enforce a contractual obligation;
- 3) making persistent and unwanted solicitations by telephone, fax, e-mail or other remote media except in circumstances and to the extent justified under national law to enforce a contractual obligation;
- 4) requiring a consumer who wishes to claim on an insurance policy to produce documents which could not reasonably be considered relevant as to whether the claim was valid, or failing systematically to respond to pertinent correspondence, in order to dissuade a consumer from exercising his contractual rights;
- 5) including in an advertisement a direct exhortation to children to buy advertised products or services or persuade their parents or other adults to buy advertised products or services for them;
- 6) demanding immediate or deferred payment for or the return or safekeeping of products or services supplied by the trader, but not solicited by the consumer except where the product is a substitute supplied in conformity with subsection 99 (3) of the Law of Obligations Act (inertia selling);
- 7) explicitly informing a consumer that if he does not buy the product or service, the trader's job or livelihood will be in jeopardy;
- 8) creating the false impression that the consumer has already won, will win, or will on doing a particular act win, a prize or other equivalent benefit, when in fact either there is no prize or other equivalent benefit, or taking any action in relation to claiming the prize or other equivalent benefit is subject to the consumer paying money or incurring a cost. (11.10.07 entered into force 12.12.07 - RT I 2007, 56, 375)

§ 13. Contract negotiated away from business premises

(1) Upon entry into a contract negotiated away from business premises as provided for in §§ 46-51 of the Law of Obligations Act, the trader shall submit an information note in the format approved by the Minister of Economic Affairs and Communications to the consumer.

(2) In the event that goods are sold, the information note specified in subsection (1) of this section shall be submitted to the consumer not later than when the consumer receives the goods or the first part of the goods. In other cases, the information note shall be submitted to the consumer not later than when the consumer makes an offer or accepts the offer of the trader.

(3) The information note specified in subsection (1) of this section need not be submitted if



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the goods or services are offered:

- 1) outside the business premises of the trader at a place where the goods or services are ordinarily offered and sold, or
- 2) at a place to which consumers have been publicly invited through the media or by other means to purchase goods or services, or
- 3) at a place to which the trader has come at the clearly expressed request of the consumer in order to offer goods or services requested by the consumer.

§ 14. Distance contracts

The offering and sale of goods or services to consumers through a marketing system organised by a trader where contracts are entered into and the offers preceding the contracts are made only through a means of communication without the simultaneous physical presence of the parties shall be carried out in accordance with the provisions of §§ 52-62¹ of the Law of Obligations Act.

Chapter 4

Organisation of Consumer Protection

Division 1

Non-governmental Consumer Associations

§ 15. Consumer associations

(1) A consumer association is a voluntary association of persons the objective of the activities of which is to protect and promote the interests and rights of consumers and which is founded and registered in accordance with the Non-profit Associations Act (RT I 1996, 42, 811; 1998, 96, 1515; 1999, 10, 155; 23, 355; 67, 658; 2000, 55, 365; 88, 576; 2001, 56, 336; 93, 565; 2002, 53, 336; 2003, 88, 591).

(2) A consumer association has the right to:

- 1) participate in the development and implementation of consumer protection policy;
- 2) organise the dissemination of information as well as consultation and training relating to consumer protection;
- 3) advise and assist consumers;
- 4) represent a consumer, on the basis of an unattested authorisation document, in court and other state authorities and in relationships with traders or producers;
- 5) represent a consumer, on the basis of an unattested authorisation document, in the settlement of extra-judicial disputes;
- 6) organise surveys relating to consumer protection;
- 7) co-operate with supervisory authorities engaging in consumer protection.

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(3) For the purposes of this Act, a consumer association is deemed to be representing the collective interests of consumers if the association has at least fifty members and the federation of associations is deemed to be representing the collective interests of consumers if the associations which are the members of the federation have at least fifty members in total, and if the association or federation:

- 1) represents the interests of consumers at local or national level;
- 2) is independent of undertakings and political parties.

(4) In addition to the rights specified in subsection (2) of this section, a consumer association or the federation of associations representing the collective interests of consumers has the right:

- 1) in the cases provided by the Law of Obligations Act and in order to protect the collective interests of consumers, to demand through a court that the application of standard terms which cause unfair harm to consumers be terminated or that other violations be terminated and that any future violations be refrained from;
- 2) to participate in negotiations concerning the standard terms of contracts between providers of universal services and consumers, including on issues relating to price formation.

(5) The consumer protection activities carried out by a consumer association or the federation of associations representing the collective interests of consumers may be financed from the state budget pursuant to the procedure established by the Minister of Economic Affairs and Communications.

Division 2

Consumer Protection at Local Government Level

§ 16. Consumer protection activities of local governments

(1) Local governments shall organise the provision of advice relating to consumer protection for consumers within their administrative territories. Local governments are required to provide advice and assistance to consumers with regard to issues which are connected with services organised by the local governments pursuant to law.

(2) In order to perform the duties specified in subsection (1) of this section, a local government may form a consumer protection unit, authorise an official to engage in consumer protection or enter into a corresponding contract under public law, in accordance with the Administrative Co-operation Act (RT I 2003, 20, 117; 82, 552), with a consumer association specified in subsection 15 (1) of this Act.

Division 3

State Consumer Protection

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§ 17. Consumer Protection Board

(1) The Consumer Protection Board is a government authority within the area of government of the Ministry of Economic Affairs and Communications.

(2) The primary duty of the Consumer Protection Board is to protect the rights and interests of consumers in accordance with this Act and other legislation. The Consumer Protection Board is competent to:

1) exercise supervision over compliance with the requirements provided for the protection of consumer rights in this Act, legislation established on the basis of this Act, and other Acts;

2) make proposals to amend or establish legislation relating to consumer protection;

3) settle petitions and complaints submitted to the Board concerning violations of consumer rights or forward such petitions and complaints to the relevant institutions for settlement;

4) inform the public of the activities of a trader or producer which violate consumer rights or damage the legitimate interests of consumers;

5) advise consumers, consumer associations and traders and to assist in increasing their awareness of consumer protection issues;

6) conduct negotiations with undertakings and business organisations, including providers of universal services dominating the market, on issues relating to the quality of the services and reasonable prices for the consumers;

7) enter into co-operation agreements with other supervisory authorities and local governments;

8) demand through county courts that the application of standard terms which cause unfair harm to the collective interests of consumers and unfair commercial practices be prohibited and that any other activities which violate consumer rights be terminated.

§ 18. Maintaining business secrets

Officials competent to engage in consumer protection and representatives of consumer associations and federations of associations are required to maintain any business secrets which become known to them in the course of performing duties related to consumer protection. Information relating to violations of law committed by a trader or information subject to communication pursuant to law is not deemed to be a business secret.

Chapter 5

Settlement of Consumer Complaints

Division 1

General Procedure for Settlement of Consumer Complaints

§ 19. Submission of complaints to traders

(1) A consumer may submit a complaint arising from a breach of contract to a trader in any



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form. The consumer may submit the complaint himself or herself or through a representative.

(2) If possible, a dispute between a consumer and a trader shall be settled by an agreement between the consumer and the trader.

(3) If it is not possible to settle a dispute on the basis of an oral complaint, the consumer shall submit the complaint in writing or in a format which can be reproduced in writing and set out:

- 1) his or her name and contact details;
- 2) the date of submission of the complaint;
- 3) the defects of the goods or services;
- 4) the claim submitted to the trader.

(4) A written complaint shall contain a reference to a document certifying the performance of the transaction or the existence of a warranty against defects or a contractor's guarantee or have the relevant document or a copy thereof annexed to the complaint.

(5) If the complaint from a consumer is submitted in writing or in a format which can be reproduced in writing, the trader shall confirm receipt of the complaint in the same format.

(6) A trader is required to review a complaint submitted by a consumer in writing or in a format which can be reproduced in writing within fifteen days as of receipt of the complaint and to notify the consumer of the probable solution to the complaint. If it is not possible to settle the complaint within fifteen days, the trader is required to justify the delay, give corresponding written notification to the consumer and specify a new reasonable term.

(7) If a trader finds that a claim from a consumer is unfounded or unjustified and if no agreement is reached with the consumer or an agreement is reached only partially, corresponding written notification shall be given to the consumer within the term specified in subsection (6) of this section. The trader is required to justify refusal to satisfy the claim from the consumer or partial satisfaction of the claim.

(8) If a trader fails to fulfil a promise to settle a complaint within the term specified in subsection (6) of this section, the trader is deemed to have refused to settle the complaint.

§ 19. Submission of complaints to traders

(1) A consumer may submit a complaint arising from a breach of contract to a trader in any form. The consumer may submit the complaint himself or herself or through a representative.

(2) If possible, a dispute between a consumer and a trader shall be settled by an agreement between the consumer and the trader.

(3) If it is not possible to settle a dispute on the basis of an oral complaint, the consumer shall submit the complaint in writing or in a format which can be reproduced in writing and set out:

- 1) his or her name and contact details;
- 2) the date of submission of the complaint;

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3) the defects of the goods or services;

4) the claim submitted to the trader.

(4) A written complaint shall contain a reference to a document certifying the performance of the transaction or the existence of a warranty against defects or a contractor's guarantee or have the relevant document or a copy thereof annexed to the complaint.

(5) If the complaint from a consumer is submitted in writing or in a format which can be reproduced in writing, the trader shall confirm receipt of the complaint in the same format.

(6) A trader is required to review a complaint submitted by a consumer in writing or in a format which can be reproduced in writing within fifteen days as of receipt of the complaint and to notify the consumer of the probable solution to the complaint. If it is not possible to settle the complaint within fifteen days, the trader is required to justify the delay, give corresponding written notification to the consumer and specify a new reasonable term.

(7) If a trader finds that a claim from a consumer is unfounded or unjustified and if no agreement is reached with the consumer or an agreement is reached only partially, corresponding written notification shall be given to the consumer within the term specified in subsection (6) of this section. The trader is required to justify refusal to satisfy the claim from the consumer or partial satisfaction of the claim.

(8) If a trader fails to fulfil a promise to settle a complaint within the term specified in subsection (6) of this section, the trader is deemed to have refused to settle the complaint.

§ 20. Customer service

The provider of a universal service shall ensure that appropriate customer service exists to settle consumer complaints and provide information to consumers without charge.

§ 21. Consumer's right to protection

If a trader refuses to settle a complaint from a consumer or the consumer does not consent to the solution proposed by the trader and finds that his or her rights have been violated or his or her interests have been damaged, the consumer may submit a complaint to the person or institution which settles corresponding disputes, to the consumer complaints committee through the Consumer Protection Board or to a court. The consumer may submit the complaint himself or herself or through a representative.

Division 2

Competence, Formation and Rules of Procedure of Consumer Complaints Committee

§ 22. Competence of consumer complaints committee

(1) The consumer complaints committee (hereinafter committee) is an independent institution which settles disputes between consumers and traders.

(2) The committee is competent to settle disputes arising from contracts between consumers and traders if the parties have not been able to settle the disputes by agreement and if the value of the disputed goods or services is at least 300 kroons.

(3) The committee shall not settle a dispute if the claim arises from an event of death, physi-

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cal injury or damage to health. Such disputes shall be settled in court.

(4) The committee shall not settle disputes relating to the provision of health services or legal services or the transfer of immovables or buildings, or disputes for which the settlement procedure is prescribed by other Acts. Such disputes shall be settled by the competent institution or court.

(5) The committee shall not deal with a complaint if settlement of the dispute is outside the competence of the committee due to circumstances arising from subsection (2), (3) or (4) of this section.

§ 23. Status and members of committee

(1) The committee operates at the Consumer Protection Board within the area of government of the Ministry of Economic Affairs and Communications and makes decisions independently pursuant to Acts and other legislation.

(2) The committee consists of a chairman of the committee and members in the form of representatives appointed by business organisations, professional associations, the Consumer Protection Board and the consumer associations or the federation of consumer associations specified in subsection 15 (3) of this Act.

(3) A chairman of the committee must be a person who has completed an academic education in law and is proficient in consumer law. The list of the chairmen of the committee shall be approved by the Minister of Economic Affairs and Communications in co-ordination with the Minister of Justice.

(4) Business organisations, professional associations and the consumer associations or the federation of consumer associations specified in subsection 15 (3) of this section shall submit written proposals to the Consumer Protection Board for their representatives to be entered in the list of members of the committee. The representatives of the Consumer Protection Board to be entered in the list of members of the committee shall be appointed by a directive of the Director General of the Board. A member of the committee shall be excluded from the list at the request of the organisation which nominated the member or at the member's own request.

§ 24. Composition of committee

(1) In order to hear a complaint, the Director General of the Consumer Protection Board or an official authorised thereby shall approve the composition of the committee, consisting of at least three members one of whom shall be chairman. The committee shall comprise an equal number of representatives of undertakings and representatives of consumers.

(2) The procedure for approving the composition of the committee, and the rules of procedure of the committee shall be established by the Minister of Economic Affairs and Communications.

§ 25. Working conditions and expenses related to work of committee

(1) The hearing of a complaint by the committee shall be free of charge for the parties.

(2) The Consumer Protection Board shall ensure the administration of the committee, the availability of session rooms, the taking of minutes at the sessions and the publication of the decisions of the committee.

(3) The limits of remuneration for the work of the chairman of the committee shall be established by the Minister of Economic Affairs and Communications.

(4) Expenses relating to the activities of the committee shall be covered from the state budget out of the funds allocated to the Consumer Protection Board for that purpose.

Division 3

Settlement of Complaints by Committee

§ 26. Submission of complaints

(1) A consumer or his or her representative submits a written complaint to the committee through the Consumer Protection Board if a trader has refused to settle a complaint made by the consumer or the consumer does not consent to the solution proposed by the trader.

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(2) If the representative of a consumer submits a complaint on behalf of the consumer, the unattested authorisation document of the representative shall be annexed to the complaint.

(3) A complaint shall set out:

1) the name, residence and other contact details of the consumer;

2) the name or business name of the trader and the address of the place of business;

3) the content of the complaint, the clearly expressed claim of the consumer submitting the complaint, and the circumstances substantiating the claim.

(4) Documentary evidence, including a copy of the document certifying the purchase and, if possible, copies of the complaint submitted to the trader and of the reply received, shall be annexed to a complaint.

(5) The Consumer Protection Board shall keep records of the complaints received.

§ 27. Refusal to forward complaint to committee

(1) A complaint shall not be forwarded to the committee if:

1) settlement of the dispute is not within the competence of the committee, or

2) the same dispute on the same grounds and between the same parties is currently before a court, or

3) a court judgment concerning the same matter has entered into force.

(2) A consumer shall be notified in writing of refusal to forward his or her complaint to the committee and of the reason for such refusal within three working days as of the date of receipt of the complaint.

(3) If a complaint does not meet the requirements provided for in subsections 26 (3) and (4) of this Act, the Consumer Protection Board shall grant a term for eliminating the deficiencies. If the consumer who submitted the complaint fails to eliminate the deficiencies within that term, the complaint shall not be forwarded to the committee and the consumer shall be notified of the refusal in writing.

§ 28. Preparations for hearing complaints

(1) The Consumer Protection Board shall ascertain the circumstances relevant to the settlement of a complaint and has the right to contact the consumer who submitted the complaint and the trader specified in the complaint in order to achieve an agreement between the parties.

(2) Within three working days as of the date of receipt of a complaint submitted by a consumer, a copy of the complaint shall be sent to the trader concerned who shall then reply to the complaint in writing within ten working days as of receiving the copy.

(3) A copy of the trader's written reply shall be sent to the consumer within three working days as of the date of receipt of the reply.

(4) If the trader's written reply offers a solution which is acceptable to the consumer, the complaint is deemed to be settled.

(5) If the trader's reply offers a solution which is unacceptable to the consumer, the consumer shall notify the Consumer Protection Board thereof and the consumer's complaint together with a written explanation from the trader and the position of the consumer shall be forwarded to the committee. If necessary, the position of the competent supervisory authority concerning issues relevant to the settlement of the complaint shall also be forwarded to the committee. The consumer's complaint together with the materials annexed to the complaint shall be forwarded to the committee within thirty working days as of the date of receipt of the complaint.

(6) If a trader does not submit a written reply, the matter shall be heard on the basis of the consumer's complaint.



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§ 29. Termination of proceedings concerning complaint

(1) The committee has the right to terminate the proceedings concerning a complaint, if:

- 1) it becomes evident upon hearing the complaint that settling the complaint is not within the competence of the committee;
- 2) settlement of the complaint is not possible based on the evidence provided because it requires a thorough investigation and hearing of witnesses;
- 3) the parties to the dispute reach an agreement before the session, during the session or in a period between the sessions of the committee;
- 4) the consumer withdraws the complaint.

(11.10.07 entered into force 12.12.07 - RT I 2007, 56, 375)

(2) A decision on the termination of proceedings concerning a complaint shall be taken by the chairman of the committee. The consumer shall be notified immediately in writing of termination of the proceedings and the reasons for the termination.

§ 30. Term for hearing complaints

(1) A complaint submitted to the committee shall be heard at a committee session within one month as of the date following the date on which the complaint is forwarded to the committee.

(2) The chairman of the committee shall determine the time and place of the committee session and arrange for the delivery of summonses to the parties to the dispute.

(3) The term specified in subsection (1) of this section may be extended at the reasoned request of a party or for any other good reason.

§ 31. Committee sessions

(1) The committee shall hear a complaint at a session in the presence of the parties to the dispute or their representatives.

(2) Failure of the parties to a dispute or their representatives to appear at the session does not prevent the complaint from being heard.

(3) The committee session shall be chaired by the chairman who shall also ascertain the nature of the consumer's complaint and the relevant provisions of law at the session.

(4) The consumer shall present his or her claim and the bases therefor. The consumer may supplement the claim submitted in his or her written complaint at the session.

(5) The trader against whom the claim has been submitted shall either accept or contest the claim. The trader has the right to submit supplementary evidence.

(6) At the session, the persons concerned shall be heard and documents and other evidence shall be examined and assessed.

§ 32. Expert opinion

(1) If necessary and if the parties to the dispute consent thereto, the committee has the right to order an expert assessment of the disputed goods or services. The committee shall take into consideration the opinions of the parties when appointing an expert. The term for conducting the expert assessment shall be determined by the committee and agreed with the expert.

(2) The expert opinion shall be sent to both parties to the dispute. The expenses relating to the expert assessment of goods or services shall be paid by the party who loses the dispute according to the decision of the committee.

(3) The committee has the right to divide the expenses relating to the expert assessment of goods or services between the consumer and the trader if it is not possible to determine conclusively which of the parties is the loser in the dispute.

(4) The committee also has the right to order an expert assessment of disputed goods or services if the expert opinion is requested by one of the parties to the dispute and the party agrees to pay the expenses relating thereto.

§ 33. Minutes of committee sessions

(1) Minutes shall be taken of committee sessions by an official of the Consumer Protection Board who is not a member of the committee.

(2) The minutes of a committee session shall contain information relevant to the dispute.

(3) The minutes of a committee session shall set out:



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- 1) the date and place of the session;
 - 2) the time at which the session begins and ends;
 - 3) the names of the members of the committee, the person chairing the session and the person taking the minutes;
 - 4) the names of the parties to the dispute;
 - 5) information on whether the parties appeared at the session;
 - 6) the essential content of the explanations, claims and objections of the parties;
 - 7) information concerning the presentation of documentary evidence;
 - 8) the date on which the minutes are signed.
- (4) The minutes shall be signed by the chairman of the committee and the person who took the minutes.

Division 4

Decisions and Execution of Decisions of Committee

§ 34. Decision making

(1) The committee shall make a decision within five working days as of the date of hearing a complaint. Only members of the committee shall be present while the decision is made.

(2) The decisions of the committee shall be reasoned and be based on Acts and other legislation. The committee shall evaluate all evidence from all perspectives, thoroughly and objectively, when making a decision.

(3) Decisions shall be made by majority vote. Members of the committee who maintain a minority position have the right to dissent.

(4) Members of the committee do not have the right to remain undecided.

§ 35. Preparation of decisions

(1) Decisions shall be prepared in writing and consist of an introduction, a descriptive part, the statement of the reasons of the committee and a conclusion. Decisions shall be signed by all the members of the committee.

(2) The introduction to a decision shall set out the time of making the decision and the names of the parties.

(3) The descriptive part of a decision shall set out the claim of the consumer and the objections of the other party.

(4) The statement of reasons of a decision shall set out the facts and evidence established by the committee, the conclusions reached by the committee on the basis thereof, and the legal acts applied by the committee.

(5) The conclusion of a decision shall set out the position of the committee concerning the satisfaction, partial satisfaction or dismissal of the complaint.

§ 36. Disclosure of decisions

(1) A copy of a decision shall be sent to the parties by registered mail with advice of delivery within two working days as of the date on which the decision is made.

(2) A decision of the committee shall be published on the website of the Consumer Protection Board within two working days after the members of the committee have signed the decision.

§ 37. Compliance with decisions

(1) A decision of the committee shall be complied with within one month as of the date following the date of receipt of a copy of the decision unless a different term is specified in the decision.

(2) A trader shall notify the Consumer Protection Board in writing when it complies with a decision.

(3) If a party to a dispute does not consent to the decision of the committee or fails to comply with the decision, the parties have the right to file an action with the county court for the same dispute to be heard.

(15.12.2005 entered into force 08.01.2006 - RT I 2005, 71, 547)



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(4) In the event of failure to comply with a decision of the committee, the Consumer Protection Board has the right, with the consent of the consumer and as the representative of the consumer, to file an action with a county court for the same dispute to be heard if the dispute is relevant to the application of an Act or other legislation or to the general interests of consumers.

(15.12.2005 entered into force 08.01.2006 - RT I 2005, 71, 547)

Chapter 6
Supervision

§ 38. Supervisory authorities engaging in consumer protection

Officials of the Consumer Protection Board, the Health Protection Inspectorate, the police prefecture and local governments who have supervisory competence (hereinafter supervisory officials) shall exercise supervision, within the limits of their competence, over the safeguarding of the rights granted to consumers on the basis of this Act and other legislation.

§ 39. Rights of supervisory officials

(1) In order to perform their duties, supervisory officials have the right to:

- 1) verify whether the goods and services offered to consumers meet the requirements and, if necessary, to purchase goods or services for such purpose;
- 2) have free access to premises used for the business or professional activities of traders and, in the presence of the trader, a representative of the trader or a police officer, open means of transport used to transport goods;
- 3) demand that traders or producers submit relevant documents, materials and explanations and other relevant information;
- 4) suspend the offering and sale of goods or services which are harmful to consumers, if necessary by affixing a seal;
- 5) issue oral warnings to traders and draw their attention to any failure to comply with the requirements relating to consumer protection;
- 6) make proposals to competent persons and institutions for suspension or termination of the activities of a trader pursuant to the procedure prescribed by law if the trader fails to comply with the requirements established for activities in the area of activity of the trader;
- 7) issue precepts within the limits of their competence.

(2) In the performance of their duties, supervisory officials are required to present identification.

§ 40. Precepts of supervisory officials

(1) Upon detection of an offence, a supervisory official may issue a precept in which he or she:

- 1) demands that the offence be terminated and, if possible, that the initial situation be restored, or
- 2) requires the offering and sale of goods or services which do not meet the requirements to be suspended and prescribes a term for bringing the goods or services into compliance with the requirements.

(2) A precept shall set out:

- 1) the name and position of the person issuing the precept;

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- 2) the date of issue of the precept;
 - 3) the name and address of the recipient of the precept;
 - 4) the factual and legal basis for the precept;
 - 5) a clearly expressed demand together with references to the provisions of relevant legislation;
 - 6) the term for compliance with the precept;
 - 7) the size of the penalty payment to be imposed upon failure to comply with the precept;
 - 8) the procedure for contestation of the precept.
- (3) A precept shall be submitted to the representative of a trader immediately against a signature or sent to the representative of the trader by registered mail with advice of delivery.
- (4) Compliance with precepts is mandatory for traders. Contestation of a precept does not release the trader from the obligation to comply with the precept unless a court decides otherwise.
- (5) Upon failure to comply with a precept specified in subsection (1) of this section, a penalty payment may be imposed pursuant to the procedure provided for in the Substitutive Enforcement and Penalty Payment Act (RT I 2001, 50, 283; 94, 580). The upper limit for a penalty payment is 10 000 kroons.

§ 41. Termination of activities harmful to collective interests of consumers

- (1) The Director General of the Consumer Protection Board or an official authorised by him or her may issue precepts requiring termination of or refraining from activities harmful to the collective interests of consumers.
- (2) Any act which prejudices the common interests of an undefined number of consumers and is in conflict with the provisions of this Act, the Law of Obligations Act or any other Act is an activity harmful to collective interests.
- (3) The Director General of the Consumer Protection Board or an official authorised by him or her may issue a precept to a trader and demand that the trader terminate application of standard conditions which are unfair to consumers, or demand that a trader who has violated the provisions of §§ 46-51 of the Law of Obligations Act concerning contracts negotiated away from business premises, §§ 52-62 concerning distance contracts, §§ 208-237 concerning contracts of sale, §§ 379-388 concerning contracts relating to the purchase of a right to use a building on a timeshare basis, §§ 402-421 concerning consumer credit contracts and contracts linked thereto, §§ 635-657 concerning contracts for services or §§ 866-882 concerning package travel contracts terminate the violation and refrain from further violation of the provisions.

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(31) The Director General of the Consumer Protection Board or a person authorised by the Director General may issue a precept and demand that a trader terminate the use of an unfair commercial practice or, if such practice has not yet been used but is intended to be used, demand that the trader refrain from using the practice.

(4) A precept shall be communicated to a trader and delivered against a signature or sent to the trader by registered mail with advice of delivery within two working days as of the date of issue of the precept.

(5) It is mandatory for a trader to comply with a precept issued thereto pursuant to subsection 40 (2) of this Act by the Director General of the Consumer Protection Board or an official authorised by him or her. Contestation of the precept does not release the trader from the obligation to comply with the precept unless a court decides otherwise.

(6) Upon failure to comply with a precept, a penalty payment may be imposed pursuant to the procedure provided for in the Substitutive Enforcement and Penalty Payment Act. The upper limit for a penalty payment is 10 000 kroons.

§ 42. Termination of cross-border activities harmful to collective interests of consumers

(1) The provisions of this section apply if the activities of a trader operating in one of the Member States of the European Union are in conflict with the provisions of a directive as transposed into the legislation applicable in that Member State and if the consequences of the infringement become apparent in another Member State.

(2) A list of the directives specified in subsection (1) of this section shall be established by a regulation of the Minister of Economic Affairs and Communications.

(3) The authorities and organisations of the Member States as published in the Official Journal of the European Union have the right to apply for a precept to be issued for the termination of such activities of a trader operating in Estonia as are in conflict with the provisions of a directive specified in subsection (2) of this section as transposed into the legislation applicable in Estonia and which are harmful to the collective interests of consumers in the Member State concerned.

(4) The Minister of Economic Affairs and Communications in co-ordination with the relevant ministers shall appoint the Estonian authorities and organisations which have the right to apply for the termination of such activities of a trader operating in a Member State of the European Union as are in conflict with the provisions of a directive specified in subsection (2) of this section as transposed into the legislation applicable in that Member State and which are harmful to the collective interests of consumers in Estonia.

§ 421. Co-operation in consumer protection

(1) Cooperation between the competent authorities designated as responsible for enforce-

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ment of the legislation protecting the interests of consumers in the Member States of the European Union shall be effected pursuant to the Regulation (EC) No 2006/2004 of the European Parliament and of the Council on cooperation between national authorities responsible for the enforcement of consumer protection laws (the Regulation on consumer protection cooperation) (OJ L 364, 09.12.2004, pp. 1–11).

(2) The Consumer Protection Board shall be the contact authority in the implementation of the Regulation specified in subsection (1) of this section.

(3) The Minister of Economic Affairs and Communications in co-ordination with the relevant ministers shall designate the competent authorities responsible for the implementation of the Regulation specified in subsection (1) of this section.

(4) The Minister of Economic Affairs and Communications shall notify the European Commission and other Member States of the competent authorities appointed as responsible for the implementation of the Regulation specified in subsection (1) of this section and a single contact authority.

Chapter 7 Liability

§ 43. (Repealed -11.100.2007 entered into force 12.12.07 - RT I 2007, 56, 375)

§ 44. (Repealed -11.100.2007 entered into force 12.12.07 - RT I 2007, 56, 375)

§ 45. Violation of requirements for providing information concerning characteristics, conditions of use or warranty of goods or services or for indicating prices

(1) Violation by a trader of the requirements for providing information concerning the characteristics, conditions of use or warranty of goods or services or for indicating prices is punishable by a fine of up to 100 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 30 000 kroons.

§ 46. Violation of requirements for goods, sale of goods or provision of services

(1) Violation by a trader of the requirements for the expiry dates, labelling or instruction manuals of goods or for the warranty applicable to goods or services or of any other requirements for goods or services or the sale of goods is punishable by a fine of up to 200 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 40 000 kroons.

§ 47. Deceiving consumers

(1) Commission of the following acts by a trader upon the sale of goods or provision of services to a consumer:

1) inaccurate weighing, inaccurate measuring, or miscalculation;

2) failure to adhere to the approved rates or the prices agreed upon or indicated, or

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3) failure to provide or concealment of truthful information in Estonian concerning the characteristics, price or origin of goods or services – is punishable by a fine of up to 100 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 30 000 kroons.

§ 471. Violation of prohibition to use unfair commercial practices.

(1) Violation by a trader of the prohibition to use unfair commercial practices is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 50 000 kroons.

(11.10.07 entered into force 12.12.07 - RT I 2007, 56, 375)

§ 48. Proceedings

(1) The provisions of the General Part of the Penal Code and the Code of Misdemeanour Procedure apply to misdemeanours provided for in §§ 45-471 of this Act.

(2) The following bodies shall conduct extra-judicial proceedings concerning the misdemeanours provided for in §§ 45-47 of this Act:

- 1) the Consumer Protection Board;
- 2) Health Protection Inspectorate;
- 3) rural municipality and city governments.

(3) The Consumer Protection Board shall conduct extra-judicial proceedings in the matters of the misdemeanours provided for in § 471 of this Act.

Chapter 8

Implementing Provisions

§ 49. Repeal of earlier Act

The Consumer Protection Act (RT I 1994, 2, 13; 1999, 35, 450; 102, 907; 2000, 40, 252; 59, 379; 2001, 50, 283 and 289; 56, 332; 2002, 18, 97; 35, 214; 53, 336; 61, 375; 63, 387) is repealed.

§ 50. Amendment of Law of Obligations Act

The Law of Obligations Act (RT I 2001, 81, 487; 2002, 60, 374; 2003, 78, 523) is amended as follows:

- 1) in subsection 46 (2), the words “60 euro” are replaced by the words “15 euro”;
- 2) in subsection 49 (1), the words “seven days” are replaced by the words “fourteen days”;
- 3) subsection (4) is added to § 49 worded as follows:
“(4) If a consumer withdraws from a contract, the sums paid by the consumer shall be refunded to him or her immediately but not later than within thirty days as of the withdrawal from the contract.”;
- 4) in subsection 56 (1), the words “eleven days” are replaced by the words “fourteen days”;
- 5) Division 5 is added to Chapter 2 worded as follows:

“Division 5

Contracts Entered into through Computer Network

§ 62¹. Specifications for entry into contract through computer network

(1) A person engaging in economic or professional activities who enters into contracts through a computer network when selling goods or providing services shall make available to customers suitable and efficient technical means which are accessible and by which customers are able to identify and correct typing errors before transmitting their orders.

(2) Before transmission of an order specified in subsection (1) of this section, the supplier shall notify the customer of:

- 1) the technical stages involved in entering into the contract;

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- 2) whether the supplier will preserve the text of the contract after entry into the contract and whether the text will remain available to the customer;
 - 3) the technical means for identifying and correcting typing errors;
 - 4) the languages in which the contract may be entered into;
 - 5) the rules observed by the supplier, and the electronic means for examining the rules.
- (3) The supplier shall confirm receipt of an order immediately in electronic form.
- (4) The order and the confirmation of receipt of the order are deemed to have been received when the person to whom the order or confirmation is addressed has had the opportunity to examine it.
- (5) The terms of the contract, including the standard terms, shall be presented to the customer in a manner which enables them to be saved and reproduced.
- (6) The provisions of subsections (1)–(3) of this section do not apply if the contract is entered into by electronic mail or any other similar personal means of communication.
- (7) Agreements derogating from the provisions of subsections (1)–(5) of this section may be entered into only by persons engaging in economic or professional activities. Derogating agreements do not affect the validity of the contract entered into.
- (8) The provisions of this section do not preclude or restrict any obligations of a supplier to provide customers with any other information prescribed by law.”

§ 51. Amendment of Alcohol Act

Clause 3 (1) 4) of the Alcohol Act (RT I 2002, 3, 7; 63, 387; 2003, 2, 17; 88, 591) is amended and worded as follows:

“4) offer for sale or sale by an undertaking to another undertaking or to another person who is not a consumer within the meaning of the Consumer Protection Act (hereinafter wholesale trade);”.

§ 52. Amendment of Explosive Substances Act

Subsection 18 (5²) of the Explosive Substances Act (RT I 1997, 86, 1461; 2001, 65, 377; 85, 510; 88, 531; 2002, 47, 297; 53, 336; 61, 375; 63, 387; 2003, 20, 116; 88, 591 and 594; 2004, 2, 7) is amended and worded as follows:

“(5²) The retail trade of crackers is prohibited from 1 November to 30 December (inclusive). The retail trade of crackers is deemed to be the sale or offer for sale thereof to consumers within the meaning of the Consumer Protection Act.”

§ 53. Entry into force of Act

(1) This Act enters into force on 15 April 2004.

(2) Section 42 of this Act enters into force upon Estonia's accession to the European Union.

¹ Directive 2005/29/EC of the European Parliament and of the Council concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council ('Unfair Commercial Practices Directive') (OJ L 149, 11.06.2005, pp 22–39)

(11.10.2007 entered into force 12.12.2007 - RT I 2007, 56, 375)

² RT = Riigi Teataja = State Gazette