

EU Consumer Law Acquis Compendium

Legislation

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

1997. évi CLV tv. A fogyasztóvédelemről

Translation of the name:

Act CLV of 1997 on Consumer Protection

Reference in Official Journal (if appropriate):

Magyar Közlöny 1997/119. (XII.23.)

Date of coming into force:

23.12.1997

Subsequent amendments:

last amendment 0.07.2004

Text:

Act CLV of 1997 on Consumer Protection

In the interest of introducing regulations to provide proper protection of consumer interests, with special emphasis on the safety of goods and services, protection of property, proper information and education, efficient legal remedy, and on consumer protection through social organizations, and further development of the institutions necessary for the enforcement of such measures, the Parliament hereby adopts the following Act:

PART ONE GENERAL PROVISIONS AND CONSUMER PROTECTION PROVISIONS

Chapter I.

General Provisions

Scope of the Act

Section 1.

Unless otherwise provided for by another law, this Act shall apply to all activities conducted by natural and legal persons, unincorporated business associations and to the branch offices of foreign-registered enterprises (hereinafter jointly referred to as "economic organiza-

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tions") within the territory of the Republic of Hungary which involve or may involve consumers.

Interpretative Provisions

Section 2.

For the purposes of this Act:

- a) Goods: any marketable article that may be held in possession, including objects that may be used as such articles.
- b) Insurance service: activities of an insurance company or insurance cooperative which are aimed at the conclusion or performance of an insurance policy, including activities performed for insurance brokers and insurance consultants.
- c) Service: activity aimed to satisfy consumer needs within the framework of a direct relationship established with the consumer in a manner involving rendering and use (consumption) of the service coinciding in time in part or in full.
- d) Consumer loan: all loans which do not fall under the scope of Act CXII of 1996 on Credit Institutions and Financial Enterprises, as well as all installment plans or deferred payment plans provided by an economic organization to a consumer for the purpose of purchasing its merchandise or for using its services.
- e) Consumer: a natural person who purchases, orders, receives, or uses goods for non-business or non-professional purposes, or for whom a service is rendered, furthermore who is the addressee of information or an offer related to goods or services
- f) Consumer loan contract: a contract for the purpose of using a consumer loan.
- g) Group of consumers: a group established by consumers for the purpose of the individual members of group obtaining possession of certain goods with the aid of the group.
- h) Social organizations providing representation of consumer interests: social organizations founded on the basis of Act II of 1989 on the Right of Association, or alliances of such organizations, if one of the goals specified in the statutes is the protection of consumer interests, the organization or alliance has been operating for at least two years and has at least 50 members who are natural persons.
- i) Marketing to consumers: the distribution of goods or the provision of services directly to consumers, as the end user, furthermore the provision of complementary samples or goods.
- j) Distributor: the economic organization marketing merchandise or services to consumers.
- k) Manufacturer: any profit-oriented entity manufacturing or producing goods, or an entity labeling itself as the manufacturer by affixing its name, trade mark or other distinguishing la-

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bel, furthermore an entity whose activities may influence the safety of the goods during marketing. If the manufacturer's main offices are not located within the territory of the Republic of Hungary, the importer of the goods shall be considered to be the manufacturer.

l) Public utility service: electricity, gas, heat, water, sewage treatment and garbage collection, public hygiene and telecommunications services.

m) Financial and pension fund service: financial activities falling under the scope of Act CXII of 1996 on Credit Institutions and Financial Enterprises, investment service activities falling under the scope of Act CXI of 1996 on the Offering of Securities, Investment Services and on the Stock Exchange, and service activities falling under the scope of Act CXIII of 1996 on Home Savings and Loan Associations and Act LXXXII of 1997 on Private Pensions and Private Pension Funds.

Chapter II.

Protection of the Life, Health and Safety of Consumers

Section 3.

(1) Only goods which are safe may be placed on the market.

(2) Manufacturers shall take measures to ensure the safety of goods.

(3) Distributors may not place on the market goods which are unsafe or which they should know are unsafe, based on the available data or information. Distributors shall take the measures necessary for maintaining the safety of goods, thus in particular they shall cooperate with the manufacturer of the goods concerning the provision of information to consumers regarding risk factors related to using the goods and shall participate in the execution of measures aimed at preventing or averting safety hazards

Section 4.

(1) If the safety of goods is not prescribed by a law or national standard, such goods shall be regarded as safe if they do not jeopardize the life, health or physical safety of the consumer while in use or during the reasonable life cycle of the goods, or do so to the lowest extent which may be attributable to the reasonable and proper use of such goods.

(2) The safety of goods shall primarily be judged on basis of the following criteria:

a) basic information (specifications on the composition, packaging, assembly and maintenance) on the goods,

b) the impact of the goods on other goods which can be reasonably expected during joint use,

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c) the appearance, labeling of the goods and use instructions or information provided with the goods,

d) the effect of using the goods on higher risk consumers, particularly minors.

(3) Manufacturers shall warn consumers in writing in order to allow consumers to estimate any risks deriving from the proper or reasonable use of the goods, provided that such risks may not be immediately noticed without warning. Such warning shall not release manufacturers and distributors from their obligations related to the safety of goods.

(4) Manufacturers shall measure any and all risk factors in connection with goods placed on the market and shall take the necessary measures for the prevention or aversion of such risks, thus in particular:

a) affixing labels suitable for identification of the goods,

b) routinely inspecting the safety of goods placed on the market by sampling,

c) investigating all complaints related to the safety of goods,

d) notifying distributors regarding the results of inspections,

e) removing the goods from the market.

(5) The fact that a safer product will be placed on the market at a later point in time shall not influence the determination of the safety of goods.

Section 5.

(1) The provisions of Sections 3 and 4 shall be applied mutatis mutandis for services.

The provisions of Section 3 and 4 shall not be applied if the distributor clearly informs consumers that

a) the goods are of an antique nature,

b) the goods are to be restored or repaired prior to use.



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Chapter III.

Protection of Property of Consumers

General Provisions on the Protection of Property of Consumers

Section 6.

(1) The legal consequences prescribed in this Act shall be applied to economic organizations in the event that such organizations:

- a) violate legal regulations on the production, receiving, weighing, packaging, labeling, indication of price, storage, shipping and placement of goods on the market or on the provision of services,
- b) defraud consumers by false weighing, calculation or by adulteration of the quality of goods,
- c) violate the regulations on business opening hours,
- d) sell goods or provide services which do not fall under its sphere of activities,
- e) handle quality complaints of consumers in violation of the law,
- f) unlawfully withhold goods from placement on the market or unlawfully deny the provision of services, g) illegitimately handle the customer complaint book,
- h) place goods of insufficient quality on the market or provided such services,
- i) charge more than the official price or the mandatory price otherwise established for the goods or services,
- j) violate conformity assessment or preliminary quality control obligations.

Consumer Loans

Section 7.

(1) In order for a Consumer loan contract to be valid, the contract shall be prepared in writing and one copy shall be given to the consumer.

(2) Consumer loan contracts shall be null and void if the following is not included: a) a description of the goods or services comprising the subject of the contract,

b) the consideration payable on the basis of the contract,

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- c) the date and conditions of transferring ownership rights,
 - d) all costs related to the contract, including interest charges and commission charges, and the value of such as expressed in an annual percentage rate,
 - e) the full loan fee expressed in an annual percentage rate,
 - f) the conditions for amending the loan fee expressed in an annual percentage rate, or if not possible information regarding such,
 - g) the number, amount and dates of installment payments,
 - h) if the price of goods or the service fee is subject to change during the term of the contract, the applicable conditions and the amount at which, if reached, the consumer is allowed to withdraw from the contract without suffering detrimental consequences,
- (3) The full loan fee expressed in an annual percentage rate as set forth in Paragraph e) of Subsection (2) shall be calculated as prescribed in Act CXII of 1996 on Credit Institutions and Financial Enterprises and in accordance with the regulations on the calculation and publication of the full loan fee index.
- (4) Any and all contractual clauses which deviate from the regulations on consumer loan contracts and are to the disadvantage of the consumer shall be null and void.
- (5) Reference to the cancellation of a contract may only be made in the interest of the consumer.
- (6) Lenders must inform consumers upon conclusion of the consumer loan contract on all contractual conditions that are required by law to be an integral part of the contract. (7) With regard to consumer loan contracts, the consumer may, in the interest of terminating the contract, exercise the right to pay off the loan in full in all instances. In such cases lenders must reduce the loan fee accordingly.

Chapter IV.

Consumer Information The Purpose of Information

Section 8.

Consumer information shall be suitable for providing consumers

- a) with adequate knowledge for selecting such goods or service, furthermore with basic knowledge regarding the basic attributes and characteristics of the goods and services necessary for the use of goods and services and the maintenance of goods, the quality, price or fee of the goods and services, instructions relative to the use of goods and any hazards associated with such use,



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b) basic information necessary for enforcing his rights.

Labeling

Section 9.

With the exception of certain goods defined in other legal regulations, goods may only be placed on the market if the label, affixed on the packaging or some other place but inseparable from the goods, contains the data necessary for rendering information to consumers and for regulatory inspections as defined in Section 10 in a legible, clear and understandable fashion in the Hungarian language.

Section 10.

(1) The label of goods shall include

- a) a precise description of the goods, which may not be substituted by trade mark or given name;
- b) the name and address of the manufacturer or distributor of the goods in a manner which allows for identification;
- c) the place of origin of the goods.

(2) Depending on the type and purpose of the goods, the label shall, in addition to the provisions of Subsection

(1), also include: a) the dimensions, net quantity of the goods in the measurement unit or number of articles characteristic to the goods,

b) the ingredients used for manufacturing (qualitative and quantitative composition),

c) the date of expiration or the projected date up until which quality is guaranteed,

d) the basic technical specifications of the goods,

e) the quality rating,

f) the energy consumption specifications,

g) environmental preservation or nature conservation features (relative to the material employed, to the method of manufacture or to use), and the nature of environmental damage with regard to the goods for which, in accordance with Act LIII of 1995 on the General Rules of Environmental Protection and with other legal regulations, environmental fees or product fees must be paid. h) the conformity marking, or the permit number for goods sub-

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ject to licensing requirements.

(3) If justified by the nature of the goods, the label shall provide adequate information on any hazards attributed to the use of the goods during their presumed life cycle in a manner to enable consumers to estimate such hazards and to take the necessary preventive measures.

(4) The contents of the label may be displayed in text, numbers, images, diagrams, markings or signs in compliance with the provisions of Subsections (1)-(3).

Section 11.

With regard to the contents and appearance of labels of goods, other statutes may prescribe additional detailed regulations. User's Manual and Instructions

Section 12.

(1) Certain goods defined in other legal regulations may only be placed on the market with a user's manual and instructions attached.

(2) The user's manual and instructions shall provide clear, understandable information to consumers in the Hungarian language on the use, application, preservation and handling of the goods (hereinafter jointly referred to as "proper use"), thus in particular a) instructions, conditions and knowledge related to the proper use of the goods, b) information on any special storage and handling requirements required to preserve quality if such attributes may have significant influence on the date of expiration or the life-cycle of the goods.

(3) For imported goods, a Hungarian language version of the user's manual and instruction whose contents shall be identical to the foreign language versions of the instruction shall be made available to consumers.

Conformity Assessment

Section 13.

Goods for which a conformity assessment is required to be attached by law may only be marketed together with the prescribed conformity certificate.



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Indication of Price

Section 14.

- (1) When placing goods on the market distributors shall inform consumers in writing regarding the sale price and the unit price, or the service fee, in accordance with the provisions prescribed in separate legal regulations.
- (2) Sale prices, the unit prices and service fees shall be indicated clearly, in an easily identifiable form, in the legal currency of the Republic of Hungary.
- (3) Within the territory of the Republic of Hungary, the price to be paid on the consumer market shall be indicated as the price of goods and service placed on the consumer market.
- (4) If more than one sale price or service fee is indicated, the lowest indicated sale price or service fee shall be considered to be the sale price or the service fee of the goods.
- (5) The price tag may not cover the consumer information affixed on the packaging of the goods required by law.

Packaging

Section 15.

- (1) Goods shall be packaged in a manner for the packaging to protect the quality of the goods, to facilitate shipping, without imposing any detrimental effects on the quality or quantity of goods, to increase the efficiency of sale, and to conform with safe working conditions and health protection requirements.
- (2) In respect of the packaging of goods, other legal regulations may prescribe additional specifications.

Liability for Violation of Information and Packaging Regulations

Section 16.

- (1) The following parties are responsible for compliance with the regulations related to providing information to consumers and to packaging:
 - a) the manufacturer, with regard to the user's manual and instructions, conformity certificate and to packaging,
 - b) the distributor, with regard to the indication of price.

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(2) In the event that the manufacturer fails to provide the information and packaging prescribed in Sections 9-15 of this Act and in other legal regulations, the distributor shall be required to do so.

(3) The distributor shall provide proof of having provided information to consumers.

(4) The consumer, at his discretion, may enforce his rights against the manufacturer or any economic organization placing the goods on the market, regardless of whether or not the manufacturer was identified.

(5) The provisions of Subsections (2)-(4) shall not effect the claims of the distributor enforceable against the manufacturer.

Chapter V. Consumer Education

Section 17.

(1) Consumers shall be educated within the school system and outside of the framework of the school system in respect of the legal regulations governing enforcement of their claims.

(2) Providing consumer protection education is primarily a responsibility of the State.

(3) In-school consumer protection education is included in the National Basic Curriculum. The opinion of social organisations providing national-level representation of consumer interests shall be obtained before submission to the Government of the consumer protection requirements in the National Basic Curriculum.

(4) In accordance with the principles and requirements of the National Basic Curriculum, the Minister of Trade, Industry and Tourism (hereinafter referred to as the "Minister") shall participate in establishing the consumer protection curriculum requirements being prepared for institutions of public education.

(5) The State shall attend to its duties related to school-level consumer protection education through educational institutions, in co-operation with the Bureau of Consumer Affairs and the social organisations providing representation of consumer interests.



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Chapter VI.

Enforcement of Consumer Rights

Arbitration Board

Section 18.

(1) The arbitration board is established for the purpose of attempting to reach an agreement between an economic organization and a consumer to settle a dispute (consumer litigation) or, should the prior process fail to produce results, to decide on the matter in order to quickly, efficiently and simply enforce consumer rights.

(2) The arbitration board is an independent organ operating in connection with regional chambers of commerce (hereinafter referred to as "chambers").

(3) The arbitration board is operated jointly by the chambers of commerce and industry, the chamber of handicrafts and the chamber of agriculture operating within the same territory.

(4) Regional chambers operating within different territories may operate the arbitration board jointly as well.

(5) Local governments may, voluntarily and on the basis of an agreement with the chamber, participate in the work of arbitration boards.

Section 19.

(1) The scope of the arbitration board shall include out-of-court settlement of consumer legal disputes regarding the quality and safety of goods and services, the application of product liability regulations and the conclusion and performance of contracts.

(2) The scope of the arbitration board shall not include consumer legal disputes which are assigned by law to the jurisdiction of another authority.

Section 20.

(1) The arbitration board with jurisdiction for the consumer's permanent or temporary residence or the registered office of the organization initiating the proceedings on the basis of Subsection (2) of Section 28, shall be responsible for the proceedings.

(2) If the consumer has no domestic residence, jurisdiction shall be adjusted to his place of accommodation. If this is abroad, jurisdiction shall be determined by the address of the economic organisation involved in the complaint or the organ acting as the representative of such economic organisation.

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(3) Consumers may file the petition with the arbitration board having jurisdiction over the location where the contract was concluded.

(4) The territorial jurisdiction of the arbitration board shall coincide with the territorial jurisdiction of the chambers in control of the board.

Section 21.

(1) The arbitration board is comprised of the chairman, the deputy chairman and the members (hereinafter jointly referred to as "members of the arbitration board").

(2) Board members, which may be no less than 10 and no more than 30 persons for each board, shall be appointed in equal proportions by the chamber and by the social organizations providing representation of consumer interests. A list of members shall be maintained by the chamber providing the operational basis for the arbitration board. The chamber shall forward such list to the Bureau of Consumer Affairs and, if requested, to social organizations providing representation of consumer interests, furthermore to the local governments with territorial jurisdiction.

(3) Upon recommendation by the Executive Director of the Bureau of Consumer Affairs, the chairman shall be appointed by the Minister from among the board members.

(4) The deputy chairman shall be appointed by the chairman from among the board members. The deputy chairman shall have full authority to represent the chairman in the event that the latter is unable to attend to his duties.

(5) Arbitration board members shall be appointed for a term of three years. Members may be re-elected.

(6) The remuneration of arbitration board members shall be established in a separate legal regulation.

Section 22.

(1) All arbitration board members are required to have a degree in higher education and no less than two years experience in a relevant field.

(2) The following persons may not be elected as arbitration board members:

a) persons deemed legally incapable or having restricted capacity by the regulations of civil law,

b) persons not exempted from restrictions connected to having a criminal record.



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Section 23.

All members of the arbitration board shall be independent and impartial; they may not act as representatives of the parties involved and may not take instructions during proceedings. Furthermore, members are obligated to fully comply with confidentiality requirements concerning all facts and information received during the operations of the arbitration board, following conclusion of the proceedings as well. Members are required to issue a written declaration of acceptance of the above terms at the time of their appointment.

Section 24.

(1) The term of an arbitration board member shall be terminated

- a) upon the expiration of his term,
- b) upon the occurrence of reasons for exclusion defined in Subsection (2) of Section 22, c) upon his resignation,
- d) upon becoming unsuitable for the position,
- e) upon his death.

(2) In the event specified in Paragraph d) of Subsection (1), cancellation of the term shall be established by the chairman of the arbitration board after hearing the member involved and in consideration of the opinion of the organisation delegating the member. (3) In the event that the term of an arbitration board member is terminated due to any reason defined in this Act, a new member shall be appointed to the board in accordance with regulations on the appointment of board members.

Section 25.

(1) The arbitration board shall act in a council of three members. One member of the acting council shall be delegated by the consumer initiating the proceeding or the social organisation providing representation of consumer interests, one other member by the economic organisation which is the subject of the proceeding from the list of board members defined in Subsection (2) of Section 21, while the chairman of the council shall be appointed by the two members delegated as described in the prior.

(2) If either of the parties fails to exercise the right of delegation within the deadline established, or should the two delegated board members fail to agree on the third person within three days of their delegation, the third member of the acting council shall be appointed by the chairman of the board with due consideration of having at least one member delegated from among the board members appointed by the social organisations providing representation of consumer interests, one other member from among the board members appointed by the chamber, and to all other aspects which are highly likely to assure the appointment of an

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independent and impartial board member.

(3) Should the parties deem settlement of the case a simple matter and have agreed on a single board member, such board member may conduct the proceedings alone.

(4) Where this Act hereinafter refers to the acting council, it shall also be construed as a single board member acting alone.

Section 26.

(1) Any arbitration board member, or his relative (Paragraph b) of Section 685 of the Civil Code), who has a personal or financial interest in the case in litigation, or is partial due to any other reason, shall be excluded from the proceedings, unless such member has informed the parties concerned to this effect and in knowledge of this fact neither party has raised an objection against his person.

(2) Board members delegated by the parties or by the chairman to the acting council must, without delay, report to the chairman and introduce to the parties all circumstances that may give rise to legitimate doubt regarding his independence or impartiality.

(3) Either party may lodge a motion for disqualification of a member delegated to the acting council, in the event that there are circumstances giving rise to legitimate doubts regarding his independence or impartiality.

(4) A party may only lodge a motion for the disqualification of a member delegated by him for reasons becoming known after the delegation of such member.

(5) A written motion for disqualification, with the reasons attached, may be presented within three days of the concerned party gaining knowledge of the composition of the acting council or when circumstances defined in Subsection (3) have become known to said party.

(6) The chairman of the arbitration board shall rule on disqualification after hearing the board member concerned. Until such ruling is rendered, the acting council, including the board member subject to disqualification, may continue the proceedings, except for passing a resolution on the merits of the issue.

Section 27.

(1) A prerequisite for commencing arbitration board proceedings is that the consumer has attempted to settle the case directly with the economic organisation involved.

(2) In this regard, the economic organisation must make a serious attempt at co-operation. If the organisation does not agree with the consumer's complaint, it shall inform the consumer in this regard in a written statement with a brief explanation attached.



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Section 28.

(1) Arbitration board proceedings shall commence after the settlement attempt described in Section 27.

(2) The petition shall be presented by the consumer, or in a case involving a number of consumers, by the social organisation providing representation of consumer interests together with payment of a procedural fee of HUF 1, 000.

(3) The petition shall be submitted to the chairman of the arbitration board in writing and shall contain

a) the name and address of the consumer, or his place of residence, or the name and registered office of the organisation initiating the proceedings and the authorisation of the parties affected,

b) the name and registered office of the economic organisation which is the subject of the complaint,

c) a brief description of the complaint, along with the facts and evidence in support such,

d) the consumer's declaration on the fulfillment of the condition specified in Subsection (1) of Section 27,

e) the motion with regard to the decision of the council.

(4) The document, or a copy (extract), the contents of which the consumer makes reference to, shall be attached to the petition, thus in particular the written statement of the economic organisation on the rejection of the complaint or, in respect of public service economic organisations or those providing financial services, the statement of rejection from the customer service department.

(5) Should the petition fail to conform with Subsections (3)-(4), or if the petitioner has failed to pay the procedural fee or did so insufficiently, the chairman of the arbitration board shall return the petition for having the marked deficiencies remedied.

Section 29.

(1) For establishing the deadlines starting from commencement of the proceeding, the chairman of the arbitration board having received the complete petition shall be considered to be the commencement date of the proceedings.

(2) Within three days of the commencement of the proceedings, the chairman of the arbitration board shall review whether board has jurisdiction and competence over the case and, in the event that the board does not have jurisdiction or competence, shall forward the case

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without delay to the appropriate organization of jurisdiction and competence.

(3) In the event that the board's jurisdiction and competence is established, the chairman shall set a date of hearing for the parties within fifteen days of the commencement of the proceedings.

(4) The chairman shall notify the parties regarding the date of the hearing in due time, also delivering a copy of the petition, and shall call on the parties to file their motion concerning the member of the acting council to be delegated by them within three days of receiving said notice or, in case of a simple matter, to agree on the person of the board member acting alone within the same deadline, otherwise the chairman of the arbitration board shall appoint such member *ex officio*. After consideration of the circumstances the chairman may move that the proceedings be carried out in writing, but the consent of both parties must be obtained in order to forego holding a hearing.

(5) In the notice, the economic organisation affected by the complaint shall be ordered to file a written statement (response) within five days with regard to the legitimacy of the complaint, the circumstances of the case, and acceptance of the decision of the council as obligatory (submission). In the statement the economic organisation shall indicate the facts and evidence in support of its position and shall attach any documents (or copies of such), the contents of which it refers to as evidence. The economic organisation is to be warned that, should it fail to file a statement regarding the merits of the case, the council shall pass its resolution based on the information at its disposal.

(6) The chairman shall send a copy of the response of the economic organisation to the consumer without delay, or if there is not sufficient time to do so, shall present it to him at the hearing.

(7) If the economic organisation fails to file a response, the council shall continue the proceedings without deeming such failure to represent acceptance of the petitioner's claims.

Section 30.

(1) In the proceedings the chairman of the council shall attempt to negotiate an agreement between the parties. The council shall approve the agreement by resolution, if it is in conformity with legal regulations, otherwise, or if there is no agreement, it shall continue the proceeding. If necessary, the chairman shall inform the consumer of his rights and obligations.

(2) During the proceedings the council shall treat the parties equally and provide all parties with an opportunity to express their views and present their motions.

(3) Proceedings are public, however either party may request that the proceedings be closed to the public.



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Section 31.

(1) The petition or the response may be freely modified or supplemented during the course of the proceedings, unless so prohibited by the acting council due to any potential delay caused by such action, or the economic organisation objects, in light of its submission, to the petition being modified or supplemented.

(2) If one of the parties fails to appear at the hearing in spite of having been properly notified or fails to present its evidence, the council shall continue the proceedings and shall pass its resolution on the basis of the information in its possession.

(3) If establishment or resolution of a substantial fact or other circumstance requires special expertise which the acting council does not possess, the council may appoint an expert to participate.

(4) The council shall terminate the proceedings, if

- a) the consumer withdraws his petition,
- b) the parties agree on termination of the proceedings,
- c) continuation of the proceedings becomes impossible,

d) continuation of the proceedings should not be necessary for any reasons whatsoever, as so deemed by the council.

(5) The council shall decide the merits of the case by a simple majority of votes.

(6) The council shall conclude the proceedings within thirty days of their commencement. In justified cases the above deadline may be extended by no more than an additional period of thirty days.

Section 32.

The resolution of the council

a) shall be a recommendation, if the economic organisation involved in the case has stated upon commencement of the proceedings that it does not accept the decision of the council as obligatory, or

b) shall be an obligatory resolution, if the economic organisation involved in the case has declared that will accept the decision of the arbitration board as obligatory upon commencement of the proceeding (submission) or upon announcement of the resolution.



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Section 33.

(1) The resolution shall include all motions presented in the petition and the reasons on which the decision was based. The costs of the proceedings, and the party to pay such costs, shall also be included in the resolution.

(2) The costs of the proceedings shall be borne by the party against whom the resolution was passed.

(3) In respect of the fulfillment of the obligation established in the resolution, a fifteen-day deadline shall be set, from the day of the announcement of the resolution.

(4) The council shall announce its resolution on the day of adopting such, upon having the written form completed. Announcement may be postponed by no more than three days if it is absolutely necessary due to the complexity of the case. The council shall deliver one copy of the written resolution to each of the parties and to the consumer protection inspectorate with territorial jurisdiction.

Section 34.

(1) The resolution of the council is passed without prejudice to the consumer's right to have his claim enforced in court proceedings.

(2) The resolution of the council is not subject to appeal, however annulment of the resolution by court may be requested, as specified in Subsection (3).

(3) Within fifteen days of receiving the resolution, the party may file to have the resolution annulled by the competent county court, if the composition or the procedure of the council was not in compliance with the provisions of this Act, or if the arbitration board did not have jurisdiction on the basis of Subsection (1) of Section 19.

(4) Upon request by a party, the court may suspend execution of the obligatory resolution of the council.

(5) The decision of the court may only be for having the resolution annulled.

(6) Otherwise, in respect of court proceedings the provisions of Act III of 1952 on the Code of Civil Procedure shall be applied, stipulating that the court decision may not be reviewed.

Section 35.

(1) Within fifteen days of receiving the resolution, a party may request the council to correct any name changes, typing errors in name or number, calculation errors or any other typing errors of similar nature which may occur in the resolution, or to issue an interpretative clause for a specific section of the resolution.

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(2) If it deems the request justified, the council shall implement such correction within three days of receiving the request, or shall issue the interpretative clause. Such clause shall become an integral part of the resolution.

(3) The council may correct the error(s) defined in Subsection (1) within thirty days of the announcement of resolution without being requested to do so.

Section 36.

(1) The chamber operating the arbitration board and the consumer protection inspectorate shall supervise the execution of the obligatory resolutions of the council, and the degree of compliance by the parties with the provisions of the recommendations.

(2) In the event that the economic organisation fails to comply with the directive of the council, the chamber operating the arbitration board or the competent consumer protection inspectorate shall be entitled to publish, without indicating the name of the consumer, the complaint and the results of the proceedings.

(3) Should the economic organisation fail to fulfill the obligatory resolution of the council within the deadline specified, the consumer or the organisation initiating the proceedings may request the court to have a writ of execution attached to the council's resolution.

(4) The court may refuse mandatory execution of a mandatory resolution, in the event that the arbitration board did not have jurisdiction on the basis of Subsection (1) of Section 19.

Section 37.

The arbitration board may freely establish the detailed regulations of the proceedings within the provisions of the law. The national chambers of commerce, in the interest of acting in unison, may prepare procedural regulations. Such regulations shall be approved by the ministers exercising legal supervision of the chambers in agreement with the Minister of Justice.

Customer Service

Section 38.

(1) Economic organisations or those providing financial, private pension, insurance and telecommunication services shall operate a customer service department for handling consumer correspondence, investigating and redressing complaints and for providing extensive information to consumers at a location which is open for customers.

(2) The economic organisation shall establish the policy and business hours and shall provi-

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de the operating conditions of the customer service department without causing any detriments to the interests of consumers.

(3) The customer service must issue a written statement regarding the rejection of a complaint with an explanation attached, a copy of which shall be presented to the consumer or sent to the customer within 15 days.(4) As part of the procedure of handling consumer correspondence and providing information to consumers, the customer service must cooperate with social organisations providing representation of consumer interests.

Filing for Legal Action

Section 39.

(1) The Bureau of Consumer Affairs, social organisations providing representation of consumer interests or the public prosecutor may file charges against a party causing substantial harm to a wide range of consumers by illegal activities aimed at enforcing the interests of consumers even if the identity of the consumers injured cannot be established.

(2) The legal action defined in Subsection (1) may be filed within one year of the occurrence of the illegal activity.

(3) In its resolution the court may authorize the party enforcing the claim to publish the resolution in a national newspaper at the cost of the party in violation of the law.

(4) The party in violation of the law shall fulfill the claims of the injured consumer in accordance with the resolution. This shall not effect the right of the consumer to have his claims enforced against the party in violation of the law in accordance with the provisions of civil law.

PART TWO THE STATE, LOCAL GOVERNMENT AND INTEREST REPRESENTATION INSTITUTIONAL

SYSTEM OF CONSUMER PROTECTION

Chapter VII. The State System of Consumer Protection Institutions

Section 40.

(1) The Minister a) shall draw up and present to the Government for approval the strategy for a consumer protection policy and shall make recommendations for the organisational and institutional conditions of the implementation of such, b) shall take or initiate measures concerning the enforcement and protection of consumer rights.

(2) The strategy shall contain:

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- a) the objectives of consumer protection intended to be achieved,
 - b) the tasks to be performed in the interest of reaching the objectives and the sequence and deadlines of the implementation of such tasks,
 - c) the means of implementation, including the description of the funding necessary.
- (3) The provisions of the strategy shall be enforced during the preparation of economic policy decisions and during the execution activities being implemented in any sector of the national economy.

Section 41.

- (1) The Bureau of Consumer Affairs is a state administration body with an independent range of duties and competence.
- (2) The Bureau of Consumer Affairs is under the supervision and control of the Minister designated by the Government.
- (3) The competence of the Bureau of Consumer Affairs and the regional inspectorates may not interfere with the consumer protection duties and competence falling under the competence of other organs by law.

Section 42.

In accordance with the provisions of other legal regulations on consumer protection, the regional inspectorates shall perform the regulatory tasks of consumer protection with the professional guidance of the Bureau of Consumer Affairs.

Section 43.

The Bureau of Consumer Affairs and the regional inspectorates shall

- a) monitor compliance with laws affecting consumer protection,

- b) take part in drawing up the consumer protection policy,
- c) monitor and analyse the enforcement of the consumer protection policy,
- d) evaluate legislative bills affecting consumers, and propose the amendment of legal regulations,
- e) co-operate with other State organs involved in consumer protection related activities, on the basis of co-operation agreements,

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- f) monitor, as part of their market control activities, compliance with legal regulations and administrative provisions pertaining to the marketing of goods and to the provision of services; it may conduct investigations concerning consumer related matters, and may impose consumer protection fines, unless a fine has already been imposed by another authority on the same grounds;
- g) supervise market control related duties in connection with the inspection of product safety, and shall operate the Central Market Control Information Network,
- h) monitor the general contract conditions affecting consumers,
- i) handle consumer quality complaint cases,
- j) provide professional assistance concerning the activities of social organizations providing representation of consumer interests and the education of consumers,
- k) publish publications containing information on consumers' rights,
- l) order product comparison tests and publish the results of such tests,
- m) compile methodological auxiliary materials to assist and harmonize the consumer protection activities of local governments,
- n) support the operation of local government consulting offices,
- o) perform all duties assigned to its duties and jurisdiction by law.

Chapter VIII.

The Role of Local Governments

Section 44.

(1) The representative bodies of local governments

- a) may promote formation of independent consumer organisations and may support the activities of social organisations aimed at the enforcement of local consumer protection interests,
- b) may voluntarily take part, based on agreement with the chamber, in the operation of arbitration boards,
- c) may operate consumer protection consulting offices, depending on consumer demand.

(2) The consumer protection related scope of duties and jurisdiction of the representative body of a local government shall be governed by separate legal regulations.



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Chapter IX.

Representation Organisations

Section 45.

(1) The State and local governments shall promote and assist the activities of social organisations providing representation of consumer interests aimed at

a) assisting in the enforcement of the economic interests and the rights of consumers by conducting investigative work, including work to reveal consumer problems and evaluate the enforcement of consumer rights,

b) monitoring the general contractual conditions applied with regard to consumers,

c) representing consumers in reconciliation forums and bodies,

d) initiating proceedings, investigations, actions or law amendments in the interest of protecting consumer rights and interests,

e) assessing legislative bills concerning consumers, initiating law amendments in the interest of protecting or enforcing consumer rights and interests,

f) participating in drafting consumer protection policies and monitoring the implementation of such policies,

g) operating consulting offices for providing information to consumers and aiding in the enforcement of consumer rights, and an information network to advise consumers,

h) organizing consumer protection education,

i) informing the public by the publication of the experience gained during their activities, j) participating in the activities of international organizations, in the interest of protecting the rights of consumers

k) taking part in national standardization through the organs of the Hungarian Standards Institution.

(2) The authority responsible for establishing official prices shall obtain the opinion of social organizations prior to establishing and determining the extent of official prices.

(3) The State shall provide for the support of social organizations representing consumer interests in the annual budget.



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Chapter X.

Proceedings of the Bureau of Consumer Affairs and the Regional Inspectorates

Section 46.

In respect of proceedings of the Bureau of Consumer Affairs and the regional inspectorates (hereinafter referred to as "acting authority") the provisions of Act IV of 1957 on the General Rules of State Administration Procedures shall be applied with the differences stipulated in this Chapter.

Section 47.

(1) The acting authority, upon establishing in proceedings a violation of consumer protection regulations prescribed in this Act and in other legal regulations, may, unless otherwise prescribed by legal regulations,

- a) order the state of infringement to be terminated,
- b) prohibit continuation of the illegal conduct,
- c) order the goods imposing hazards to the life, health or physical safety of consumers to be removed from the market,
- d) order the goods imposing hazards to the life, health or physical safety of consumers to be destroyed in observation of environmental protection regulations,
- e) order a business establishment to be closed, in the event of sales conditions endangering the life or health of consumers or of economic activities in violation of the provisions of the prohibition of unfair market practices affecting a wide range of consumers and/or causing substantial damages.

(2) The acting authority shall be entitled to take properly recorded samples and counter-samples if the quality and/or composition of the goods may only be determined by chemical or technical test, and may also carry out test purchases.

(3) The acting authority shall cooperate with local government bodies during inspections and shall inform the local governments concerned on the results of such inspections, and shall conduct investigations upon request by the local governments.

(4) The acting authority shall obtain the approval of the specialized authority prior to passing a resolution. In the event that the specialized authority does not respond within 15 days, it shall be deemed that the specialized authority agrees to the resolution to be passed.

(5) The acting authority shall send the resolutions it passes within 15 days to the professional supervisory body of interest.



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Section 48.

(1) In the event of a violation of consumer protection regulations, the acting authority may impose a fine by resolution. In the event of multiple infringement, fines may also be imposed cumulatively.

(2) The amount of the fines shall be established in consideration of all circumstances, with particular emphasis on the sphere and gravity of damages caused to consumers, the duration of the violation and repeated offense, and on the advantage gained by such violation.

(3) Fines are to be paid to the account of the Bureau of Consumer Affairs. A separate legal regulation shall govern the utilization of such fines. (4) All unpaid fines which were imposed by final judgment shall be collected in the same manner and time as tax obligations.

Section 49.

(1) The acting authority may order by resolution the provisions of Paragraphs a)-c) and e) of Subsection (1) of Section 47 to be applied, if absolutely necessary.

(2) The head of the acting authority may order the immediate execution of resolutions passed in the interest of the protection of life, health, physical safety and of the environment, or the prevention of particularly extensive damage affecting a wide range of consumers.

Section 50.

(1) Appeals lodged against the resolution of first instance of regional inspectorates shall be judged by the head of the Bureau of Consumer Affairs.

(2) A petition to the court for review of decisions by the head of the Bureau of Consumer Affairs may be filed. The court may alter decisions by the head of the Bureau of Consumer Affairs.

Section 51.

(1) The acting authority shall publish its resolution if immediate execution of the resolution was ordered on the basis of Subsection (2) of Section 49.

(2) The acting authority may publish its resolutions passed in the interest of prevention or reduction of grave harm to consumer interests. Filing of a petition for review of the resolution by court shall not have a preventive effect on the publication of the resolution.



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PART THREE

Closing Provisions Entry into Force

Section 52.

(1) This Act shall enter into force on 1 March 1998.

(2) The provisions of Section 18-37 of this Act shall be applied as of 1 January 1999.

Section 53.

The provisions concerning medical and health services and the distribution of medicines available exclusively by prescription and exclusively for use by medical institutions, and medicines available to be obtained only by medical offices or treatment facilities, controlled preparations specified in separate legal regulations, furthermore medical aids and medical equipment shall be prescribed in separate legal regulations.

Legal Regulations Subject to Amendment or Repeal

Section 54.

(1) a)

b)

c)

(2) The following shall be repealed simultaneously upon this Act entering into force:

a) the second sentence of Section 1 of Act 1 of 1978 on Domestic Trade, as well as Sections 21-23, Subsection (3) of Section 25 and Sections 29-32 of the same,

b) Sections 15-17, the second part of the sentence of Subsection (1) and the middle sentence of Subsection (2) of Section 21 of Law-Decree No. 18 of 1986 on the Amendment of Act 1 of 1978 on Domestic Trade,

c) Section 20 of Act LXXXVII of 1990 on the Establishment of Prices,

d) Sections 71-72 of Act XX of 1991 on the Scope of Duties and Jurisdiction of Local Government and their Organs, of the Delegates of the Republic and of Certain Organs of Central Subordination.



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Authorisations

Section 55.

The Government is hereby authorised to establish detailed regulations for the following in a Decree:

- a) overall product-safety and for the marketing and control of goods of misleading appearance which thereby represent hazards to the life and safety of consumers,
- b) on the application of uniform conformity markings,
- c) on contracts for obtaining the lease rights of specific term of real properties,
- d) on door-to-door sales activities,
- e) on long-distance contracts,
- f) on the imposition of consumer protection fines,
- g) on the remuneration of arbitration board members,
- h) on the organisation and scope of duties and jurisdiction of the Bureau of Consumer Affairs,
- i) on the organisation and operation of consumer groups (consumers' clubs).

Section 56.

The competent ministers are hereby authorized to regulate the following by Decree: a) the mandatory quality requirements, and certification, of the goods in their scope of duties and sphere of authority, and the sphere of organizations authorized to issue such certificates, b) the sphere of organizations acting as special authorities on the basis of Subsection (4) of Section 47 of this Act.