

# CONSUMER PROTECTION BILL, 2023

## Arrangement of Sections

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### Section

<b>PART I - PRELIMINARY</b>	<b>4</b>
1. Short title.....	4
2. Interpretation.....	4
<b>PART II – ADMINISTRATION OF ACT</b>	<b>5</b>
3. Continuation of the Consumer Commission.....	5
4. Functions and powers of the Commission. ....	6
5. Directions.....	6
6. Funds and resources of the Commission. ....	7
7. Accounts.....	7
8. Annual reports and estimates. ....	7
<b>PART III – COMPLAINTS AND INVESTIGATIONS</b>	<b>8</b>
9. Complaints. ....	8
10. Investigation. ....	8
11. Discretion not to conduct investigation. ....	9
12. Power to investigate not precluded.....	9
13. Summoning persons to give evidence. ....	9
14. Obligations of persons summoned. ....	10
15. Paper, book, record or document as evidence. ....	10
16. Advisory notices.....	10
<b>PART IV – CONTROL OF GOODS</b>	<b>11</b>
RESTRICTION OF IMPORTS	11
17. Minister to restrict imports, etc. ....	11
RECALL OF GOODS	12
18. Compulsory recall of goods.....	12
19. Compliance with goods recall notice. ....	13
20. Loss or damage caused by contravention of goods recall notice. ....	13
21. Consultation to be held in certain cases.....	14
22. Exception in case of danger to public. ....	15
23. Voluntary recall.....	16
<b>PART V – OBLIGATIONS OF PROVIDER</b>	<b>16</b>
24. Obligation of provider to be licensed or registered. ....	16

25.	Warranties. ....	16
26.	Obligation to inform consumer of re-conditioned goods. ....	17
27.	Price of goods or services to be displayed, disclosed. ....	17
28.	Disclosures. ....	17

**PART VI – RIGHTS OF THE CONSUMER 18**

---

29.	Details of goods to be provided to consumer. ....	18
30.	Measurement of goods. ....	18
31.	Receipt to be given to consumer. ....	18
32.	Right to refund. ....	19
33.	Right to receive refund in same manner as payment. ....	19

**PART VII – PRODUCT LIABILITY 19**

---

34.	Damage resulting from use service or goods. ....	19
35.	Damaged goods sold to consumer. ....	20
36.	Return of materially defective or different goods. ....	21
37.	Return of electrical goods. ....	21

**PART VIII – UNFAIR TRADE PRACTICES 22**

---

38.	Misleading or deceptive conduct. ....	22
39.	Misleading public as to the nature, etc., of goods or services. ....	22
40.	Falsely accepting payment. ....	22
41.	False or misleading representation. ....	23
42.	Failure to deliver goods or services on contracted date. ....	23
43.	Bait advertising. ....	24
44.	Harassment and coercion. ....	24
45.	Offering gifts and prizes. ....	24
46.	Full cost of goods or services to be stated. ....	24
47.	Referral selling. ....	25
48.	Pyramid selling. ....	25

**PART IX – CONSUMER CONTRACT 26**

---

49.	Excluding or restricting liability by contract. ....	26
50.	Reliance upon contractual provisions where breach. ....	26
51.	Loss or damage from defective goods or negligence of manufacturer. ....	26
52.	Goods or services acquired by installment. ....	27
53.	Apportionment of payments where service not received. ....	28
54.	Failure to meet advertised delivery date. ....	28
55.	Effect of Sale of Goods and Hire Purchase Act. ....	29
56.	Reasonableness. ....	29
57.	Indemnity subject to reasonableness. ....	29
58.	Satisfying reasonableness where contract terminated. ....	29
59.	Alternative dispute resolution. ....	30

<b>PART X – MISCELLANEOUS</b>	<b>30</b>
60. Court may order payment of damages or costs. ....	30
61. Breach of duty or obligation. ....	30
62. Purporting to act on a Bill of Sale. ....	30
63. Regulations. ....	31
64. Repeal of Ch. 337C. ....	32
<b>FIRST SCHEDULE</b>	<b>33</b>
<b>SECOND SCHEDULE</b>	<b>35</b>



## **CONSUMER PROTECTION BILL, 2023**

**AN ACT TO MAKE PROVISION FOR THE GREATER PROTECTION OF CONSUMERS, THE CONTINUATION OF A CONSUMER PROTECTION COMMISSION AND FOR THE FUNCTIONS AND POWERS OF THAT COMMISSION AND RELATED MATTERS AND TO REPEAL AND REPLACE THE CONSUMER PROTECTION COMMISSION ACT, 2007**

**Enacted by the Parliament of The Bahamas**

### **PART I - PRELIMINARY**

**1. Short title.**

This Act may be cited as the Consumer Protection Bill, 2023.

**2. Interpretation.**

(1) In this Act, unless the context otherwise requires —

“**consumer**” in relation to —

- (a) goods, means —
  - (i) a natural person who acquires or enters a contract to acquire goods for his own private use or consumption; and
  - (ii) a commercial undertaking that purchases consumer goods;
- (b) services or facilities, means any person who employs or wishes to be provided with the services or facilities otherwise than for the purposes of any business of his; or
- (c) accommodations, means any person who wishes to occupy the accommodation otherwise than for the purposes of any business of his;

“**Commission**” means the Consumer Commission continued under section 3;

“**consumer goods**” means goods which are ordinarily intended for private use or consumption;

“**consumer protection policy**” means the aims of the Minister for consumer protection as published by the Minister from time to time which may include the enhanced rights and remedies available to the consumer;

“**goods**” has the meaning ascribed thereto in the Sale of Goods Act (*Ch. 337*);

“**Minister**” means the Minister responsible for Consumer Affairs;

“**provider**” in relation to —

- (i) any goods, means any person who sells goods; or
- (ii) any services or facilities, means any person who provides services or facilities;

“**services**” includes any rights, benefits, privileges or facilities that are or are to be provided granted or conferred in trade or commerce but does not include a reference to the rendering of any services under a contract of employment;

“**The Bahamas Institute of Chartered Accountants**” means the body preserved and continued under section 3 of the Bahamas Institute of Chartered Accountants Act, 201 (*No. 13 of 2015*).

- (2) Subject to subsection (1), this Act shall apply to all persons involved in trade or business whether through the purchasing or vending of goods or services.
- (3) The Minister may by order, subject to affirmative resolution by both Houses of Parliament, exempt categories of trade or business from the application of this Act.

## **PART II – ADMINISTRATION OF ACT**

### **3. Continuation of the Consumer Commission.**

- (1) The body established by section 4 of the Consumer Protection Act (*No. 7 of 2006*) and known as the Consumer Commission is hereby preserved and continued as the Consumer Commission.
- (2) The *First Schedule* has effect as to the constitution of the Consumer Commission and otherwise in relation thereto.

#### **4. Functions and powers of the Commission.**

- (1) The functions of the Commission shall be to —
  - (a) advise the Minister generally in relation to consumer issues;
  - (b) formulate and implement standards in relation to the consumer protection policy;
  - (c) receive and investigate complaints made by consumers in relation to the acquisition of goods or services;
  - (d) carry out, on its own initiative, such other investigations in relation to the availability of goods of any class or description as it thinks fit and make such report and recommendations as it thinks fit to the Minister;
  - (e) promote the development of organisations formed for the protection of the consumer;
  - (f) collect, compile, analyse and publish information in relation to any trade or business;
  - (g) provide information to consumers on their rights as consumers and any other form of consumer education;
  - (h) implementing education programmes for the benefit of consumers, and providers;
  - (i) seeking, in a mediatory capacity, resolve disagreements between consumers and providers;
  - (j) referring a complaint to any other relevant body that may be considered appropriate to address an issue;
  - (k) where requested, assist a complainant in the prosecution or litigation of an offence under this Act in accordance with section 9(4) and (5);
  - (l) establish and maintain a website for the purpose of carrying out the functions in paragraphs (b), (e), (f) and (g); and
  - (m) carry out such other functions as the Minister may assign to the Commission from time to time.
- (2) In carrying out its functions, the Commission shall be empowered to do all such acts as appear to it to be requisite, advantageous or convenient for or in connection with carrying out its functions or to be incidental to their proper discharge and may carry on any activities in that behalf either alone or in association with any other person or body.

#### **5. Directions.**

- (1) The Minister may, after consultation with the Commission, give to the Commission a written direction, as to government policy that is to be applied by the Commission in the exercise of its powers and the

performance of its duties, and the Commission and give effect to that direction.

- (2) Directions given pursuant to subsection (1) shall be published in the *Gazette*.

## **6. Funds and resources of the Commission.**

The funds and resources of the Commission shall consist of—

- (a) such moneys as may from time to time be placed at its disposition for the purposes of this Act by Parliament;
- (b) all other moneys and other property which may in any manner become payable to, or vested in the Commission in respect of any matter incidental to its functions.

## **7. Accounts.**

- (1) The Commission shall keep proper accounts and shall prepare an annual statement of accounts in a form satisfactory to the Minister, being a form which shall conform with established accounting principles.
- (2) The accounts of the Commission shall be audited annually by auditors appointed by the Commission with the approval of the Minister from among members of the Bahamas Institute of Chartered Accountants.

## **8. Annual reports and estimates.**

- (1) The Commission shall, in each year —
  - (a) on or before the 31st day of May, submit to the Minister a report of its activities during the twelve months ending on the 31st day of March in that year, including a statement of its accounts audited in accordance with section 7;
  - (b) on or before the 30th day of April, submit to the Minister for his approval its estimates of revenue and expenditure for the financial year next following.
- (2) The Minister shall cause copies of reports submitted pursuant to subsection (1)(a) together with the annual statement of accounts and auditor's report thereon to be laid on the Table of the House of Assembly.

## **PART III – COMPLAINTS AND INVESTIGATIONS**

### **9. Complaints.**

- (1) A complaint may be made to the Commission by a person who claims to have suffered a disadvantage in relation to the acquisition of goods or services.
- (2) Where the complainant —
  - (a) is a minor, the complaint may be made by his parent or guardian;
  - (b) is unable to act for himself by reason of —
    - (i) infirmity;
    - (ii) being outside of The Bahamas; or
    - (iii) being deceased,the complaint may be made by a member of his family, his nominee or his personal representative.
- (3) A complaint to the Commission may be made orally or in writing.
- (4) The Commission may, upon the request of a complainant specified in subsection (2), assist that complainant in the event that litigation is contemplated.
- (5) Where litigation is contemplated by the complainant in relation to a complaint that was not in writing, the Commission shall require the complainant to produce a written version of the complaint signed by the complainant.

### **10. Investigation.**

- (1) The Commission shall carry out, at the request of a consumer who has been adversely affected, such investigations in relation to the sale of goods or the provision of services as will enable it to determine whether the goods were sold, the services were provided or the provider has acted in contravention of this Act and thereafter to make such report and recommendations in connection therewith as it thinks fit to —
  - (a) the Minister;
  - (b) any other regulator of the provider under investigation; and
  - (c) the Financial Secretary.
- (2) Where the Commission has received multiple complaints regarding a particular provider or multiple providers in a particular industry or sector, the Commission may carry out such investigations in relation to the conduct the subject of the complaints and report its findings and recommendations to —
  - (a) the Minister;



- (b) any other regulator of the provider, industry or sector to whom the investigation relates; and
- (c) the Financial Secretary.

#### **11. Discretion not to conduct investigation.**

- (1) The Commission may determine whether to undertake or continue an investigation under this Act and in particular, but without prejudice to the generality of the foregoing, may refuse to undertake or continue any investigation if it is of the opinion that —
  - (a) the complaint is frivolous or vexatious or not made in good faith;
  - (b) the complainant is guilty of unreasonable delay in the making of his complaint;
  - (c) the complainant does not have a sufficient interest in the subject-matter of the complaint;
  - (d) the subject-matter of the complaint should more appropriately be dealt with by another body; or
  - (e) having regard to all the circumstances of the case, no investigation or further investigation is necessary.
- (2) Where the Commission decides not to undertake or continue the investigation of a complaint, it shall, in writing, inform the complainant of that decision and give reasons therefor.

#### **12. Power to investigate not precluded.**

- (1) The Commission shall not be precluded from conducting an investigation in respect of any matter by reason only that it is open to the complainant to apply to the court for redress under Article 28 of the Constitution.
- (2) If any question arises as to whether the Commission has jurisdiction to investigate any case or class of case under this Act, the Commission may apply to the court for a declaration determining that question.
- (3) The fact that an action is commenced in any court in connection with a matter under investigation by the Commission shall not, unless the court otherwise directs, preclude such investigation.

#### **13. Summoning persons to give evidence.**

- (1) The Commission may summon any person to attend before the Commission in relation to an investigation being conducted by it and to give evidence or to produce any document in his possession or under the control of such person.
- (2) A summons under this section —
  - (a) shall be in the form prescribed in the *Second Schedule*; and

- (b) may be served by a constable, or a bailiff.
- (3) A person may be permitted to attend before the Commission via live video conference where that person is unable to attend in person by reason of —
  - (a) not being within The Bahamas; or
  - (b) infirmity.

#### **14. Obligations of persons summoned.**

- (1) All persons summoned to attend and give evidence or to produce a document before the Commission are —
  - (a) entitled, in respect of such evidence or the disclosure of any communication or the production of any such document, to the same right or privilege as before a court of law;
  - (b) entitled to be paid their expenses, including traveling expenses, at the rates as are determined for witnesses who are entitled to have their expenses paid from public funds.
- (2) Any person who —
  - (a) without sufficient cause, fails or refuses to attend before the Commission in obedience to a summons under this Act, or fails or refuses to produce any document which he was required by such summons to produce;
  - (b) being a witness, leaves the Commission without the permission of the Commission;
  - (c) being a witness, refuses, without sufficient cause, to answer any question put to him by or with the permission of the Commission; or
  - (d) wilfully obstructs or interrupts the proceedings of the Commission, commits an offence and is liable on summary conviction to a fine not exceeding two thousand dollars.

#### **15. Paper, book, record or document as evidence.**

In all legal proceedings, any paper, book, record or document produced to the Commission pursuant to section 13 shall be received as *prima facie* evidence of the truth of the statements contained therein.

#### **16. Advisory notices.**

- (1) The Commission, where it becomes aware of certain practices which are harmful to consumers, issue advisory notices to warn consumers of such practices.
- (2) A notice given under subsection (1) shall —
  - (a) identify the harmful practice;

- (b) identify any specific industry in which the harmful practice is occurring in;
- (c) advise consumers who have experienced the harmful practice to report the same to the Commission.

## **PART IV – CONTROL OF GOODS**

### **RESTRICTION OF IMPORTS**

#### **17. Minister to restrict imports, etc.**

- (1) Subject to subsection (3), the Minister may, by Order —
  - (a) prohibit the importation or exportation of goods of any class or description of goods from or to any country;
  - (b) prohibit the importation or exportation of goods or any class or description of goods from or to any country except under the authority of a licence granted by the Minister;
  - (c) regulate the distribution, purchase or sale of goods or any class or description of goods;
  - (d) subject to section 18 provide for the recall of certain goods which are dangerous or hazardous;
  - (e) provide for the furnishing by persons carrying on or employed in connection with any trade or business of information concerning all or any of the elements of the cost or of the sale price of goods or any class or description of goods bought or sold whether by wholesale or retail in such trade or business;
  - (f) require the provision and maintenance, at places at which goods are offered for sale by retail, of means whereby persons wishing to purchase any of those goods may ascertain the weight or measurement thereof.
- (2) Without prejudice to the generality of subsection (1)(f), the Minister may by Order, require —
  - (a) that the prices of those goods shall be marked on the goods or on any container in or from which they are sold; and
  - (b) that persons shall not be obstructed in any attempt to ascertain at the place at which they wish to purchase any of those goods, the weight or measurement thereof.
- (3) Subsection (1) shall not authorize the Minister to make an Order regulating the exportation or importation of any goods which may be regulated by the following Acts —
  - (a) the Animal and Health Production Act, 2016 (*No. 7 of 2016*);

- (b) the Customs Management Act, 2011 (*No. 30 of 2011*);
- (c) the Fisheries Resources (Jurisdiction and Conservation) Act;
- (d) the Food Safety and Quality Act, 2016 (*No. 5 of 2016*);
- (e) the Plant Protection Act, 2016 (*No. 6 of 2016*).

## RECALL OF GOODS

### 18. Compulsory recall of goods.

- (1) Subject to sections 21 and 22 where —
  - (a) a provider supplies goods on or after the commencement of this Act; and
  - (b) it appears to the Minister that the goods are goods of a kind which will or may cause injury to any person and that the provider has not taken satisfactory action to prevent the goods causing injury to any person,the Minister may, by notice in writing published in the *Gazette*, require the provider to do one or more of the actions specified in subsection (2).
- (2) For the purposes of subsection (1), the Minister may —
  - (a) take action within the period specified in the notice to recall the goods;
  - (b) disclose to the public, or to a class of persons specified in the notice, in the manner and within the period specified in the notice, one or more of the following —
    - (i) the nature of a defect in, or a dangerous characteristic of, the goods specified in the notice;
    - (ii) the circumstances, being circumstances specified in notice, in which the use of the goods is dangerous; and
    - (iii) procedures for disposing of the goods specified in the notice;
  - (c) inform the public, or class of persons specified in the notice, in the manner and within the period specified in the notice, that the provider undertakes to do whichever of the following the provider thinks is appropriate —
    - (i) except where the notice specifies a dangerous characteristic of the goods, repair the goods;
    - (ii) replace the goods;
    - (iii) refund to a person to whom the goods were supplied, whether by the provider or by another person, the price of the goods, within the period specified in the notice.

- (3) The Minister may by notice published in the *Gazette* give directions as to the manner in which the provider is to carry out a recall of goods required under subsection (1).
- (4) Where the provider under subsection (1) undertakes to repair goods, the provider shall cause the goods to be repaired so that any defect in the goods specified in the notice under subsection (1) is remedied.
- (5) Where the provider under subsection (1) undertakes to replace goods, the provider shall replace the goods with like goods which, if a defect in, or a dangerous characteristic of, the first-mentioned goods was specified in the notice under subsection (1), do not have that defect or characteristic.
- (6) Where the provider under subsection (1) undertakes to repair goods or replace goods, the cost of the repair or replacement, including any necessary transportation costs, shall be borne by the provider.
- (7) Where goods are recalled, whether voluntarily or in accordance with a requirement made by the Minister under subsection (1), a person who has supplied or supplies any of the recalled goods to another person outside The Bahamas shall, as soon as practicable after the supply of those goods, give notice in writing to that other person, addressed to his last known address —
  - (a) stating that the goods are subject to recall; and
  - (b) if the goods contain a defect or have a dangerous characteristic, setting out the nature of that defect or characteristic.
- (8) Where a person is required under subsection (7) to give notice in writing to another person, the first-mentioned person shall, within fourteen days after giving that notice, provide the Minister with a copy of that notice.
- (9) A person who contravenes subsection (8) commits an offence and is liable on summary conviction to a fine not exceeding two thousand dollars.

#### **19. Compliance with goods recall notice.**

- (1) Where a notice under section 18(1) is in force in relation to a person, he —
  - (a) shall comply with the requirements and directions in the notice; and
  - (b) shall not, where the notice specifies a defect in, or a dangerous characteristic of, the goods, supply goods of the kind to which the notice relates which have that defect or characteristic.
- (2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars.

#### **20. Loss or damage caused by contravention of goods recall notice.**

Where —

- (a) a person contravenes section 16 by —
  - (i) supplying goods of a kind in relation to which a notice under section 18(1) is in force; or
  - (ii) failing to comply with the requirements of such notice; and
- (b) another person suffers loss or damage by reason of a defect in or a dangerous characteristic of, the goods or by reason of not having particular information as to a characteristic of the goods,

that other person shall be deemed for the purposes of this Act to have suffered the loss or damage by the supplying of the goods, or by the failure of the first-mentioned person to comply with the notice, as the case may be.

## **21. Consultation to be held in certain cases.**

- (1) Subject to section 22, where the Minister proposes to publish a notice under section 18(1) in relation to goods of a particular kind, the Minister shall prepare —
  - (a) a draft of the notice that he proposes to publish; and
  - (b) a summary of his reasons,and shall, by notice published in the *Gazette*, invite any person, in this section referred to as a “provider”, who supplied or proposes to supply goods of that kind to notify the Minister, within the period, in this section referred to as “the relevant period”, of ten days commencing on the day specified in the last-mentioned notice, being not earlier than the day on which that notice is published in the *Gazette*, whether the provider wishes the Minister to hold a consultation in relation to the proposed publication of the first-mentioned notice.
- (2) A notice published under subsection (1) shall set out a copy of the draft notice under section 18(1) and a copy of the summary of the reasons for the proposed publication of the notice.
- (3) If no provider notifies the Minister in writing within the relevant period, or within such longer period as the Minister allows, that the provider wishes the Minister to hold consultations in relation to the proposed publication of the notice under section 18(1), the Minister shall proceed to take such action under section 18 as he thinks fit.
- (4) If a provider notifies the Minister in writing within the relevant period, or within such longer period as the Minister allows, that the provider wishes the Minister to hold consultations in relation to the proposed publication of the notice under section 18(1), the Minister shall appoint a day (being not later than 14 days after the end of that period), time and place for the holding of the consultation, and give notice of the day, time and place so appointed to each provider who so notified the Minister.
- (5) At a consultation under this section —

- (a) the Minister or a person or persons nominated in writing by the Minister is or are entitled to be present;
  - (b) each provider who notified the Minister in accordance with subsection (4) is entitled to be present or to be represented;
  - (c) any other person whose presence at the consultation is considered by the Minister to be appropriate is entitled to be present or to be represented; and
  - (d) the procedure to be followed shall be as determined by the Minister.
- (6) The Minister shall cause a record of proceedings at a consultation under this section to be kept.
- (7) The Minister shall, as far as is practicable, ensure that each person who, in accordance with subsection (5), is entitled to be present or who is representing such a person is given a reasonable opportunity at the consultation to present his case and, in particular, to inspect any documents which the Minister proposes to consider for the purpose of making a decision after the conclusion of the consultation, other than any documents that contain particulars of a secret formula or process, and to make submissions in relation to those documents.
- (8) As soon as is practicable after the conclusion of a consultation in relation to the proposed publication of a notice under section 18(1), the Minister shall proceed to consider what action he should take under section 18.

## **22. Exception in case of danger to public.**

- (1) Where it appears to the Minister that goods of a particular kind create an imminent risk of death, serious illness or serious injury, the Minister may, immediately, by notice published in the *Gazette*, publish a notice in relation to the goods under section 18(1).
- (2) Where the Minister publishes a notice in the *Gazette* under subsection (1) —
- (a) in a case where the notice is published before the Minister takes any action under section 18(1) in relation to goods of a particular kind, section 20 does not apply in relation to the action that the Minister may take under section 18(1) in relation to goods of that kind; or
  - (b) in any other case, any action taken by the Minister under section 18(1) in relation to goods of a particular kind ceases to have effect and, if a consultation had, under section 20, been arranged or had commenced, the Minister may publish the notice under section 18(1) without regard to the action taken under section 20.

**23. Voluntary recall.**

- (1) Where a provider voluntarily takes action to recall goods because the goods will or may cause injury to any person, he shall, within two days after taking that action, give notice in writing to the Minister —
  - (a) stating that the goods are subject to recall; and
  - (b) setting out the nature of the defect in, or dangerous characteristic of, the goods.
- (2) A person who contravenes subsection (1) is commits an offence and is liable on summary conviction to a fine not exceeding one thousand dollars.

**PART V – OBLIGATIONS OF PROVIDER**

**24. Obligation of provider to be licensed or registered.**

- (1) All providers acting individually or collectively, and offering goods or services to consumers for purchase, shall be licensed in accordance with the Business Licence Act, 2010 (*No. 25 of 2010*) and where appropriate, registered in accordance with the Value Added Tax Act, 2014 (*No. 32 of 2014*).
- (2) A provider who fails to comply with the provisions of this section commits an offence and is liable on summary conviction to a fine of one thousand dollars.

**25. Warranties.**

- (1) A provider shall issue explicit warranties in relation to his goods or services, as the case may be, whether the goods are new or used, and whether the service offered is the repair of any appliance, furniture, equipment or other goods.
- (2) Any warranty given by the manufacturer (whether local or foreign) and attached to any goods or services sold or provided as the case may be, in The Bahamas shall be deemed to extend to the provider in The Bahamas who shall be liable to the consumer in relation to such warranty.
- (3) Where a provider is liable only for the free replacement of parts under a warranty agreement, the provider shall not require the consumer to use the services of the provider in effecting the repairs to the equipment.
- (4) Implied warranties in the absence of explicit warranties shall apply to the sale of all used goods and to the repair of all goods.



- (5) In the absence of an explicit warranty which shall be at the discretion of the provider, an implied warranty of six months on parts and labour shall, subject to the standard conditions of warranties, attach to the transaction.

## **26. Obligation to inform consumer of re-conditioned goods.**

A person who offers or agrees to supply, or supplies, any goods that —

- (a) have been re-conditioned, rebuilt or remade; and
  - (b) bear the trade mark of the original manufacturer or supplier,
- shall apply a conspicuous notice to the those goods stating clearly that they have been reconditioned, rebuilt or remade.

## **27. Price of goods or services to be displayed, disclosed.**

- (1) A provider shall not display goods for sale, or offer to supply any services without displaying a price in relation to those goods or services, unless the display is —
  - (a) designed and intended predominantly as a form of advertisement of the provider, goods or services; or
  - (b) in the case of goods, in an area within the provider's premises to which the public does not ordinarily have access.
- (2) For the purposes of this section, a price is displayed in relation to particular goods if it is —
  - (a) appended, annexed or affixed to, written, printed, stamped or located upon, or otherwise applied to the goods or to any band, ticket, covering, label, package, reel, shelf, or other things used in connection with the goods or on which the goods are mounted for display or exposed for sale;
  - (b) published in a catalogue available to the public if a time is specified in the catalogue as the time after which the goods may not be sold at that price; or
  - (c) in any way represented in a manner from which it may reasonably be inferred that the price represented is a price applicable to the goods or services.

## **28. Disclosures.**

Every provider shall make such disclosures as required by this Act or as prescribed in regulations.

## **PART VI – RIGHTS OF THE CONSUMER**

### **29. Details of goods to be provided to consumer.**

- (1) At any time before payment is made for any goods, whether sold as new or used, a provider shall, in addition to the requirements of any other law provide the consumer, with information relating to packaging, labelling, description of goods, the origin, care, terms, components, hazards, proper use, weight, size and instructions for assembly and installation of the goods and where chargeable, the professional fees of the provider in respect of the goods.
- (2) Where a provider fails to comply with subsection (1), he shall, notwithstanding anything to the contrary in the warranty document, be responsible for any damage done to the goods by the consumer that can be directly attributed to the consumer's lack of information.

### **30. Measurement of goods.**

- (1) A consumer shall at all times be entitled to check the weight, volume or other measurement of the goods sought to be purchased where the weight, volume or other measurement of the goods materially affects or determines the price thereof.
- (2) For the purposes of subsection (1), any provider of any good that is sold by reference to its weight, volume or other measurement shall provide appropriate measurement standards in accordance with the Weights and Measures Act (*Ch. 338*) for use by the consumer at the time of purchase.
- (3) A provider commits an offence if in selling or purporting to sell any goods by weight or other measurement or by number, he knowingly delivers or causes to be delivered to the consumer, a lesser quantity than that purported to be supplied or that corresponds with the price charged.

### **31. Receipt to be given to consumer.**

- (1) Where a consumer purchases goods or services from a provider, the provider shall give to the consumer a receipt showing —
  - (a) the provider's name, or registered business name;
  - (b) the address of the premises at which or from which the goods or services were supplied;
  - (c) the date on which the purchase is made or the service is rendered;
  - (d) a name or description of the goods sold or services rendered;
  - (e) the unit price for each of the goods or services rendered or to be rendered;

- (f) the quantity of each of the goods or services rendered or to be rendered;
  - (g) the amount paid by the consumer, before and after the application of applicable fees or taxes;
  - (h) the professional fees charged; and
  - (i) such other information as the Minister may by regulations prescribe.
- (2) The receipt issued by the provider shall be adequate proof of the purchase of the goods or services and may be used for the purposes of refund in any of the circumstances specified in this Act.
- (3) A provider who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding two thousand dollars.

**32. Right to refund.**

- (1) Where a consumer purchases goods which, in accordance with Part VII of this Act, are eligible for refund, the provider must inform the consumer that he is entitled to a refund and the circumstances in which such refund will be granted.
- (2) Where a provider voluntarily implements a refund policy of goods other than those referred to in this Act as eligible for refund, that provider shall —
- (a) inform the consumer of the refund policy;
  - (b) where the refund policy has changed since the purchase of the goods, honour the policy in place at the time of purchase.

**33. Right to receive refund in same manner as payment.**

Where a consumer is entitled to a refund under this Act, the provider shall refund the consumer in the manner specified by this Act.

## **PART VII – PRODUCT LIABILITY**

**34. Damage resulting from use service or goods.**

- (1) Subsection (2) applies in any case where a provider —
- (a) undertakes to provide a consumer with a good or service upon payment of a fee;
  - (b) provides the declared benefit attached to the service or use of the good; and

- (c) independent of all other causes or contributory negligence, inadvertently causes bodily injury or pecuniary loss to be sustained by the consumer.
- (2) The provider shall, upon presentation of a substantiated claim by the consumer —
  - (a) undertake to pay the consumer all reasonable costs incurred or to be incurred by the consumer in correcting the damage so caused; and
  - (b) initiate all such compensation within a period not exceeding seven days after the complaint is received at the registered, regional or local offices of the provider.
- (3) Where a provider is unable to initiate a payment under subsection (2) within the period of seven days after the substantiated claim is received, the provider may apply to the Commission for leave to extend the period within which the payment may be made.
- (4) A provider shall not be relieved of liability if —
  - (a) the consumer fails to avail himself of some other good or service that may be recommended by the provider of the primary good or service as a supplementary good or service; or
  - (b) has provided complementary goods or services which fail to function well or cause damage or other loss.
- (5) A provider who contravenes subsection (2) commits an offence and is liable on summary conviction to a fine not exceeding two thousand dollars.
- (6) For the purposes of this section, a “**substantiated claim**” means a claim which is supported by a written opinion of the Commission after consultation of the provider, that the complaint is valid and well founded.

### **35. Damaged goods sold to consumer.**

- (1) A provider who sells a consumer any good that, due to no apparent negligence or abuse by the consumer within the comprehensive warranty period, fails to provide to the consumer the benefit and uninterrupted enjoyment for which it was intended, shall be responsible for its replacement or repair at no cost to the consumer.
- (2) The provider shall, in the event of repair of the good referred to in subsection (1) —
  - (a) return the good to the consumer in a fully repaired and functional state within ten days of receipt of the good for replacement or repair; or
  - (b) if the good is not returned to the consumer within the period of ten days, provide the consumer with a temporary substitute of comparative value for the consumer’s uninterrupted use and

enjoyment until such time as the consumer's good is replaced or repaired and returned.

**36. Return of materially defective or different goods.**

- (1) Subject to subsections (3) and (4), where a consumer is encouraged to acquire goods by the provider's declaration and description of the goods and the consumer subsequently discovers that those goods are defective in a material particular from that intended to be purchased, the consumer may return the goods to the provider.
- (2) The provider shall immediately offer to the consumer, in exchange for the returned goods, monetary compensation of the goods or such other amount as may be agreed between the consumer and the provider.
- (3) Refunds on goods returned to a provider pursuant to subsection (1) shall only be made where the goods are returned to the provider in the condition purchased or with minimal damage resulting from reasonable exposure in the normal course of the consumer's use of the goods prior to discovery of the material difference between the goods received and the goods that the consumer requested.
- (4) A consumer who acquires a good that in every way is similar or identical to the one requested or described and declared by the provider shall not be entitled to a refund if, having left the place from which the provider sold the good, the consumer for any reason decides that he no longer wants it.

**37. Return of electrical goods.**

- (1) Subsection (2) shall apply in any case where —
  - (a) a consumer purchases any electrical good, believing it to be fully operational; and
  - (b) upon attempting to use it, the consumer discovers that it is faulty or non-functional.
- (2) The consumer shall, upon returning the good to the provider, be entitled to —
  - (a) an exchange of the faulty good for a new functional similar good free of cost; or
  - (b) a refund of the amount paid for the good if the provider is unable to establish that the good was damaged as a direct result of the consumer's actions.

## **PART VIII – UNFAIR TRADE PRACTICES**

### **38. Misleading or deceptive conduct.**

- (1) No person shall, in the course of trade or business, engage in conduct that is misleading or deceptive or is likely to mislead or deceive.
- (2) For the purposes of subsection (1), misleading or deceptive conduct includes but is not limited to —
  - (a) statements which deceive the consumer as to his rights to a refund or exchange;
  - (b) statements or behaviour which seek to or have the affect of intimidating the consumer to refrain from making a complaint against the provider;
  - (c) the conduct prohibited by sections 38, 39, 40, 41, 42, 43, 44, 45, 46, 47 and 48.
- (3) Any person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars.

### **39. Misleading public as to the nature, etc., of goods or services.**

- (1) No person shall, in the course of trade or business engage in conduct that is likely to mislead the public as to the nature, manufacturing process, characteristics, suitability for a purpose or quantity of goods or services, as the case may be.
- (2) Any person who contravenes subsection (1) commits an offence is liable on summary conviction to a fine not exceeding five thousand dollars.

### **40. Falsely accepting payment.**

- (1) No person shall demand or accept payment or other consideration for goods or services, if at the time of the demand or acceptance, that person —
  - (a) does not intend to supply the goods or services;
  - (b) intends to supply goods or services which are materially different from the goods or services in respect of which the payment or other consideration is demanded or accepted; or
  - (c) does not have reasonable grounds to believe that the goods or services will be supplied within any specified period, or if no period is specified, within a reasonable time.
- (2) Any person who contravenes subsection (1) commits an offence is liable on summary conviction to a fine not exceeding five thousand dollars.

#### **41. False or misleading representation.**

- (1) No person shall, in the course of trade or business in connection with the supply or possible supply of goods or services or with the promotion by any means of the supply or use of goods or services —
  - (a) falsely represent that —
    - (i) the goods or services are of a particular kind, standard, quality, grade any sponsorship, approval, endorsement, or affiliation, quantity, composition, style, or model, or have had a particular history or particular previous use; or
    - (ii) services are of a particular kind, standard, quality, or quantity, or that they are supplied by any particular person or by any person of a particular trade, qualification, or skill;
    - (iii) a particular person has agreed to acquire goods or services;
    - (iv) goods are new, reconditioned, or that they were manufactured, produced, processed, reconditioned at a particular time;
    - (v) goods or services have any sponsorship, approval, endorsement, performance characteristics, accessories, uses or benefits; or
    - (vi) a person has any sponsorship, approval, endorsement, or affiliation;
  - (b) make a false or misleading representation —
    - (i) with respect to the price of any goods or services;
    - (ii) concerning the need for any goods or services;
    - (iii) concerning the existence, exclusion, or effect of a condition, warranty, guarantee, right or remedy; or
    - (iv) concerning the place of origin of goods.
- (2) Any person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars.

#### **42. Failure to deliver goods or services on contracted date.**

- (1) Where it can be proven that a provider —
  - (a) has contracted to provide goods or services;
  - (b) pursuant to that contract, has received a deposit in cash or kind; and
  - (c) on the contracted delivery date, is unable to deliver such goods or services without reasonable excuse or is unable to demonstrate that such goods are in a reasonably advanced state of production,that provider shall be deemed to have acted in a fraudulent manner and is liable to be prosecuted in relation thereto.

- (2) A provider who is convicted of an offence under subsection (1) is liable on summary conviction to a fine not exceeding five thousand dollars.

#### **43. Bait advertising.**

- (1) No person shall in the course of trade, advertise at a specified price, goods or services which that person does not —
  - (a) intend to offer for supply; or
  - (b) have reasonable grounds for believing can be supplied by that person at that price for a period that is, and in quantities that are, reasonable having regard to the nature of the market in which the person carries on business and the nature of the advertisement.
- (2) Any person who has advertised goods or services at a specified price shall offer such goods or services at that price for a period that is, and in quantities that are, reasonable having regard to the nature of the market in which the person carries on business and the nature of the advertisement.
- (3) Any person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars.

#### **44. Harassment and coercion.**

- (1) No person shall, in the course of trade or business, use physical force, harassment or coercion, in connection with —
  - (a) the supply or possible supply of goods or services; or
  - (b) the payment for goods or services.
- (2) Any person who contravenes subsection (1) commits an offence is liable on summary conviction to a fine not exceeding five thousand dollars.

#### **45. Offering gifts and prizes.**

- (1) No person shall, in the course of trade or business, offer a gift, prize or other free item with the intention of not providing the gift, prize or other free item as offered.
- (2) Any person who contravenes subsection (1) commits an offence is liable on summary conviction to a fine not exceeding five thousand dollars.

#### **46. Full cost of goods or services to be stated.**

- (1) No person shall, in the course of trade or business make a representation with respect to an amount that, if paid, would constitute a part of the consideration for the supply of the goods or services, unless —
  - (a) where the transaction is not a credit transaction, he also specifies the cash price of the goods or services;



- (b) where the transaction is a credit transaction, he also specifies —
  - (i) the total sum to be paid for the goods or services;
  - (ii) the number of instalments by which payment is to be made;
  - (iii) the rate of interest that will be charged; and
  - (iv) the deposit, if any, that must be made.
- (2) Any person who contravenes subsection (1) commits an offence is liable on summary conviction to a fine not exceeding five thousand dollars.

#### **47. Referral selling.**

- (1) No person shall, in the course of trade or business as a provider, induce a consumer to acquire goods or services under a contract by representing that the consumer will, after the contract is made, receive a rebate, commission or other benefit in return for giving the first-mentioned person the names of prospective customers or otherwise assisting that person to supply goods or services to other consumers, if receipt of the rebate, commission or other benefit is contingent on an event occurring after the contract is made.
- (2) Any person who contravenes subsection (1) commits an offence is liable on summary conviction to a fine not exceeding five thousand dollars.

#### **48. Pyramid selling.**

- (1) No person shall promote or operate a pyramid selling scheme.
- (2) For the purposes of this section “**pyramid selling scheme**” means a scheme —
  - (a) that provides for the supply of goods or services or both for reward; and
  - (b) that, to many participants, constitutes primarily an opportunity to sell an investment opportunity rather than an opportunity to supply goods or services; and
  - (c) that is unfair, or is likely to be unfair, to many of the participants in that —
    - (i) the financial rewards of many of the participants are dependent on the recruitment of additional participants; and
    - (ii) the number of additional participants that must be recruited to produce reasonable rewards to participants is either not attainable, or is not likely to be attained, by many of the participants.
- (3) Any person who contravenes subsection (1) commits an offence is liable on summary conviction to a fine not exceeding five thousand dollars.

## **PART IX – CONSUMER CONTRACT**

### **49. Excluding or restricting liability by contract.**

- (1) A person shall not by reference to —
  - (a) any term of a contract;
  - (b) a notice given to persons generally; or
  - (c) particular persons,exclude or restrict his liability for death or personal injury resulting from negligence.
- (2) In the case of other loss or damage, a person shall not so exclude or restrict his liability for negligence except in so far as the term or notice satisfied the requirement of reasonableness as provided for in section 19.
- (3) Where a term of a contract or notice purports to exclude or restrict liability for negligence, the fact that, that person agrees with it or is aware of it is not of itself to be taken as indicating his voluntary acceptance of any risk.

### **50. Reliance upon contractual provisions where breach.**

No party to a contract shall —

- (a) when he is in breach of contract, exclude or restrict his liability in respect of the breach; or
- (b) claim to be entitled to render —
  - (i) a contractual performance substantially different from that which was reasonably expected of him; or
  - (ii) no performance in respect of the whole or any part of his contractual obligation, except in so far as the contract term satisfies the requirement of reasonableness.

### **51. Loss or damage from defective goods or negligence of manufacturer.**

- (1) In the case of goods of a type ordinarily supplied for private use or consumption, where loss or damage —
  - (a) arises from the goods proving defective while in consumer use; or
  - (b) results from the negligence of a person concerned in the manufacture or distribution of the goods,liability for the loss or damage shall not be excluded or restricted by reference to any contract term or notice contained in or operating by reference to a guarantee of the goods.
- (2) For the purposes of this section —

- (a) goods are to be regarded as “in consumer use” when a person is in possession of them for use, otherwise than exclusively for the purposes of a business; and
- (b) anything in writing is a guarantee if it contains or purports to contain some promise or assurance (however worded or presented) that defects will be made good by complete or partial replacement, or by repair, monetary compensation or otherwise.

**52. Goods or services acquired by installment.**

- (1) This section applies to any case where a provider contracts to provide a consumer with a good or service over an extended period of time, and that provider contracts to receive periodic payments from the consumer for the good or service.
- (2) The provider shall —
  - (a) be required to present an accurate claim for the exact amount of, or the exact percentage of, the total value of the good or service actually received to date by the consumer; and
  - (b) upon presentation of such accurate claim, be entitled to void the contract if payment in full is not made within a reasonable time after the presentation of the claim, or by a pre-determined payment date which forms part of the contract.
- (3) In the event that the provider is unable to present an accurate claim, the provider may act in accordance with subsection (4).
- (4) The provider may —
  - (a) present the consumer with an estimated claim; and
  - (b) if the estimated claim is reasonably accurate, request that the consumer pay the estimated amount on the conditions specified in subsection (5).
- (5) The conditions referred to in subsection (4) are that —
  - (a) where the amount estimated is greater than the accurate claim, the amount paid by the consumer will be credited to the amount owing at the next time that an accurate claim is presented; and
  - (b) the provider shall under no circumstances, be able to void the contract or impose any penalty therein contained in the event of breach by the consumer, solely on the ground that the estimated amount has not been paid by the consumer, either in full or in part.
- (6) A provider who presents an estimated claim for any good or service shall be required to present an accurate claim no later than ninety days after presentation of the estimate.

- (7) Subsection (6) shall apply notwithstanding that the consumer of the good or service does not pay the estimated amount claimed or pays it in full or in part.

**53. Apportionment of payments where service not received.**

- (1) Where a service is provided to a consumer —
  - (a) the provider is deemed to be providing the consumer with a benefit under the relevant contract; and
  - (b) the provisions of subsection (2) shall apply where a fee is collected from the consumer for that service.
- (2) The provider shall —
  - (a) be liable to make a full refund to the consumer, if for reasons not attributable to the consumer, the benefit is not received by the consumer; or
  - (b) where the benefit is received only in part —
    - (i) refund a proportionate part of the fees collected; or
    - (ii) subject to subsection (3), be entitled to receive a similar proportionate part of the fees if not yet paid.
- (3) Subsection (2) shall not apply in any case where the consumer contracts to pay the provider the prescribed fee regardless of whether the consumer receives the benefit.
- (4) The provider who offers a service to the consumer shall —
  - (a) be required to stipulate the extent of the benefit that shall be deemed to be attached to the service; and
  - (b) provide the consumer with an appropriate warranty that —
    - (i) the benefit shall be enjoyed for a reasonable time, subject to the fulfilment of such conditions attached by the provider as may be reasonable to the consumer's enjoyment of that benefit; and
    - (ii) in the absence of the enjoyment of the benefit, the provider shall again provide the service free of cost to the consumer.

**54. Failure to meet advertised delivery date.**

- (1) An advertised delivery date for new, used and repaired goods shall form part of the contractual agreement between the provider and the consumer.
- (2) Where a provider fails to meet the advertised delivery date, the provider, as the case may be, shall refund to the consumer all moneys paid, plus an amount equal to ten per cent of the amount deposited for each week that the goods are not delivered commencing after a period of, not more than, fourteen days after the advertised delivery date.

**55. Effect of Sale of Goods and Hire Purchase Act.**

Liability for breach of the obligations arising from —

- (a) sections 13 and 16 of the Sale of Goods Act (*Ch. 337*), and
- (b) sections 9 and 11 of the Hire Purchase Act (*Ch. 342*),

shall not be excluded or restricted by reference to any contract term.

**56. Reasonableness.**

- (1) The requirement for reasonableness in relation to a contract term, is that the term is a fair and reasonable one to be included having regard to the circumstances which were, or ought reasonably to have been, known to or in the contemplation of the parties when the contract was made.
- (2) The requirement of reasonableness in this Act in relation to a notice, not being a notice having contractual effect, is that the notice should be fair and reasonable to allow reliance on it, having regard to all the circumstances when the liability arose or, but for the notice, would have arisen.
- (3) Subsection (4) applies in any case where, by reference to a contract term or notice, a person seeks to restrict liability to a specified sum of money, and the question arises, under this or any other Act, whether the term or notice satisfies the requirement of reasonableness.
- (4) Regard shall be had in particular, but without prejudice to subsection (2), in the case of a contract term, to —
  - (a) the resources which the person could expect to be available to him for the purpose of meeting the liability if it arises; and
  - (b) how far it was open to that person to cover himself by insurance.
- (5) It is for those claiming that a contract term or notice satisfies the requirement of reasonableness to show that it does.

**57. Indemnity subject to reasonableness.**

A consumer shall not in reference to any term of a contract be made to indemnify another person, whether a party to the contract or not, in respect of liability that may be incurred by the other person for negligence or breach of contract, except in so far as the term of the contract satisfies the test of reasonableness.

**58. Satisfying reasonableness where contract terminated.**

- (1) Where, for the purpose of reliance upon it, a contract term has to satisfy the requirement of reasonableness, it may be found to do so and be given effect accordingly notwithstanding that the contract has been terminated either by breach or by a party electing to treat it as repudiated.

- (2) Where on a breach the contract is nevertheless affirmed by a party entitled to treat it as repudiated, such affirmation does not of itself exclude the requirement of reasonableness in relation to any term of a contract.

**59. Alternative dispute resolution.**

Any written contract formed between a consumer and a provider shall include a clause providing for the parties to attempt to settle their disagreements through mediation by the Commission before taking the matter to court.

## **PART X – MISCELLANEOUS**

**60. Court may order payment of damages or costs.**

Upon the conviction of a provider of an offence or the finding that a provider is civilly liable, the court may order the provider to pay to the —

- (a) consumer, by way of damages, a sum representing the costs incurred by that consumer as a result of the offence or litigation of the matter; and
- (b) Consumer Commission such sum as represents the costs incurred in relation to the prosecution of the offence or litigation of the matter.

**61. Breach of duty or obligation.**

In relation to any breach of duty or obligation, it is immaterial for any purpose of this part whether the breach was inadvertent or intentional, or whether liability for it arises directly or vicariously.

**62. Purporting to act on a Bill of Sale.**

- (1) A provider commits an offence if he —
  - (a) acts on the powers contained in a Bill of Sale of chattel pledged by a consumer; and
  - (b) employs any person other than a constable, or a bailiff to recover any or all of the chattels pledged in the Bill of Sale to the provider in the event of default in repayment of a loan.
- (2) A provider who commits an offence under subsection (1) shall, upon summary conviction be liable to a fine not exceeding five thousand dollars.
- (3) A provider commits an offence if he, in taking action to recover any or all of the chattels pledged by the consumer in the Bill of Sale to the provider in the event of default in repayment of a loan, carries out an act of seizure although the consumer's indebtedness to the provider has already been

- discharged or is currently being serviced in accordance with existing contractual provisions.
- (4) A provider who commits an offence under subsection (3) shall, upon summary conviction be liable to a fine not exceeding one thousand dollars.
  - (5) The court may order a provider convicted of an offence under subsection (3) to pay the consumer an amount equal to ten times the market value of the chattels seized plus an amount of fifty dollars per day for every day that the consumer has been deprived of the use and enjoyment of those chattels.
  - (6) The court may order a provider convicted of an offence to compensate the consumer for all expenses reasonably incurred as a result of the breach and the legal action.
  - (7) A person commits an offence who —
    - (a) not being a Bailiff, purports to be a Bailiff; or
    - (b) being a Bailiff, wrongfully seizes the chattels of a consumer.
  - (8) A person who commits an offence under subsection (7) shall upon summary conviction be liable to a fine not exceeding five thousand dollars.
  - (9) The Court may order a person convicted of an offence under subsection (8) to pay the consumer an amount equal to ten times the market value of the chattels seized plus an amount of fifty dollars per day for every day that the consumer has been deprived of the use and enjoyment of those chattels.
  - (10) Any bailiff or person purporting to be a bailiff who —
    - (a) threatens to seize the chattels of a consumer under the powers contained in a Bill of Sale although the consumer's indebtedness to the provider has already been discharged; or
    - (b) recklessly damages the chattels of a consumer while exercising distraint, commits an offence and shall, upon summary conviction be liable to a fine not exceeding five thousand dollars.

### **63. Regulations.**

- (1) The Minister may make regulations for the purposes of giving effect to the provisions of this Act.
- (2) Without prejudice to the generality of subsection (1), the Minister may make regulations in respect of —
  - (a) distance selling;
  - (b) rebates;
  - (c) layaways and other payment instalment arrangements;

- (d) transparency of contract terms and the total cost of goods or services;
- (e) the recall of goods or components of goods by a foreign manufacturer;
- (f) trial periods and introductory offers;
- (g) disclosures to be made by a provider concerning the packaging, labelling and environmental facts affecting goods or services;
- (h) unsolicited goods or services.

**64. Repeal of Ch. 337C.**

The Consumer Protection Act, 2006 (*No. 7 of 2006*) is hereby repealed.



## FIRST SCHEDULE

(section 3)

### 1. **Constitution of the Consumer Commission.**

- (1) The Consumer Commission shall consist of a chairman, a deputy chairman and not less than five nor more than nine other members appointed by the Governor-General on the advice of the Minister from persons appearing to be qualified in the areas of law, industry, commerce, agriculture, banking and finance, transportation, administration or organization of workers.
- (2) The Permanent Secretary of the Ministry responsible for Consumer Affairs or a person designated by the Permanent Secretary shall be an ex officio member of the Consumer Commission.

### 2. **Tenure.**

A member of the Consumer Commission other than the ex officio member shall hold office for such period, not exceeding three years as the instrument of appointment may direct, but such member shall be eligible for reappointment.

### 3. **Chairman and deputy chairman.**

The Minister shall appoint a chairman and a deputy chairman of the Consumer Commission from among members appointed under paragraph 1 and if the chairman is absent or unable to act, the deputy chairman shall act as chairman during the time the absence or inability continues.

### 4. **Resignation.**

A member of the Consumer Commission other than the ex officio member, may at any time resign his office by instrument in writing addressed to the Minister and from the date of receipt by the Minister of the instrument that member shall cease to be a member of the Consumer Commission.

### 5. **Removal.**

The Governor-General on the advice of the Minister may, by instrument in writing remove a member of the Consumer Commission upon being satisfied that the member —

- (a) is an undischarged bankrupt;
- (b) is, for whatever reason permanently incapable of performing the duties of a member;
- (c) has neglected the duties of a member or has engaged in misconduct;  
or
- (d) has been convicted of an indictable offence.

**6. Publication.**

The appointment, removal, death or resignation of a member to the Consumer Commission shall be notified in the *Gazette*.

**7. Remuneration.**

There shall be paid to the chairman and other members of the Consumer Commission such remuneration, if any, as the Minister may determine.

**8. Meetings.**

- (1) The Consumer Commission shall meet as often as may be required for the performance of its functions, but in any event, shall meet at least once a month.
- (2) The chairman, or in his absence the deputy chairman, shall preside at all meetings of the Consumer Commission.
- (3) The chairman, or in his absence the deputy chairman, and three other members of the Consumer Commission shall form a quorum.
- (4) The decisions of the Consumer Commission are by a majority of votes and in any case in which the voting is equal, the member presiding at the meeting shall have, in addition to an original vote, a casting vote.
- (5) Minutes of each meeting in proper form are to be kept by the secretary or any officer the Consumer Commission may appoint for that purpose, and confirmed by the Consumer Commission at the next meeting and signed by the chairman or a member of the Consumer Commission designated by the chairman as the case may be.
- (6) The Consumer Commission may co-opt any one or more persons to attend any particular meeting of the Consumer Commission for the purpose of assisting or advising the Consumer Commission in any matter with which the Consumer Commission is dealing, but no coopted person has the right to vote.
- (7) Where a quorum is present, the validity of any proceeding of the Consumer Commission shall not be affected by any vacancy amongst the members thereof by any defect in the appointment of a member.

**9. Authority to regulate its proceedings.**

Subject to this Schedule, the Consumer Commission has the power to regulate its proceedings.

**SECOND SCHEDULE**

(section 13(2)(a))

**SUMMONS TO WITNESS**

To : .....(name of person summoned and his or her address, if known)

You are hereby summoned to appear before the Consumer Commission, established under the Consumer Protection Act, at ..... (place) on the ..... day of ..... at .....o'clock and to give evidence respecting ..... (state the matter).

(If the person summoned is to produce any documents, add) And you are required to bring with you (specify the papers, books, records and documents required).

## OBJECTS AND REASONS

The Consumer Protection Bill, 2023 seeks to provide greater protection for consumers in their dealings with providers and to repeal and replace the Consumer Protection Act, 2006 (*No. 7 of 2006*).

The Bill seeks to continue the Consumer Commission established under the Consumer Protection Act, 2006 and introducing new functions of the Commission, namely —

The Bill also seeks to —

- (a) provide the framework for the lodging of consumer complaints and investigations thereof;
- (b) protect the consumer by setting out the obligation to recall certain goods as well providing the procedure in which a provider may voluntarily recall certain goods.

Part V of the Bill sets out the obligations of providers namely —

- (a) to be licensed under the Business Licence Act, 2010 (*No. 25 of 2010*);
- (b) where applicable, to be registered under the Value Added Tax Act, 2014 (*No. 32 of 2014*);
- (c) to honour warranties whether local or foreign;
- (d) to disclose to consumers that the goods are reconditioned, repaired, rebuilt or remade;
- (e) to provide the price of goods or services;
- (f) to disclose such matters as prescribed by the Minister in regulations.

Part VI of the Bill establishes the rights of the consumer, inter alia —

- (a) to be informed of certain details of the goods including origin and instructions on use and installation;
- (b) to be given a receipt of the transaction;
- (c) to receive a refund in the same manner of payment.

Part VII and Part VIII seeks to provide for the provisions relating to product liability and the prohibition of certain unfair trade practices. In particular, the Bill criminalises the practice of —

- (a) misleading or deceptive conduct;
- (b) harassing or coercing a consumer into purchasing goods or a service;
- (c) delivering a materially different good than originally contracted;

- (d) charging a higher price than disclosed to the consumer at the time of purchase;
- (e) pyramid and referral selling.

Part IX of the Bill regulates the terms of the contract between consumers and providers in relation to the restricting or exclusion of liability, goods or services acquired by instalment, failure to meet advertised delivery date, reasonableness, and dispute resolution.

Part X of the Bill provides for miscellaneous provisions including the power of the Court to order the payment of damages or costs and the power of the Minister to make regulations regarding distance selling, rebates, layaways, payment instalment arrangements, transparency of contract terms, trial periods and introductory offers and unsolicited goods and services.