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CHAPTER 63

CONSUMER PROTECTION

AN ACT TO MAKE PROVISION FOR THE PROTECTION OF THE CONSUMER, FOR THE ESTABLISHMENT OF FAIR TRADE PRACTICES AND FOR OTHER MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO

2 of 1995

[16th October 1995]

PART I

PRELIMINARY

1. This Act may be cited as the Consumer Protection Act.
2. In this Act, unless the context otherwise requires —
 - “consumer” means a person who acquires goods or services from a manufacturer, trader or supplier;
 - “defect in relation to goods or defective goods” mean goods that do not comply with a product safety or quality standard for goods and includes goods that are in the particular circumstances dangerous or unfit for use;
 - “goods” include the supply of gas, electricity, water and telecommunications;
 - “manufacturer” means any person who —
 - (a) makes an article or goods;
 - (b) assembles or joins any article or goods whether by chemical process or otherwise; or
 - (c) adapts for sale any article or goods;
 - “services” include any rights, benefits privileges and facilities that are, or are to be provided, granted or conferred under —
 - (a) a contract for or in relation to —
 - (i) the performance of work (including work of a professional nature), whether with or without the supply of goods;
 - (ii) a contract for, or involving, the provision of gas, electricity, water or telecommunications;
 - (iii) the provision, or making available for use, of facilities for amusement, entertainment, recreation or instruction; or

Short title

Interpretation

- (iv) the conferring of rights, benefits or privileges for which remuneration is payable in the form of royalty, levy or similar exaction;

“trader” means any person carrying on business as —

(a) an importer of goods for the purposes of sale or supply;

(b) an exporter of goods in pursuance of a contract of sale or supply, and includes —

- (i) a person who sells or supplies goods wholesale to any other traders; and
- (ii) a person who sells or supplies goods at retail rates to consumers.

Application of Act

3. This Act binds the Crown in so far as the Crown carries on a business, whether directly or by an authority of the Government.

Objects of the Act

4.—(1) The objects of the Act shall be to protect the rights and interests of the consumer and to establish certain standards of conduct by those engaged in the production, sale and distribution of goods and services to consumers.

(2) In the exercise of its functions under this Act, the Division shall have special regard to the following matters —

(a) the protection of the interests of consumers;

(b) the responsibility of the manufacturer or trader to ensure that goods offered to consumers meet certain reasonable demands of durability, utility and reliability and are suited for the purpose for which they are intended;

(c) the efficient operation of any person or body engaged in the production of goods or the provision of services or in any activity connected with or incidental to the production of goods or the provision of services;

(d) to establish and maintain legal or administrative measures to enable consumers to obtain redress through procedures that are expeditious, fair, inexpensive and accessible;

(e) the need to develop, strengthen and maintain a strong consumer policy for the protection of consumers in accordance with the economic and social circumstances of the country; and

(f) other objectives of economic and social policy of the Government.

PART II

ADMINISTRATION

5.—(1) There shall be established for the purposes of this Act, a Consumer Affairs Division, which shall consist of—

Establishment of Division and appointment of Director and other officers

(a) a Director; and

(b) such other officers as may be necessary for the due administration of the Act.

(2) Any appointment made under subsection (1) shall, if the person appointed is to be a public officer, be made in accordance with the Constitution but otherwise shall be made by the Minister.

6.—(1) The Division may—

Functions of the Division

(a) advise any person in relation to the provisions of this Act, and of any other legislation administered by the Division, and take action for remedying infringements of, or for securing compliance with, those provisions, whether on complaint or otherwise;

(b) make available to consumers, and persons dealing with consumers general information with respect to—

(i) this Act and other legislation administered by the Division; and

(ii) matters affecting the interests of consumers;

(c) receive complaints from any person or consumer groups on matters (including fraudulent or unfair practices) relating to the supply of goods or services, and deal with any such complaint (whether or not under paragraph (d)) in such manner as the Division considers appropriate;

(d) investigate the matter the subject of a complaint received under paragraph (c) or refer the complaint to a public authority, or any other body, that the Division considers to be best able to take necessary action, or provide advice in relation to the complaint; and

(e) make known by publication or otherwise, for the guidance of consumers and persons dealing with consumers, the rights and obligations arising under laws relating to the interests of consumers.

(2) The Director shall from time to time report to the Minister of functions performed by the Division pursuant to subsection (1).

(3) Where a complaint is received under subsection (1)(c), the Division may —

(a) investigate the complaint even if it has been referred to a public authority or to another body; or

(b) refer the complaint to a public authority, or any other body, even if an investigation of the matter has been commenced or completed by the Division.

Appointment of
investigators

7.—(1) The Minister may, by order in writing appoint any officer as an investigator for the purposes of this Act and shall provide the officer with a certificate of identity as an investigator.

(2) An investigator who exercises in any place or on any land a function conferred by sections 8 or 9 shall produce his certificate of identification if requested so to do by a person apparently in charge there or apparently in charge of any work being carried on there.

(3) An investigator shall produce his certificate of identification if requested so to do by a person required to comply with the requirements of section 9.

Powers of entry

8.—(1) The powers conferred by this section may be exercised for the purposes of this Act but may not be exercised for any other purpose.

(2) The power to enter a place or land conferred by this section does not include a power to enter a place that is a dwelling-house or other residential premises unless —

(a) the occupier consents; or

(b) some manufacture, business or trade is carried on there.

(3) An investigator may, at a reasonable time, enter any place that he believes on reasonable grounds to be a place where goods are manufactured, prepared or supplied or a place where services are supplied or arranged and —

(a) inspect any goods or partly manufactured goods and make such other inspections as he considers to be necessary;

(b) take any goods or partly manufactured goods for which he pays a fair price;

(c) take a sample of anything from which goods are manufactured or produced in that place;

(d) make inquiries of any person employed in that place;
or

(e) inspect and take copies of records required to be kept by or under this Act or any other law in respect of such business.

9. The Director shall have the power to call for any returns, balance sheets, accounting documents, inventories and other information whether relating to his business or not from any manufacturer or trader if such information is deemed necessary by the Director.

Power to call for documents

10.—(1) Except as provided by subsection (2), a person engaged in the administration of this Act shall not —

Preservation of secrecy

(a) in the course of that administration, disclose to another person so engaged any information or evidence given, or the contents of any document produced pursuant to section 9 without informing the other person that the information or evidence was so given, or the document so produced; or

(b) otherwise than in the course of that administration, disclose any such information, evidence or contents to any person without the written permission of the Minister given in relation to the disclosure.

(2) The Minister may grant the permission referred to in subsection (1) only if he is satisfied that to do so would be in the public interest.

(3) It is not a contravention of subsection (1) if, in any legal proceedings a person discloses any such information, evidence or contents in answering a question that a person is compellable to answer in those proceedings.

11. A person who —

Obstruction of officers

(a) hinders or obstructs an officer in a manner that interferes with the performance by the officer of his duties;

(b) assaults an officer;

(c) being the occupier or person in charge of any place or land entered by an officer under a power conferred by this Act, fails to provide the officer with all reasonable facilities and assistance for the effective exercise of the officer's powers under this Act,

shall be guilty of an offence and liable on conviction to a fine of

one thousand dollars or to imprisonment of one year or to both such fine and imprisonment.

PART III

CONSUMER PROTECTION

Approved standards

12.—(1) The Minister may by regulations prescribe product safety or quality standards for any specified kind of goods (hereinafter in this Act referred to as “approved standard”).

(2) An approved standard for goods shall consist of such requirements as to —

(a) performance, composition, contents, methods of manufacture or processing, design, construction, finish, or packaging of the goods;

(b) the testing of the goods during, or after the completion of, manufacture or processing;

(c) the form and context of markings, labelling, warnings or instructions to accompany the goods;

(d) equipment or accessories to be supplied with the goods;

(e) minimum quality or grade goods of a specified kind are required to conform to;

(f) measures that manufacturers, traders or suppliers should take to ensure that goods do not become hazardous through improper handling or storage; and

(g) such other safety standards, measures or specifications, as are reasonably necessary to prevent or reduce risk or injury to person or damage to property or equipment.

Prohibition of supply of goods below approved standard

13.—(1) A person shall not supply or trade goods in relation to which there is an approved standard, unless the goods comply with the standard.

(2) If a person supplies goods in contravention of subsection (1) and a consumer suffers loss or damage due to a defect in, or a dangerous characteristic of the goods, or by not having particular information in relation to the goods, the consumer who suffers the loss or damage shall be deemed, for the purposes of this Act to have suffered it due to the goods not having complied with the approved standard.

Complaints regarding sale of goods below the approved standard

14.—(1) The Director may inquire into complaints regarding the manufacture or sale of any goods which do not conform to

the approved standard or specification prescribed by the Minister pursuant to section 12.

(2) Any complaint under subsection (1) shall be made to the Director in writing so as to reach him within fourteen days of such sale.

(3) At an inquiry held into such complaint, the Director shall give the manufacturer, trader or supplier against whom such complaint is made an opportunity of being heard either in person or by an agent in that behalf.

(4) Where the Director is of the opinion, after inquiry, that a manufacture or sale has been made of any goods not conforming to the approved standards or specifications prescribed by the Minister, the Director shall order the manufacturer or trader to pay compensation to the aggrieved party or to replace such goods or to refund the amount paid for such goods.

(5) An order made under subsection (4) shall be made in writing and communicated to such manufacturer or trader by registered post.

15. Subject to the provisions of section 38, where any manufacturer or trader fails or refuses to comply with an order made under subsection (4) of section 14, such manufacturer or trader shall be guilty of an offence under this Act.

Failure to
comply with
order an offence

16. The Minister may make an order requiring a manufacturer or trader of defective goods to do one or more of the following —

Product recall

(a) recall the goods in the manner, and within the time, specified in the order;

(b) disclose to the public, or to a class specified in the order, in the manner within the period so specified, one or more of the following —

(i) the nature of any defect in the goods identified in the order;

(ii) the circumstances in which the use of the goods is dangerous; or

(iii) the manner for disposing of the goods;

(c) notify the public or a class of persons so specified in the manner and within the period specified in the order, that the manufacturer or trader undertakes to do whichever of the following the manufacturer or trader thinks is appropriate —

- (i) except where the order identifies a dangerous characteristic of the goods, repair the goods;
- (ii) replace the goods; or
- (iii) refund to the person to whom the goods were supplied, the price of the goods.

Refusal to sell goods to be an offence

17.—(1) No trader who has in his possession or custody or under his control any goods for the purposes of trade shall refuse to sell such goods.

(2) In any prosecution of any trader for the contravention of the provisions of subsection (1), it shall be a sufficient defence for the accused to prove —

(a) that on the occasion in question he supplied a reasonable quantity of the goods or had not a sufficient quantity in his possession to supply the quantity;

(b) that he carried on business in the goods as a wholesale trader only, and that the sale of the quantity demanded by the buyer would have been contrary to the normal practice of a wholesale business; or

(c) that the sale of the goods on that occasion in question would have been contrary to any provisions of any written law or any general or special direction issued to him under this Act.

Denial of possession of any goods for purposes of trade or the sale of such goods subject to any condition to be an offence

18. No trader who has in his possession or custody or under his control any goods for the purposes of trade shall —

(a) deny the possession of such goods; or

(b) offer such goods for sale subject to a condition requiring the purchase of any other goods or the making of any payment in respect of any service or to any other condition other than the condition that the buyer shall pay the price of such goods forthwith.

Hoarding of goods by any trader or person to be an offence

19.—(1) No trader shall conceal in his place of business or in any other place any goods in such quantity as is, in the opinion of the Director, in excess of the normal personal requirements of such trader.

(2) No trader shall have in his possession or custody or under his control in his place of business or in any other place, any goods in such quantity as is, in the opinion of the Director, in excess of —

(a) the quantity required for his personal consumption and of the members of the household; or

(b) the requirements of the normal trading activity of such trader.

(3) No person other than a trader shall have in his possession or custody or under his control any goods in such quantity as is, in the opinion of the Director, in excess of the normal personal requirements of such person.

20. No trader shall sell any goods at a price above the maximum retail or wholesale price, as the case may be, fixed in respect of such goods by order made under the Price Control Act.

Sale of goods above the controlled price to be an offence Cap. 64

21. Every trader shall exhibit conspicuously in his place of business a notice specifying the maximum retail or wholesale price, as the case may be, of all goods available for sale in his place of business.

Trader to display price list

22. Every trader who sells any goods shall on demand, issue to the purchaser thereof a receipt setting out —

Trader to issue receipts to purchasers

(a) the date of the sale;

(b) the quantity of goods sold;

(c) the price paid for such quantity; and

(d) the nature of the transaction, that is to say, whether the sale was by wholesale or retail.

23.—(1) Every trader shall provide in a conspicuous place in his place of business a notice board for the display of any notice, direction or warning issued by the Director under this Act.

Trader to furnish notice board

(2) Every trader shall affix or cause to be affixed on such notice board any notice, direction or warning issued to such trader by the Director under this Act.

(3) Any person who removes, alters, obliterates, erases or defaces such notice, direction or warning other than a person acting under the direction or authority of the Director shall be guilty of an offence.

24. No trader or person shall, in the course of a trade or business, engage in conduct that is misleading or deceptive or is likely to mislead or deceive.

Misleading or deceptive conduct

25. Any trader or person who, in the course of a trade or business, in connection with the supply or use of goods or services —

False representations

(a) falsely represents that goods or services are of a particular standard, quality or grade, or that goods are of a particular style or mode;

(b) falsely represents that goods are new;

(c) represents that goods or services have sponsorship, approval, performance characteristic, accessories, uses or benefits they do not have;

(d) represents that such trader has a sponsorship approval or affiliation he does not have;

(e) makes false or misleading statements concerning the need for any goods, services, replacements or repairs; or

(f) makes false or misleading statements concerning the existence or effect of any warranty or guarantee,

shall be guilty of an offence under this Act.

Exclusive
dealing

26.—(1) No trader shall, in the course of a trade or business except with the written approval of the Director granted in the interest of the national economy, engage in the practice of exclusive dealing.

(2) A trader engages in the practice of exclusive dealing if such trader —

(a) supplies any goods or services;

(b) charges a price for the supply of any goods or services; or

(c) gives or allows a discount, allowance, rebate or credit in relation to the supply of any goods or services, on the condition, or subject to a contract, arrangement or understanding, that the person to whom such trader supplies goods or services —

(i) will not, or will to a limited extent only, acquire goods or services from a competitor of such trader; or

(ii) in the case where such trader supplies goods—
(aa) will not, or will to a limited extent only, supply any of the goods to particular persons or to persons included in a particular class of persons; or

(bb) will not, or will to a limited extent only, in particular places supply any of the goods to other persons; or

(d) requires, as the condition of the supply to a person

goods or services of a kind that he could not lawfully supply but for the issue or grant to the trader of a licence, permit, authority or registration under any written law, that the person acquire all or part of his requirements of other goods or services directly or indirectly from such trader; or

(e) requires, as a condition of the supply to a person of goods or services, that the person acquire all or a part of his requirements of other goods or services directly or indirectly from a second person.

27.—(1) A trader shall not, in a trade or business, discriminate between purchasers of goods of like grade and quality in relation to—

Price
discrimination

(a) the prices charged for the goods;

(b) any discounts, allowances, rebates or credits given in relation to the supply of the goods;

(c) the provision of services or facilities in respect of the goods; or

(d) the making of payments for services or facilities provided in respect of the goods,

if the discrimination is of such magnitude or is of such a recurring or systematic character that is likely to have the effect of substantially lessening competition in a market for goods, being a market in which the trader supplies, or those persons supply, goods.

(2) The provisions of subsection (1) shall not apply in relation to a discrimination if—

(a) the discrimination makes only reasonable allowance for differences in the cost or likely cost of manufacture, distribution, sale or delivery resulting from the different places to which, methods by which or quantities in which goods are supplied to the purchasers; or

(b) the discrimination is constituted by the doing of an act in good faith to meet a price or benefit offered by a competitor of the trader.

(3) In any proceeding for the contravention of the provisions of subsection (1), the burden of establishing that that subsection does not apply in relation to a discrimination by reason of subsection (2) is on the party asserting that subsection (1) does not so apply.

(4) A person shall not, in a trade or business —

(a) knowingly induce or attempt to induce a trader to discriminate in a manner prohibited by subsection (1); or

(b) enter into any transaction that to his knowledge would result in his receiving the benefit of a discrimination that is prohibited by that subsection.

(5) In any proceeding against a person for the contravention of subsection (4), it shall be sufficient defence if that person establishes that he reasonably believed that by reason of subsection (2), the discrimination concerned was not prohibited by subsection (1).

(6) The Director may, where he considers it expedient, in the interest of the national economy exempt any trader from the application of the preceding provisions of this section to such trader.

Warranties in relation to the supply of services

28.—(1) In every contract for the supply by a trader in the course of a business of services to a consumer there is an implied warranty that the services will be rendered with due care and skill and that any materials supplied in connection with those services will be reasonably fit for the purpose for which they are supplied.

(2) Where a trader supplies services to a consumer in the course of a business and the consumer, expressly or by implication, makes known to the trader any particular purpose for which the services are required or the results he desires the services to achieve, there is an implied warranty that the services supplied under the contract for the supply of the services and any materials supplied in connection with those services will be reasonably fit for that purpose or are of such a nature and quality that they might reasonably be expected to achieve that result, except where circumstances show the consumer does not rely, or that it is unreasonable for him to rely, on the trader's skill or judgment.

(3) In this section, "services" include services by way of—

(a) the construction, maintenance, repair, treatment, processing, cleaning or alteration of goods; or

(b) the distribution of goods; or

(c) the transportation of goods.

Monopolisation

29.—(1) A trader who, either by himself or with any other person, is in a position substantially to control a market in goods or services shall not take advantage of the power

relation to that market that he has by virtue of being in that position —

(a) to eliminate or substantially to damage a competitor in that market or in another market;

(b) to prevent the entry of a person into that market or into another market; or

(c) to deter or prevent a person from engaging in competitive behaviour in that market or in another market.

(2) The Director may, where he considers it expedient in the interest of the national economy, exempt any trader from the application of the preceding provisions of this section to such trader.

(3) For the purposes of this section, reference to a trader being in a position substantially to control a market for goods and services includes a reference to a trader who, by reason of his share of the market combined with availability of technical knowledge, raw materials or capital, has power to determine the prices or control the production or distribution, of a substantial part of the goods or services in the market.

30. A person shall not, in trade or commerce, engage in conduct that is liable to mislead the public as to the nature, the characteristics, the suitability for their purpose or the quantity of any goods or services.

Certain misleading conduct in relation to goods or services

31.—(1) Any manufacturer or trader in goods shall ensure that he maintains at all times a reasonable quantity of spares or replacements for goods supplied by him to a consumer.

Spares or replacements to be held in stock

(2) An inspector may at any reasonable time enter upon and search any premises used or reasonably supposed to be used for the manufacture or storage of spares or replacements and may inspect and take records of any stocks of goods found thereon or therein.

32.—(1) A person shall not, in trade or commerce, make a representation that is false or misleading in a material particular concerning the profitability or risk or any other material aspect of any business activity that the person has represented as one that can be, or can be to a considerable extent, carried on at or from any place of residence.

Misleading statements about certain business activities

(2) Where a person in trade or commerce invites whether by advertisement or otherwise, other persons to engage or

participate, in a business activity requiring the performance by the persons concerned of work, or the investment of money by the other persons and the performance by them of work associated with the investment, the inviter shall not make, with respect to the profitability or risk or any other material aspect of the business activity, a representation that is false or misleading in a material particular.

Misleading
conduct about
after sales
services.

33. A manufacturer or trader shall not in relation to the sale of any goods engage in conduct that is liable to mislead the consumer into believing that after sales service is available for the particular goods, unless he has in place suitable facilities for the provision of such services.

PART IV

ENFORCEMENT AND REMEDIES

Offences and
penalties

34.—(1) Every person who acts in contravention of any provisions of this Act or any regulations made thereunder shall be guilty of an offence under this Act. Every person guilty of an offence under this Act shall, on conviction be liable —

(a) in the case of first offence to a fine not exceeding three thousand dollars or to imprisonment for a period not exceeding one year or to both such fine and imprisonment; and

(b) in the case of a subsequent offence to a fine not exceeding seven thousand dollars or to imprisonment for a period not exceeding two years or to both such fine and imprisonment.

(2) The court which convicts any person of an offence under this Act may order the forfeiture of any goods in respect of which the offence was committed.

(3) The court which convicts any person of an offence under this Act may make order that such person shall not carry on the business of selling or offering for sale any goods in the course of any trade or business for such period as may be specified in the order.

(4) Any person who contravenes an order of court under section (3) shall be guilty of an offence.

(5) The Director shall publish in such manner as he thinks fit the name, address and description of every person in respect of whom an order under subsection (3) has been made by court.

35. Where an offence under this Act is committed by a body of persons —

(a) if the body of persons is a body corporate, every person who at the time of the commission of the offence was a director, general manager, secretary or other similar officer of that body corporate; or

(b) if the body of persons is other than a body corporate, every person who at the time of the commission of the offence was a member of that body,

shall be deemed to be guilty of that offence unless he proves that the offence was committed without his knowledge or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions and in all the circumstances.

Liabilities of certain persons in respect of offences committed by bodies corporate or unincorporate

36. Where any offence under this Act is committed by an agent or servant of any manufacturer or trader, such offence shall be deemed to have been committed by such manufacturer or trader unless he proves that such offence was committed without his knowledge.

Principal liable for offences of agents and servants

37. No proceeding shall be instituted against any officer appointed under this Act for any act which is done in good faith or is purported to be done by him in the performance of his duties or the discharge of his functions under this Act.

Protection of officers

PART V
MISCELLANEOUS

38. Any manufacturer or trader who is dissatisfied with a decision made by the Director under sections 14 or 16, may, within seven days appeal to a Magistrate's Court to have the decision or order reviewed.

Right of appeal

39.—(1) The Court may where an appeal is made pursuant to section 38, confirm, modify or reverse the decision or order appealed against or any part of that decision or order.

Decision of Court final and conclusive

(2) The decision of the Court on any appeal under subsection (1) shall be final and conclusive.

40. The Minister may make regulations for giving effect to the principles and provisions of this Act and without prejudice to the

Regulations

generality of the foregoing powers, such regulations may provide for —

(a) the manner in which complaints may be made and investigations conducted;

(b) information that a manufacturer or trader is required to provide to a consumer for charges made for services provided; or

(c) any other thing required by this Act to be prescribed.

(No Subsidiary Legislation)