

THE CONSUMER PROTECTION ACT 1991

Act No. 11 of 1991

I assent,

SIR V. RINGADOO
Governor-General

14 June 1991

ARRANGEMENT OF SECTIONS

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An Act

To make provision for consumer protection

ENACTED by the Parliament of Mauritius, as follows-

1. Short title.

This Act may be cited as the Consumer Protection Act 1991.

2. Interpretation.

In this Act-

"authorised officer" means a person authorised in writing by the minister to assist the enforcement authority in carrying out its functions under this Act;

"certificate of authority" means such certificate of identity and authority as the Minister may issue to an authorised officer;

"credit sale agreement" has the same meaning as in the Hire Purchase Act;

"drug" has the same meaning as in the Pharmacy Act 1983;

"enforcement authority" means the Ministry of Trade and Shipping;

"Export Processing Zone Certificate" means a certificate issued under the Export Processing Zones Act;

"food" has the same meaning as in the Food and Drugs Act;

"goods" includes substances, growing crops and things comprised in land by virtue of being attached to it and any machinery or vehicle;

"hire purchase agreement" has the same meaning as in the Hire Purchase Act;

"information" includes accounts, estimates and returns;

"mark" has the same meaning as in the Trade Marks Act;

"medicine" has the same meaning as in the Pharmacy Act 1983;

"Minister" means the Minister to whom responsibility for the subject of consumer protection is assigned;

"motor vehicle" has the same meaning as in the Road Traffic Act;

"notice" means a notice in writing;

"prohibition notice" means a notice under section 5;

"record" includes any books or documents and any records in non-documentary form;

"safety regulations" means safety regulations made under section 4;

"substance" means any natural or artificial substance whether in solid, liquid or gaseous form or in the form of a vapour and includes substances that are comprised in or mixed with other goods;

"supply" in relation to goods-

- (a) means any transaction by way of trade whether for money or for money's worth;
- (b) includes an exchange of goods, a credit sale agreement, a hire purchase agreement and giving the goods as a prize or otherwise as a gift;
- (c) includes also offering to supply, exposing for supply or being in possession for supply:

"tobacco" includes any tobacco product within the meaning of the Tobacco Production and Marketing Act and any article or substance containing tobacco and intended for oral or nasal use.

3. The general safety requirements.

- (1) No person shall supply any goods which suffer from any fault with regard to any proscribed quality, quantity, potency, purity or standard or, in the case of any machinery or motor vehicle, with regard to the quality, nature or manner of its performance.
- (2) This section shall not apply to-
 - (a) growing crops or things Comprised in land by virtue of being attached to it;
 - (b) water, food, animal feed or chemical fertilizer;
 - (c) aircraft;
 - (d) drugs or medicine;
 - (e) tobacco; and
 - (f) goods intended exclusively for export under the Export Processing Zone Certificate.

4. Safety regulations.

- (1) The Minister may make such safety regulations as he thinks fit for the purposes of this Act.
- (2) The regulations made under subsection (1) may, in particular, provide for-
 - (a) the composition, design, construction, finish or packing of goods;
 - (b) the giving, refusing, alteration, cancellation or approval of such goods;
 - (c) prohibiting persons from supplying goods to which this section applies, including components and raw materials thereof;
 - (d) standards to be applied in carrying out any test or inspection of goods;
 - (e) the requiring of a mark, warning or instructions to be put on or to accompany the goods;
 - (f) levying of fees.
- (3) The power to make regulations under this section shall include power to make provision for different classes of goods.
- (4) This section shall apply to any goods other than those specified in section 3(2).

5. Prohibition notice.

- (1) The enforcement authority may serve on any person a prohibition notice prohibiting that person from supplying any goods which in its opinion are not safe for use or consumption.
- (2) A notice issued under subsection (1) shall specify the reasons for which the goods are believed not to be safe for use or consumption.
- (3) A person who has been served with a prohibition notice may, within 10 days of the receipt thereof, make representations in writing to the Minister, specifying the grounds on which he relies.
- (4) Upon receipt of any representations under subsection (3) the Minister shall hear the representor within 15 days and take a decision.
- (5) Where the Minister maintains a prohibition notice, the person on whom it was served shall cease forthwith to supply the goods to which the notice relates or such of the goods in respect of which the notice is maintained.

6. Power to vary, revoke any safety regulation.

The Minister may-

- (a) vary, amend or revoke a prohibition notice; and

- (b) by notice, require any person to furnish such information or records as may be reasonably required in relation to any matter under this Act.

7. Power of search etc.

- (1) An authorised officer may, at all reasonable times and on showing his certificate of authority, enter any trading premises for the purposes of ensuring that the provisions of this Act are being complied with.
- (2) Where the authorised officer has reasonable grounds for suspecting that there has been a contravention in relation to any goods, he may-
 - (a) inspect the records of such goods and seize them, if necessary;
 - (b) take a sample of the goods.

8. Obstruction of authorised Officer.

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- (a) obstruct an authorised officer in the performance of his functions under section 7;
- (b) fail or refuse to give to an authorised officer such information as he may reasonably require in the performance of his functions under section 7.

9. Offences and penalties.

- (1) Any person who contravenes this Act or any regulations made under it or a prohibition notice served under section 5, shall commit an offence and shall, on conviction, be liable-
 - (a) in the case of a first, offence, to a fine of not less than 500 rupees and not exceeding 5,000 rupees; and
 - (b) in the case of a second or subsequent offence, to a fine of not less than 1,000 rupees and not exceeding 10,000 rupees and to imprisonment for a term not exceeding 12 months.
- (2) Notwithstanding section 114 of the Courts Act and section 72 of the District and Intermediate Courts (Criminal Jurisdiction) Act, a magistrate shall have jurisdiction to try an offence under this Act and may impose any penalty provided by this Act.
- (3) Sections 152 and 153 of the Criminal Procedure Act shall not apply to an offence under this Act.

Passed by the Legislative Assembly on the eleventh day of June one thousand nine hundred and ninety-one.

L. RIVALTZ QUENETTE
Clerk of the Legislative Assembly