

CONSUMER PROTECTION ACT, 2054 (1998)

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1. Some Nepal Acts Amendment Act, 2055

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ACT NO. 20 OF THE YEAR 2054 (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 trade practices may lead to an increase in prices, as well as false and misleading propaganda regarding 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 Act in the 26th year of the reign of Majesty's King Birendra Bir Bikram Shah Dev.

1. Short Title and Commencement : (1) This Act may be called "Consumer Protection Act, 2033 (1998)."

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

2. Definitions : In this Act, Unless otherwise meant with reference to the subject or context;

(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 and this term also includes raw materials, colours, flavors or chemicals used in the production of such consumer goods.

- (e) "Service" means any labour, 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 trade practices" means 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" means 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, colour or flavour 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 Act or in the orders issued under the Rules framed under Act.

- (j) "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.
- (k) "Laboratory" means an institution which has been established with the objectives of testing the purity, completeness or quality of consumer goods, and which has been recognized by Government of Nepal.
- (l) "Consumers Association" means an association established under prevailing law with the objective of protecting and promoting the rights and interests of consumers.
- (m) "Inspection Officer" means an Inspection Officer appointed or designated under Section 14.
- (n) "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 Government of Nepal on matters concerning the rights and interests of consumers.

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

- (a) Minister/Minister of State for Supplies - Chairperson
- (b) Chairperson, 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 Government of Nepal from non-governmental organizations associated with the rights and interests of consumers - Members
- (k) Two women representatives nominated by Government of Nepal from among women working in the fields associated with the rights and interests of the consumers - Members
- (l) An officer of Government of Nepal designated by Government of Nepal - Member-Secretary

(3) Members nominated under Clauses (j) and (k) of Sub-section (2) shall have a tenure of two years, and may be re-nominated for one more term.

(4) The Chairperson and members of the Council shall receive meeting allowances as prescribed by Government of Nepal.

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 Government of Nepal 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 or cause 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 or cause to inform consumers about the prices, quality, quantity and purity of consumer goods and services, as well as about unfair trade practices concerning them.
- (d) To conduct or cause to conduct studies in connection with the protection of

the rights and interests of consumers.

- (e) To offer suggestions to Government of Nepal on changing the existing policies or framing new policies relating to the protection of the rights and interests of consumers.
- (f) To maintain or cause to maintain updated national and international information relating to the protection of the rights and interests of consumers.
- (g) To monitor or cause to monitor the rights of consumers and offer suggestions to Government of Nepal to rectify the shortcomings noticed in the course of such monitoring.
- (h) To discharge or cause to discharge the functions prescribed by Government of Nepal.
- (i) To discharge or cause to discharge such other functions as are deemed appropriate for the protection of the rights and interests of consumers.

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

5. Procedures Relating to Meetings of the Council : (1)The Council shall meet on the date and at the time and place appointed by the Chairperson.

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

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

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

(5) The other Rules of 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 trade practices.
- (c) Right to be assured of an opportunity to choose 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 grievances..... hardships resulting from unfair trade practices.
- (f) Right to consumer education.

(2) Government of Nepal shall issue necessary directives to the Council in order to create an atmosphere favourable 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 of the consumer goods or services by taking any of the following actions in collusion with others:

- (a) By fixing the quota of raw materials needed for any of the consumer goods, or reducing the production of any of the consumer goods, or taking any other similar actions.
- (b) By hoarding any of the consumer goods or service or otherwise creating an artificial shortage, or selling and supplying such goods or services 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, Government of Nepal 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 trade 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 trade practices which are likely to create shortages through artificial or other improper means.

(2) Government of Nepal 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 shall compulsorily mention the following particulars on the labels of consumer goods:

- (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. Prohibited Actions Regarding Consumer Goods or Services: No one shall take or cause to take any of the following actions in respect to any of the consumer goods or services:

- (a) To produce, sell, supply, export or import a sub-standard consumer goods.
- (b) To imitate any of the consumer good in such a manner as to mislead consumers.
- (c) To sell or supply any of the consumer goods or services by making false or misleading claim that the consumer goods or services are separate one or by describing the substandard consumer goods or services as of higher standard.
- (d) To engage in unfair trade practices in such a manner as to make false or misleading publicity or advertisements relating to the use, usefulness, or efficacy of any of the consumer goods or services.
- (e) To produce, sell or supply any of the consumer goods or services which may cause harm to the health of the consumers’.
- (f) To take such other actions as 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 of the consumer goods or services have been determined, Government of Nepal shall determine the standard of such good or service according to the prescribed procedures.

(2) Government of Nepal shall publish a notice of the determination of the standard of any of the goods and services under Sub-section (1) in the Nepal Gazette.

12. Price Lists to be Kept : Every vendor shall keep at a conspicuous place of shop a price-list of all consumer goods sold and supplied by him/her, explicitly mentioning its wholesale and retail prices.

13. Power of Government of Nepal to Conduct Inquiry and Inspections : (1) In case there is a reasonable ground 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 the 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, Government of Nepal may conduct or cause to conduct necessary inquiry and inspection.

(2) Government of Nepal shall take necessary action according to prevailing laws against any producer, dealer, agent, vendor, individual or institution found guilty through inquiry and inspection conducted under Sub-Section (1).

14. Power to Appoint or Designate Inspection Officer : Government of Nepal may appoint Inspection Officer or designate any officer to work in that capacity in the prescribed manner in order to monitor the supply of qualitative 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, Inquiry or Search : (1) In case, there is a reasonable ground to believe that any of the consumer goods or services which is not safe, efficacious or below the 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, conduct inquiry or search such place.

(2) In case, it is found in the course of an inspection, inquiry or search conducted under Sub-section (1) that any of the goods or services which is not safe, efficacious or below the 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 goods (or service) in the prescribed manner and impose a ban on the production and sale or supply of such goods or

services for a prescribed period.

(3) Reports of actions taken by the Inspection Officer under Sub-section (2) shall be submitted to Government of Nepal within three days.

(4) The procedures to be adopted by the Inspection Officer while conducting inspection, inquiry or search shall be as prescribed.

(5) The other functions, duties and powers of Inspection Officer, 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 Confiscated:** In case any of the consumer goods is found to be of sub-standard following the test of its sample at the laboratory where it is sent under Section 16, it shall be confiscated.
- 18. Penalties** : A person who commits or cause to commit the following Act shall be punished as follows, depending on the degree of offense:
- (a) A person who commits or cause to commit any Act in violation of Section 7 shall be punished with an imprisonment for a term not exceeding three years, or with a fine not exceeding Fifty Thousand Rupees or with both.
 - (b) A person who commits or cause to commit any Act in violation of Clause (a) of [∞].....Section 9 shall be punished with imprisonment for a term not exceeding two years, or with a fine not exceeding Thirty Thousand Rupees or with both.
 - (c) A person who commits or cause to commit any Act 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 Fifty Thousand Rupees or with both.

[∞] Deleted by Some Nepal Acts Amendment Act, 2055

- (d) A person who commits or cause to commit any Act 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 One Hundred Thousand Rupees or with both.
- (e) A person who commits or cause to commit any Act 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 fourteen 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 ten years, or with a fine not exceeding Rs 500,000, or with both.
 - (3) In other circumstances, with imprisonment for a term not exceeding five 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 tact 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. Government of Nepal to be the Plaintiff : Government of Nepal 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 and lawsuits shall 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 Attorney, and such cases shall be defended by the Government Attorney.

21. Summary Trial Procedure to be Adopted : The procedure mentioned in the Summary Procedure Act, 1972 shall be adopted in the process and disposal 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 contrary to this Act, such consumer, or any Consumer Association on 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 inquiry into complaints filed under Section 22 and realize compensation in consideration of losses or damages suffered by the consumer:

- (a) Chief District Officer - Chairperson
- (b) District Attorney - Member
- (c) District Medical Officer - Member
- (d) A representative of the District Consumers Association designated by Government of Nepal - Member
- (e) Representative, District Chamber of Commerce and Industry - Member
- (f) An officer designated by Government of Nepal - Member-Secretary

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

24. Realization of Compensation : In case the Compensation Committee holds that a consumer has suffered a loss or damage following inquiry 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 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 the Prevailing Laws :** In case any action which is an offense under this Act is also an offense under any other prevailing Nepal Law, this Act shall not be deemed to have prejudiced the right to initiate lawsuits under any other law.
- 27. Power to Form Sub-Committees :** (1) Government of Nepal or the Council may form necessary Sub-Committees in order to fulfill the objectives of this Act.
- (2) The functions, duties, powers and procedures of a Sub-Committee formed under Sub-Section (1) shall be as prescribed by Government of Nepal or the Council.
- 28. Delegation of Powers :** Government of Nepal 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 as it requires.
- 29. Immunity for Actions Taken With *Bona fide* Motives :** Inspection Officers, Compensation Committee or employee of the Government of Nepal shall not be held personally liable for any action taken by him/her with good intentions in the course of fulfilling their duties under this Act or the Rules framed hereunder.
- 30 Power to Frame Rules :** Government of Nepal may frame necessary Rules in order to implement the objectives of this Act.

Note : Words changed by the Some Nepal Acts Amendment Act, 2055.

"District Attorney" instead of District Government Advocate"