

CONSUMER PROTECTION ACT, 1998

NEPAL RECORDER

Year 22 No. 8
Kathmandu: March 22, 1998

Ministry of Law and Justice
Nepal Rajapatra, Vol. 47. No. 54 (E), Magh 15, 2054 (January 28, 1998)

Preamble

Whereas it is expedient to make provisions for protecting consumers from irregularities concerning the quality, quantity and prices of consumer goods or services, ensuring that no one lowers or removes the attributes or usefulness of consumer goods or services, preventing circumstances in which monopolies and unfair trading practices may lead to an increase in prices, as well as false and misleading propaganda about the use and usefulness of consumer goods or services, selling, supplying, importing, exporting and storing safe and quality consumer goods or services, and protecting the rights and interests of consumers through the establishment of an agency for redressing the hardships of consumers, and thus maintaining the health, convenience and economic welfare of consumers, now therefore, the Parliament has enacted this law in the 26th year of the reign of His Majesty's King Birendra Bir Bikram Shah Dev.

1. Short Title and Commencement

(1) This law shall be known as Consumer Protection Act, 1998.

(2) It shall come into force on Baisakh 1, 2055 (April 13, 1999).

2. Definitions

Unless otherwise meant with reference to the subject or context, in this Act,

(a) Consumer means an individual or institution consuming or using any consumer good or service.

(b) Council means the Consumer Protection Council formed under Section 3.

(c) Compensation Committee means the Compensation Committee formed under Section 23.

(d) Consumer goods mean goods or materials made through the admixture of several goods which are consumed or used by consumers; the term includes raw materials, colors, flavors or chemicals used in the production of such consumer goods.

(e) Service means any labor, facility or consultancy provided for any work on payment of any kind of service charge or other consideration.

(f) Production means the process of producing, preparing, processing, converting, packing, repacking, assembling or labelling any consumer goods, or all or any process to be adopted in that connection.

(g) Label means a tag, symbol, picture or other descriptive objects written, printed, lithographed, symbolized, embossed, affixed or otherwise shown in consumer goods or their containers.

(h) Unfair trading practices mean the sale or supply of consumer goods or services by making false or misleading claims about their actual quality, quantity, price, measurement, design, make, etc., or the sale or supply of consumer goods produced by others by affecting their quality, quantity, price, measurement, design, make, etc.

(i) Sub-standard consumer goods mean consumer goods of any of the following conditions:

(1) Consumer goods in which the quantity of an essential ingredient has been lowered, or any other material has been mixed, in such a manner that the quality falls short of the standard determined under Section 11.

(2) Consumer goods which are stale, rotten or stored or prepared in dirty or toxic conditions or in which any chemical, color or flavor has been used, so that they become harmful to health.

(3) Consumer goods which are fully or partly made of any diseased or disease-generating animals or birds or harmful vegetation.

(4) Consumer goods of a quality which falls short of the minimum necessary standard or exceeds the maximum standard prescribed, if any, in this Act or in the orders issued under the rules framed under this Act.

(i) Vendor means an individual or a governmental or non-governmental organization or cooperative society selling and supplying consumer goods or services on a wholesale or retail basis.

(j) Laboratory means an institution which has been established with the objectives of testing the purity, wholeness or quality of consumer goods, and which has been recognized by His Majesty's Government.

(k) Consumers' Association means an association established under current law with the objective of protecting and promoting the rights and interests of consumers.

(l) Inspection Officer means an Inspection Officer appointed or designated under Section 14.

(m) Prescribed or as prescribed means prescribed or in the manner prescribed in the rules framed under this act.

3. Formation of Consumer Protection Council

(1) A Consumer Protection Council shall be formed in order to formulate policies relating to the protection of the rights and interests of consumers, and offer suggestions to His Majesty's Government on matters concerning the rights and interests of consumers.

(2) The Council mentioned in Sub-Section (1) shall comprise the following Chairman and members:

(a) Minister/Minister of State for Supplies : Chairman

(b) Chairman, Development and Communication Committee,

House of Representatives : Member
(c) Secretary, Ministry of Supplies : Member
(d) Secretary, Ministry of Industry : Member
(e) Secretary, Ministry of Agriculture : Member
(f) Secretary, Ministry of Home : Member
(g) Secretary, Ministry of Commerce : Member
(h) Director-General, Nepal Standards and Weights and Measures Department : Member
(i) President, Federation of Nepalese Chambers of Commerce and Industry : Member
(j) Three representatives nominated by His Majesty's Government from non-governmental organizations connected with the rights and interests of consumers : Members
(k) Two women representatives nominated by His Majesty's Government from among women working in fields connected with the rights and interests of consumers : Members
(l) An officer of His Majesty's Government designated by His Majesty's Government : Member - Secretary

(3) Members nominated under Clauses (j) and (k) of Sub-Section (2) shall have a term of two years, and they shall be eligible for re-nomination for one more term.

(4) The Chairman and members of the Council shall be entitled to meeting allowances as prescribed by His Majesty's Government.

4. Functions, Duties and Powers of the Council

(1) The functions, duties and powers of the Council shall be as follows:

(a) To offer suggestions to His Majesty's Government on matters relating to the protection of the rights and interests of consumers, the supply system, and prices, quality and purity of consumer goods and services.

(b) To disseminate information relating to the rights and interests of consumers in order to inform them about the standard of goods and services so as to protect them in matters concerning consumer goods and services.

(c) To inform consumers about the prices, quality, quantity and purity of consumer goods and services, as well as about unfair trading practices concerning them, or make arrangements for doing so.

(d) To conduct studies in connection with the protection of the rights and interests of consumers, or make arrangements for doing so.

(e) To offer suggestions to His Majesty's Government on changing the existing policies or framing new policies relating to the protection of the rights and interests of consumers.

(f) To maintain updated national and international information relating to the protection of the rights and interests of consumers, and make arrangements for doing so.

(g) To monitor the rights of consumers, or make arrangements for doing so, and offer suggestions to His Majesty's Government to rectify the shortcomings noticed in the course of such monitoring.

(h) To discharge the functions prescribed by His Majesty's Government, or make arrangements for doing so.

(i) To discharge such other functions as are deemed appropriate for the protection of the rights and interests of consumers, or make arrangements for doing so.

(2) The Ministry of Supplies shall function as the Secretariat of the Council.

5. Working Procedures Relating to Meetings of the Council

(1) The Council shall meet on the date and at the time and place prescribed by the Chairman.

(2) The quorum for a meeting of the Council shall be deemed to have been fulfilled in case it is attended by at least 50 percent of its total membership.

(3) Meetings of the Council shall be presided over by the Chairman, and, in his absence, by a person chosen by the members from among themselves.

(4) Decisions of the Council shall be authenticated by its Member-Secretary.

(5) The other working procedures of the Council shall be as determined by the Council itself.

6. Protection and Promotion of Consumer Rights

(1) For the purpose of protecting the rights and interests of consumers, every consumer shall have the following rights:

(a) Right to be protected from the sale and supply of consumer goods and services which may harm life, body, health and property.

(b) Right to be informed about the prices, attributes, quantity, purity, quality, etc. of consumer goods and services so as to be safe from unfair trading practices.

(c) Right to be assured of an opportunity to select consumer goods and services at competitive prices as far as possible.

(d) Right to be assured that an appropriate agency will hear matters concerning the protection of the rights and interests of consumers.

(e) Right to be heard and compensated against exploitation and hardships resulting from unfair trading practices.

(f) Right to consumer education.

(2) His Majesty's Government shall issue necessary directives to the Council in order to create an atmosphere favorable for the protection and promotion of the rights of consumers mentioned in Sub-Section (1).

7. Prohibition to Influence Demand, Supply or Price

No one shall influence the demand, supply and price of any consumer good or service by taking any of the following actions in collusion with others:

(a) By fixing the quota of raw materials needed for any consumer good, or reducing the production of any consumer good, or taking any other similar actions.

(b) By hoarding any consumer good or service or otherwise creating an artificial shortage, or selling and supplying such good or service at specified times or places only, or taking any other similar actions.

8. Power to Systematize and Control Supply of Consumer Goods and Services

(1) For the purpose of protecting the rights and interests of consumers, His Majesty's Government shall exercise the following powers in order to systematize, control and regulate the supply of consumer goods and services:

(a) To formulate policies relating to the quality, price and the supply system of consumer goods or services.

(b) To formulate action plans in connection with the monitoring, prevention and control of unfair trading practices and monopolies which are likely to harm the rights and interests of consumers, and implement such plans.

(c) To analyze and review the situation in respect to the demand and supply of consumer goods consumed within the country.

(d) To make necessary arrangements for checking any undesirable increase in prices by producers, vendors or distributors of consumer goods.

(e) To discourage unfair trading practices which are likely to create shortages through artificial or other improper means.

(2) His Majesty's Government shall make necessary arrangements in order to effectively implement the provisions concerning the protection of the rights and interests of consumers, regulation of the supply system, and control of the prices and quality of consumer goods and services.

9. Particulars to be Mentioned in Consumer Goods

A producer must mention the following particulars on the labels of consumer goods on a mandatory basis:

(a) Name and address of the producer, and registration number of the industry.

(b) In the case of consumer goods such as food and medicines, their ingredients as well as their quantity and weight.

(c) Quality of consumer goods whose quality has been determined, if any.

(d) Method of consuming consumer goods and possible impact of such consumption.

(e) Price, batch number, production date and expiry date of the consumer goods.

(f) In the case of consumer goods such as electronic goods, hardware and machinery, guarantee thereof, date of guarantee, and other necessary matters.

(g) In the case of consumer goods which are inflammable, dangerous or fragile, precautions for their safety.

(h) Other particulars as prescribed.

10. Actions Which Must not be Taken in Respect to Consumer Goods or Services

No one shall take or instigate others to take any of the following actions in respect to any consumer good or service:

(a) To produce, sell, supply, export or import a sub-standard consumer good.

(b) To imitate any consumer good in such a manner as to mislead consumers.

(c) To sell or supply any consumer good or service by making false or misleading claim that it is another consumer good or service, or by describing a sub-standard consumer good or service as of high standard.

(d) To engage in unfair trading practices in such a manner as to make false or misleading publicity or advertisements relating to the use, usefulness, or efficacy of any consumer good or service.

(e) To produce, sell or supply any consumer good or service which is likely to harm consumers' health.

(f) To take such other actions as are prescribed.

11. Standard of Consumer Goods or Services

(1) In case the limits of the quality or quantity of any ingredient to be used in any consumer good or service have been determined, His Majesty's Government shall determine the standard of such good or service according to the prescribed procedures.

(2) His Majesty's Government shall publish a notice of the determination of the standard of any good and service under Sub-Section (1) in the Nepal Rajapatra.

12. Price Lists to be Kept

Every vendor must keep at a conspicuous place of his shop a price-list of every consumer good sold and supplied by him, explicitly mentioning its wholesale and retail prices.

13. Power of His Majesty's Government to Conduct Investigations and Inspections

(1) In case there are reasonable grounds to believe that any person is engaging in any unfair trading activity in such a manner as to adversely affect the rights and interests of consumers, or affecting the price and the supply system of

consumer goods or services by exercising a monopoly or through any other means, or producing or selling sub-standard goods, or taking any action which is contrary to this act or the rules framed hereunder, His Majesty's Government may conduct necessary investigations and inspections, or make arrangements for doing so.

(2) His Majesty's Government shall take necessary action according to current laws against any producer, dealer, agent, vendor, individual or institution found guilty through investigations and inspections conducted under Sub-Section (1).

14. Power to Appoint or Designate Inspection Officers

His Majesty's Government may appoint Inspection Officers or designate any officer-employees to work in that capacity in the prescribed manner in order to monitor the supply of quality consumer goods or services to consumers in a simple manner and at fair prices by making the market and supply systems effective.

15. Powers of Inspection Officers to Inspect, Investigate or Search

(1) In case there are reasonable grounds to believe that any consumer good or service which is not safe, efficacious or of (the prescribed) standard is being produced, sold or supplied, or that any action is being taken in violation of this act or the rules framed hereunder, at any place, the Inspection Officer may inspect, investigate or search such place.

(2) In case it is found in the course of an inspection, investigation or search conducted under Sub-Section (1) that any good or service which is not safe, efficacious or of the (prescribed) standard is being produced, sold or supplied, or that actions are being taken in violation of this act or the rules framed hereunder, the Inspection Officer shall take a sample of such good (or service) in the prescribed manner and impose a ban on the production and sale or supply of such good or service for a prescribed period.

(3) Reports of actions taken by Inspection Officers under Sub-Section (2) must be submitted to His Majesty's Government within three days.

(4) The working procedures to be adopted by Inspection Officers while conducting inspections, investigations, or searches shall be as prescribed.

(5) The other functions, duties and powers of Inspection Officers, and provisions concerning the implementation of the reports submitted by them, shall be as prescribed.

16. Testing of Consumer Goods

Samples of consumer goods taken by an Inspection Officer under Section 15 shall be sent to the laboratory for a test within the prescribed time-limit.

17. Sub-Standard Consumer Goods to be Seized

In case any consumer good is held to be of sub-standard following the test of its sample at the laboratory where it is sent under Section 16, it shall be seized.

18. Penalties

Any person who takes or instigates others to take any of the following actions shall be punished as follows, depending on the degree of his offense:

(a) Any person who takes or instigates others to take any action in violation of Section 7 shall be punished with imprisonment for a term not exceeding three years, or with a fine not exceeding Rs 50,000, or with both.

(b) Any person who takes or instigates others to take any action in violation of Clause (a) of Sub-Section (1) of Section 9 shall be punished with imprisonment for a term not exceeding two years, or with a fine not exceeding Rs 30,000 or with both.

(c) Any person who takes or instigates others to take any action in violation of Clause (a) of Section 10 shall be punished with imprisonment for a term not exceeding three years, or with a fine not exceeding Rs 50,000, or with both.

(d) Any person who takes or instigates others to take any action in violation of Clauses (b), (c) and (d) of Section 10 shall be punished with imprisonment for a term not exceeding five years, or with a fine not exceeding Rs 100,000, or with both.

(e) Any person who takes or instigates others to take any action in violation of Clause (e) of Section 10 shall be punished as follows:

(1) If there is a threat to life, for a term not exceeding 14 years, or with a fine not exceeding Rs 500,000, or with both.

(2) In case the strength of any organ of the body is likely to be reduced or lost, with imprisonment for a term not exceeding 10 years, or with a fine not exceeding Rs 500,000, or with both.

(3) In other circumstances, with imprisonment for a term not exceeding 5 years, or with a fine not exceeding Rs 300,000, or with both.

(f) Any person who takes or instigates others to take any action, other than those mentioned above, which violates this act or the rules framed under this act shall be punished with imprisonment for a term not exceeding two years, or with a fine not exceeding Rs 200,000, or with both.

19. His Majesty's Government to be the Plaintiff

His Majesty's Government shall be the plaintiff in cases under this act.

20. Investigation and Filing of Lawsuits

(1) Lawsuits relating to offenses punishable under this act shall be investigated by Inspection Officers. Lawsuits must be filed with the concerned District Court within 35 days from the date of completion of such investigations.

(2) While investigating and filing lawsuits under Sub-Section (1), an Inspection Officer may seek the opinion of the government lawyer, and such cases shall be defended by the government lawyer.

21. Summary Trial Procedure to be Adopted

The procedure mentioned in the 1972 Summary Trial Procedure Act shall be adopted while taking action on and disposing of lawsuits filed under this act.

22. Claims for Compensation May be Made

In case any consumer suffers a loss or damage of any kind as a result of the sale of any consumer good or service in a manner opposed to this act, such consumer, or any Consumer Association on his behalf, may file a complaint with the Compensation Committee within 35 days from the date of such loss or damage, requesting for the realization of compensation from the person who has sold or supplied such consumer good or service.

23. Compensation Committee

(1) A Compensation Committee as follows shall be formed in each district in order to conduct investigations into complaints filed under Section 22 and realize compensation in consideration of losses or damages suffered by consumers:

- (a) Chief District Officer : Chairman
- (b) District Government Advocate : Member
- (c) District Medical Officer : Member
- (d) A representative of the District Consumers Association designated by His Majesty's Government : Member
- (e) Representative, District Chamber of Commerce and Industry : Member
- (f) An officer designated by His Majesty's Government : Member Secretary

(2) The Compensation Committee must take a decision on a complaint filed in connection with compensation within the prescribed time-limit. The working procedure to be adopted while taking decisions shall be as prescribed.

24. Realization of Compensation

In case the Compensation Committee holds that any consumer has suffered a loss or damage following investigations into a complaint filed for compensation under Section 22, it shall arrange for the payment of compensation on the basis of such loss or damage to the concerned consumer or his heir.

25. Appeal

Any person who is dissatisfied with the decision taken by the Compensation Committee under Section 24 may file an appeal with the concerned Appellate Court within 35 days from the date of such decision.

26. Power to Initiate Lawsuits Under Current Laws

In case any action which is an offense under this act is also an offense under any other current Nepal Law, this act shall not be deemed to have prejudiced the right to initiate lawsuits under the other act.

27. Power to Form Sub-Committees

(1) His Majesty's Government or the Council may form necessary Sub-Committees in order to fulfill the objectives of this act.

(2) The functions, duties, powers and working procedures of a Sub-Committee formed under Sub-Section (1) shall be as prescribed by His Majesty's Government or the Council.

28. Delegation of Powers

His Majesty's Government or the Council may delegate some of the powers vested in it under this act to any Sub-Committee formed under Section 27, or to any officer-employee, according to need.

29. Immunity for Actions Taken With Bonafide Motives

Inspection Officers, Compensation Committees or employees of His Majesty's Government shall not be held personally liable for any action taken by them with good intentions in the course of fulfilling their duties under this act or the rules framed hereunder.

30. Power to Frame Rules

His Majesty's Government may frame necessary rules in order to implement the objectives of this act.

Royal seal affixed on:

Magh 15, 2054

(January 28, 1998)