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Consumer Protection Act¹

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20.05.2010	RT I 2010, 24, 117	01.06.2010
20.05.2010	RT I 2010, 31, 158	01.10.2010
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12.12.2013	RT I, 31.12.2013, 1	13.06.2014, partially 10.01.2014

Chapter 1 GENERAL PROVISIONS

§ 1. Scope of application of Act

(1) The purpose of this Act is to safeguard consumer rights.

(2) This Act regulates the offering and sale, or marketing in any other manner, of goods or services to consumers by traders, determines the rights of consumers as the purchasers or users of goods or services, and provides for the organisation and supervision of consumer protection and liability for violations of this Act.

(3) This Act also applies if traders arrange for the transfer of goods or provision of services to consumers.

(4) This Act, the Law of Obligations Act, the Product Conformity Act and other Acts apply to the offering, sale and making available on the market in any other manner of goods or services to consumers.

[RT I 2010, 31, 158 - entry into force 01.10.2010]

(5) The provisions of the Administrative Procedure Act apply to administrative proceedings prescribed in this Act, taking account of the specifications provided for in this Act. The settlement of disputes between a consumer and a trader is not deemed to be an administrative proceeding within the meaning of the Administrative Procedure Act.

§ 2. Definitions

For the purposes of this Act:

- 1) "consumer" means a natural person to whom goods or services are offered or who acquires or uses goods or services for purposes not related to their business or professional activities;
- 2) "trader" means a person who offers and sells, or markets in any other manner, goods or provides services to consumers within the scope of the person's business or professional activities;
- 3) "goods" mean a thing or right offered, sold, or marketed in any other manner, by a trader;
[RT I 2007, 56, 375 - entry into force 12.12.2007]
- 4) "service" means a benefit which is offered, sold, or marketed in any other manner, by a trader and which is not goods;
[RT I 2007, 56, 375 - entry into force 12.12.2007]
- 5) "producer" means a person defined in the Product Conformity Act;
[RT I 2010, 31, 158 - entry into force 01.10.2010]
- 6) "universal service" means a service provided in the public interest and used by the overwhelming majority of the population of the state or a certain region, such as gas, electricity, heating, water, sewerage, waste handling, communications and other similar services.

§ 3. Fundamental consumer rights

Consumers have the right to:

- 1) demand and obtain goods and services which meet the requirements, are harmless to the life, health and property of the consumers, and are not prohibited from being owned or used;
- 2) obtain necessary and truthful information on the goods and services offered in order to make an informed choice, and timely information on any risks relating to the goods or services;
- 3) obtain information on consumer law and other issues relating to consumption;
- 4) obtain advice and assistance if their rights are violated;
- 5) demand compensation for any patrimonial or non-patrimonial damage caused to them;
- 6) request that their interests be taken into account and that they be represented through consumers' associations and federations in the decision-making process on consumer policy issues.

Chapter 2 INFORMING CONSUMERS

§ 4. Right of consumers to obtain information

(1) Consumers have the right to obtain information on the safety of goods and services offered as well as on aspects concerning protection of health, property and economic interests.

(2) Before consumers acquire goods or use services, traders and producers are required to provide the consumers with detailed information concerning the characteristics and conditions of use of the goods or services and, if a warranty specified in § 10 of this Act applies, concerning the warranty, as well as on the price, conditions of payment, performance of the contract, and the rights, obligations and liability arising from the contract, including the possibilities for submitting complaints regarding the goods or services, taking into account the provisions of subsection (1) of this section.

(3) In addition to the information specified in subsection (2) of this section, consumers have the right to obtain additional information concerning the goods or services offered.

(4) Information provided to consumers shall be truthful, understandable and in Estonian.

(5) Information provided to consumers concerning goods or services shall not attribute to the goods or services any characteristics which they do not have and shall not imply that the goods or services have any special characteristics if all goods or services of the same type possess such characteristics.

(6) Upon payment for goods or services, the trader shall provide the consumer with a document certifying the purchase of the goods or services and setting out at least:

- 1) the name or business name of the trader and the address of the place of business;
- 2) the date of the sale;
- 3) the price of each of the goods or each service and the total amount paid.

(7) If the total amount to be paid by a consumer is less than 20 euros, the document specified in subsection (6) of this section shall be given to the consumer at their request.

[RT I 2010, 22, 108 - entry into force 01.01.2011]

(8) If necessary, the Government of the Republic or a minister authorised thereby may establish the requirements for providing information to consumers on certain goods or services.

(9) The provisions of §§ 5–7 of this Act apply to goods which are offered as movables.
[RT I 2007, 56, 375 - entry into force 12.12.2007]

§ 5. General requirements for labelling of goods

(1) The labelling of goods or on the packaging of goods or the label attached to goods offered or sold to consumers shall be legible, understandable and unambiguous and shall meet all the requirements established for the labelling of such goods.

(2) If no requirements have been established by legislation concerning the labelling of particular goods, the labelling on the goods shall at least set out the trade name of the goods, if the lack of this information could mislead the consumer.

(3) The trade name specified in subsection (2) of this section may be the fixed expression used in practice to designate the goods, accompanied, if necessary, by a reference to the intended use of the goods or the materials used in manufacturing the goods, or any other name necessary to identify the goods. The trade name shall not be replaced by a trade mark or an invented name.

(4) In addition to the information specified in subsection (2) of this section and taking into account the type, characteristics and intended purpose of the goods, the following information shall be added:

- 1) the quantity or dimensions of the goods in relevant units of measurement according to the international system of units;
- 2) the composition of the goods and the quantities of the components;
- 3) instructions for washing, cleaning and maintaining the goods;
- 4) instructions for using the goods and the storage conditions for the goods;
- 5) warnings and precautions to prevent hazards relating to the use or destruction of the goods;
- 6) the shelf life of the goods; or
- 7) the main technical information concerning the goods.

(5) The information specified in subsection (4) of this section may be presented on the labelling of the goods, on a label attached to the goods or in the instruction manual accompanying the goods. The information presented shall enable the safe use of the goods for their intended purpose.

(6) The information specified in subsections (2) and (4) of this section shall be presented in writing and in Estonian. Instructive or warning drawings, pictograms, signs and symbols may also be used provided that the information they communicate is understandable to consumers.

(7) The original information presented on the labelling of goods shall not be covered by additional information, pictures or stickers.

(8) The general requirements set out in this section do not apply to second-hand goods unless warnings and precautions relating to the use or destruction of the goods are necessary to ensure the safety of consumers and to protect their health and property.

§ 6. Instruction manual

(1) Goods which are technically complex, contain hazardous substances or require special skills when using them shall be accompanied by an instruction manual from the producer.

(2) The instruction manual shall contain the information necessary for the consumer to use the goods correctly, economically and for their intended purpose and to assemble, install, connect, maintain or store and, if necessary, destroy the goods in the correct manner. If the goods consist of several parts, the instruction manual shall contain a list of the parts constituting the goods (the components of the set).

(3) An instruction manual which is in a foreign language shall be translated into Estonian at least as far as the information specified in subsection (2) of this section is concerned and it shall be unambiguous.

§ 7. Indication of price of goods

(1) When offering goods, including in shop windows, and selling goods, a trader shall indicate the selling price and the unit price of the goods to consumers, unless legislation established on the basis of subsection (10) of this section provides otherwise with regard to the unit price.

(2) "Selling price" means the final price to be paid by a consumer for a unit of goods or a quantity of goods.

(3) "Unit price" means the final price for one kilogram, one litre, one metre, one square metre or one cubic metre of goods. If the goods are not measured in the units specified above, the price for a single unit of the goods may also be considered as the unit price.

(4) The selling price and unit price of the goods shall be indicated in writing and be clearly legible and the prices shall be unambiguous and easily identifiable for consumers.
[RT I 2005, 71, 547 - entry into force 08.01.2006]

(5) The selling price and unit price shall be indicated on the goods or their sales packaging or displayed in close proximity to the goods. It must be possible to remove the price indicated on the goods without damaging the goods.

(6) The unit price need not be indicated:

- 1) if the unit price is identical to the selling price of the goods;
- 2) for goods offered in the course of the provision of a service;
- 3) for antiques and works of art;
- 4) for goods offered by auction.

(7) In the case of unpackaged goods sold in bulk according to quantity, volume or dimension in accordance with the wishes of the consumer, the unit price shall be indicated before measuring. The selling price shall be indicated after measuring.

(8) [Repealed - RT I 2004, 41, 278 - entry into force 01.06.2004]

(9) If an advertisement addressed to consumers contains information concerning the selling price of goods, the advertisement shall also indicate the unit price of the goods, unless otherwise provided by legislation.

(10) If necessary, the Minister of Economic Affairs and Communications may establish more specific requirements for indicating the prices of goods and services.

§ 8. Indication of price for services

[RT I 2005, 71, 547 - entry into force 08.01.2006]

(1) When offering a service or immediately before providing a service to a consumer, the trader shall notify the consumer of the selling price of the service. If it is not possible to determine the selling price of the service beforehand, the trader shall notify the consumer of the components of the price of the service, the rates or the bases on which the price is calculated such as to enable the consumer to calculate the selling price of the service with sufficient accuracy.

[RT I 2005, 71, 547 - entry into force 08.01.2006]

(1¹) The selling price of a service is the final price to be paid for the service by a consumer.
[RT I 2005, 71, 547 - entry into force 08.01.2006]

(2) Upon offering a service, the price list for the services offered or any other document stating the bases on which the price of the service is calculated shall be displayed to consumers visibly. If a service is offered or provided outside business premises, the price list for services or the document stating the bases on which the price of the service is calculated shall be presented to consumers.

(3) If it is not practical to indicate all the prices or the bases for their calculation in the price list due to the large number of services offered or for any other similar reason, it is sufficient to indicate the more general prices or the bases for their calculation. In such cases, the complete list of prices or the bases for their calculation shall also be available to consumers and a reference to the complete list shall be made in the price list.

(4) [Repealed - RT I 2007, 56, 375 - entry into force 12.12.2007]

Chapter 3 OFFERING AND SALE OF GOODS OR SERVICES TO CONSUMERS

Division 1 Safety and Quality of Goods or Services

§ 9. General requirements

(1) Goods and services shall meet the established requirements, be harmless to the life, health and property of the consumer if used for their intended purpose and have the characteristics which can normally be expected of them by consumers. Goods sold or services provided to consumers shall conform to the contract in accordance with the provisions of the Law of Obligations Act.

(2) [Repealed - RT I 2010, 31, 158 - entry into force 01.10.2010]

(3) [Repealed - RT I 2007, 56, 375 - entry into force 12.12.2007]

(4) Traders shall adopt measures commensurate with the characteristics of the goods or services which they offer, enabling them to:

- 1) be informed of risks which these goods or services might pose;
- 2) choose to take appropriate action to avoid these risks including, if necessary, withdrawal of the goods from the market or termination of provision of the services, warning consumers or recall of the goods from consumers.

[RT I 2010, 31, 158 - entry into force 01.10.2010]

(5) Traders are required to co-operate with the market supervisory authorities in order to prevent risks that may arise from the offered goods or services.

[RT I 2010, 31, 158 - entry into force 01.10.2010]

§ 9¹. Assessment of safety of services

(1) If no requirements have been established by legislation concerning a service, the safety of the service shall be assessed taking into consideration:

- 1) international standards or the standards of European standardisation bodies which have been transposed into Estonian standards;
- 2) original Estonian standards;
- 3) good practice in respect of safety of services in the relevant area;
- 4) the state of the art and technology;
- 5) reasonable consumer expectations concerning safety.

(2) Harmful service is deemed to be a service, where an error related to the manner of its provision or a defect in the structure or composition of a product used in the provision of the service or incorrect, misleading or inadequate information given about the service may cause an injury, intoxication or a disease of a person or otherwise endanger health of a person.

[RT I 2010, 31, 158 - entry into force 01.10.2010]

§ 10. Warranty on goods or services

It is permitted to use the word "garantii" [warranty] or any other word with the same meaning in any form or any word combination when offering goods or services only if the meaning of the word is in compliance with the provisions of the Law of Obligations Act concerning warranty against defects or contractor's guarantee or the provisions of the Building Act concerning warranty for a construction work.

[RT I 2007, 56, 375 - entry into force 12.12.2007]

§ 11. Defective goods

(1) Goods are defective if they do not meet the requirements established by legislation or other technical conditions. Goods are also defective if the minimum durability period, including the "best before" date, indicated on the goods has expired.

(2) Defective goods may be offered and sold to consumers only if the goods are harmless to life, health and property and if the consumers are notified of the defects of the goods.

(3) The provisions of subsection (2) of this section also apply to second-hand goods.

(4) Defective or second-hand goods shall be displayed separately from new goods and goods which meet the requirements, and relevant information shall be displayed at the place of sale of the defective or second-hand goods. Information concerning a reduction in the price of the goods is not deemed to be information concerning the defects of the goods.

(5) The provisions of this section apply to goods offered as movables.

[RT I 2007, 56, 375 - entry into force 12.12.2007]

Division 2 Business-to-consumer Commercial Practices

§ 12. Commercial practices

(1) For the purpose of this Act, commercial practices mean any act, omission, course of conduct or representation, commercial communication, including advertising, and marketing, by a trader, directly related to the advertising, offering, sale or supply of goods or services to consumers.

(2) The provisions of this Division relating to commercial practices do not affect the application of legislation regulating private law. Violation of the prohibition on the use of unfair commercial practices does not result, in itself, in the nullity of the transaction.

(3) The provisions of this Division relating to commercial practices do not affect the application of legislation which, above all, establishes:

- 1) health protection and safety requirements for goods and services or for the offering and marketing of goods and services;
- 2) requirements for the certification and marking of precious metal content in precious metal articles;
- 3) terms of foundation of undertakings, procedure for grant or registration of licences necessary for operation in certain areas of activity, and requirements for professions.

[RT I 2007, 56, 375 - entry into force 12.12.2007]

§ 12¹. Prohibition on use of unfair commercial practices

(1) The offering and sale, or marketing in any other manner, of goods and services to consumers shall follow good trade practice and be honest with regard to consumers. The offering of goods or services shall be planned and carried out in a manner whereby the commercial purpose of the offer is clear to consumers.

(2) The use of unfair commercial practices is prohibited before, during and after making a commercial transaction related to goods or services.

[RT I 2007, 56, 375 - entry into force 12.12.2007]

§ 12². Unfair commercial practices

(1) A commercial practice is unfair if it is contrary to the requirements for diligence to be applied by a trader in the business or professional activities thereof (hereinafter *professional diligence*), and it materially distorts or is likely to materially distort the economic behaviour with regard to the goods or services of the average consumer whom the goods or services reach or to whom they are addressed.

(2) The average consumer specified in subsection (1) of this section is deemed to be a consumer, who is reasonably well-informed and reasonably observant and circumspect, taking into account social, cultural and linguistic factors. Where a commercial practice is specifically aimed at a particular group of consumers, the average consumer is deemed to be an average member of this group of consumers.

(3) A commercial practice likely to distort the economic behaviour of groups of consumers who are particularly susceptible to the commercial practice or to the underlying goods or services due to their mental or physical infirmity, age or credulity in a way that the trader can normally be expected to foresee shall be assessed based on the effect of the commercial practice on the average member of that group of consumers.

(4) The provisions of subsection (3) of this section are not applied to the common and legitimate advertising practice of making exaggerated statements or statements which are not meant to be taken literally.

(5) In the case of the trader's professional diligence specified in subsection (1) of this section, the standard of such skills and care which a trader may reasonably be expected to exercise towards consumers, commensurate with honest market practice and the principle of good faith shall be taken as the basis.

(6) The codes of conduct applicable to the business or professional activities of traders may be used for assessing the compliance of the traders to the requirements of professional diligence. Code of conduct means a set of rules or an agreement not imposed by legislation which defines the behaviour, in certain business or professional activities, of traders acceded to such code undertake to follow. The entity responsible for the formulation of a code of conduct, including a trader or group of traders, may prescribe the monitoring of the activities of traders who have undertaken to be bound by the code of conduct and the settlement of complaints related to their activities.

(7) To materially distort the economic behaviour of consumers means using a commercial practice to appreciably impair the consumer's ability to make an informed choice, thereby causing the consumer to make a transactional decision that the consumer would not have taken otherwise.

(8) The transactional decision specified in subsection (7) of this section means a consumer's decision on whether to make a transaction or to refrain from the transaction and on the terms of such transaction, including whether and on what terms to purchase, whether to make payment for the purchase in whole or in parts, whether

to retain or give up the goods or services or whether to exercise contractual rights in relation to the goods or services.

(9) In particular, commercial practices are unfair if they mislead consumers or are aggressive with respect to consumers.

[RT I 2007, 56, 375 - entry into force 12.12.2007]

§ 12³. Misleading commercial practices

(1) Both misleading actions and misleading omissions are deemed to be misleading commercial practices.

(2) A commercial practice is deemed to be misleading if it contains false information or if presentation of factually correct information deceives or is likely to deceive the average consumer and as a result of it the average consumer makes or is likely to make a transactional decision that he or she would not have made otherwise. Information is deemed to be false if it is untruthful in relation to one or more of the following elements:

- 1) the existence or nature of goods or services;
- 2) the main characteristics of goods or services;
- 3) the extent of the trader's commitments, the motive for using the commercial practice and the nature of the sales process as well as any statement or symbol associated with direct or indirect sponsorship or approval of the trader, goods or services;
- 4) the price or the bases for calculation of the price, or the existence of a specific price advantage;
- 5) the need for a service, spare parts, replacement or repair;
- 6) the features and rights describing the person acting as a trader or a representative thereof, including the trader's name and legal form, the assets, qualifications, status, approval, affiliation or connection thereof and ownership of industrial, commercial or intellectual property rights or received awards and distinctions;
- 7) the consumer's rights, including the right to require replacement or reimbursement under the Law of Obligations Act.

(3) The main characteristics of goods or services specified in clause (2) 2) of this section are, among other things, the following:

- 1) the availability;
- 2) the deriving benefit;
- 3) the involved risks;
- 4) the execution, composition and accessories;
- 5) the method and time of manufacturing or supply;
- 6) the fitness for purpose, usage;
- 7) the quantity;
- 8) the specification and origin;
- 9) the results to be expected from its use;
- 10) the results and material features of tests or checks carried out on goods or services;
- 11) the terms of delivery;
- 12) the after-sales service and the procedure for settling potential complaints.

(4) A commercial practice is also deemed to be misleading if, due to its influence, in a specific situation, taking account of all its circumstances, the average consumer makes or is likely to make a transactional decision that he or she would not have made otherwise, and it involves:

- 1) a method of marketing goods or services, including comparative advertising, which creates confusion with any goods or services, trade marks, business names or other distinguishing features of a competitor;
- 2) non-compliance by a trader with the commitments contained in the code of conduct by which the trader has undertaken to be bound if the trader refers to its connection with the code of conduct.

(5) A commercial practice specified in clause (4) 2) of this section is not deemed to be misleading if the commitment contained in the code of conduct is not precisely observable, but is aspirational and compliance therewith cannot be ascertained.

(6) A commercial practice is also deemed to be misleading if, in the specific situation, taking account of all its circumstances and any limitations related to the means of communication, it omits material information that the average consumer needs in order to make an informed transactional decision if the trader thereby hides material information or provides information in an unclear, unintelligible, ambiguous or untimely manner or fails to identify the commercial intent of the commercial practice if not already apparent from the context, and due to its influence the average consumer makes or is likely to make a transactional decision that he or she would not have made otherwise.

(7) Where the means of communication used to communicate the information imposes limitations of space or time, only a part of the material information may be transmitted thereby provided that the trader makes the information which was not communicated available to the consumer in another manner.

- (8) The following commercial practices are always deemed to be misleading and shall be prohibited:
- 1) falsely claiming that the trader is a signatory to a code of conduct;
 - 2) falsely claiming that a code of conduct has an endorsement from a public or other body;
 - 3) displaying a trust mark, quality mark or a mark equivalent thereto without having obtained the necessary authorisation;
 - 4) falsely claiming that the trader, the trader's commercial practices or the goods or services offered by the trader have been approved, endorsed or authorised by a public or private body or making such a claim without complying with the terms of the approval, endorsement or authorisation;
 - 5) making an invitation to purchase goods or services at a specified price without disclosing the existence of any reasonable grounds the trader may have for believing that the trader will not be able to offer or supply, or to procure another trader to supply, those goods or services or equivalent goods or services at that price during the period that is, and in quantities that are, reasonable having regard to the goods or services, the scale of advertising of the goods or services and the price offered (bait advertising);
 - 6) making an invitation to purchase goods or services at a specified price and then refusing to show the advertised goods or services to consumers, or demonstrating a defective sample thereof, or refusing to take orders for the relevant goods or services or deliver them within a reasonable time with the intention of promoting different goods or services (bait and switch);
 - 7) falsely stating that the goods or services will only be available for a very limited time, or that they will only be available on particular terms for a very limited time, in order to elicit an immediate decision and deprive consumers of sufficient opportunity or time to make an informed choice;
 - 8) undertaking to provide after-sales service to consumers with whom the trader has communicated prior to a transaction in a foreign language without informing the consumer that such service can only be used in another language;
 - 9) falsely stating or otherwise creating a false impression that it is legal to sell the goods or services;
 - 10) presenting the rights granted to consumers by legislation as a distinctive feature of the trader's offer;
 - 11) communicating in the media of texts which cannot be associated with advertising in order to promote goods or services if the trader has paid therefor, but has not made it clear for consumers in the contents of the text or by clearly recognisable images or sounds (advertising text);
 - 12) making a materially inaccurate claim concerning the nature and extent of the risk to the security of the consumer or the consumer's family if the consumer does not purchase the goods or services;
 - 13) promoting a product similar to a product of another producer in such a manner as deliberately to mislead the consumer into believing that the product has been produced by that other producer;
 - 14) creating, using or developing a sales scheme where a consumer pays for the opportunity to receive compensation that is derived primarily from the introduction of other consumers into the scheme rather than from the sale or consumption of goods or services (pyramid sales scheme);
 - 15) falsely claiming that the trader is about to cease trading or move premises;
 - 16) claiming that the goods or services are able to facilitate winning in games of chance;
 - 17) falsely claiming that the goods or services are able to cure illnesses, dysfunction or malformations;
 - 18) passing on inaccurate information on market conditions or on the possibility of finding the goods or services on the market in order to induce the consumer to acquire the goods or services at conditions less favourable than normal market conditions;
 - 19) claiming to offer a prize without awarding the prizes described or a reasonable equivalent;
 - 20) describing goods or services with the words "prii" [free], "tasuta" [without charge] or other similar expressions if the consumer has to pay anything other than the unavoidable cost of responding to the offer and collecting or delivery of the goods;
 - 21) including in marketing material an invoice or similar document referring to payment which gives the consumer a false impression that the consumer has already ordered the marketed goods or services;
 - 22) falsely claiming or otherwise creating a false impression that the trader is not acting for the purposes related to the trader's business or professional activities, or falsely representing oneself as a consumer;
 - 23) creating a false impression that after-sales services in relation to the goods or services are available also in other Member States besides Estonia.
- [RT I 2007, 56, 375 - entry into force 12.12.2007]

§ 12⁴. Material information upon invitation to purchase

(1) Invitation to purchase means a commercial communication by a trader which indicates the characteristics of the goods or services and the price thereof in a way appropriate to the means of communication used and thereby enables the consumer to make a purchase.

(2) In the case of an invitation to purchase, the following information shall be regarded as material information within the meaning of subsection 12³(6) of this Act if not already apparent from the context:

- 1) the main characteristics of the goods or services to an extent appropriate for the goods or services and for the means of communication used for communication of information;
- 2) the address of place of business and name or business name of the trader and, where applicable, the address and name or business name of the trader on whose behalf the trader is acting;
- 3) the price of goods or services inclusive of taxes or, where the price cannot be calculated in advance due to the nature of the goods or services, the bases for calculation of the price;
- 4) transport, postal or delivery costs not included in the price or, where these costs cannot be calculated in advance, information that payment of such costs is required;
- 5) the procedure for payment for the goods or services;
- 6) the procedure for delivery of goods or performance of an order and settling of complaints where it differs from the requirements of the trader's professional diligence;

7) for transactions involving a right of withdrawal or cancellation, reference to the existence of such a right.

(3) In the case of an invitation to purchase, the information the communication of which upon the marketing or advertising of goods or services is required by legislation of the European Union shall be regarded as material information in addition to the information specified in subsection (2) of this section.

[RT I 2007, 56, 375 - entry into force 12.12.2007]

§ 12⁵. Aggressive commercial practices

(1) A commercial practice is deemed to be aggressive if, in the specific situation, taking account of all its circumstances, by harassment, coercion, including the use of physical force, or undue influence, it significantly impairs or is likely to significantly impair the average consumer's freedom of choice or conduct with regard to goods or services and thereby causes or is likely to cause the consumer to make a transactional decision that the consumer would not have made otherwise.

(2) Undue influence specified in subsection (1) of this section means exploiting the trader's position of power so as to apply pressure to the consumer in a way which significantly limits the consumer's ability to make an informed choice. Pressure can be applied to the consumer even without using or threatening to use physical force.

(3) In determining whether a commercial practice uses harassment, coercion, or undue influence, account shall be taken of the following circumstances:

- 1) the timing, location, nature or duration of the commercial practice;
- 2) threatening or abusive behaviour or language;
- 3) the exploitation by the trader of any specific misfortune or circumstance of such gravity as to impair the consumer's judgement, of which the trader is aware, to influence the consumer's decision with regard to goods or services;
- 4) any onerous or disproportionate non-contractual barrier imposed by the trader if the consumer wishes to exercise the rights under the contract, including the right to withdraw from the contract or to switch to other goods or services or another trader;
- 5) any threat to take any action that cannot legally be taken.

(4) The following commercial practices are always deemed to be aggressive and shall be prohibited:

- 1) creating an impression that the consumer cannot leave the premises until a contract is formed;
 - 2) conducting a personal visit to the consumer's home ignoring the consumer's request to leave or not to return, except to perform a contractual obligation under the conditions and to the extent established by legislation;
 - 3) making persistent and unwanted solicitations by phone, fax, e-mail or other means of communication, except to perform a contractual obligation under the conditions and to the extent established by legislation;
 - 4) requiring a consumer who wishes to claim on an insurance policy to produce documents which could not reasonably be considered relevant as to whether the claim was valid, or failing systematically to respond to pertinent correspondence, in order to dissuade a consumer from exercising the consumer's contractual rights;
 - 5) including in an advertisement a direct exhortation to children to buy, or persuade their parents or other adults to buy, advertised goods or services;
 - 6) demanding immediate or deferred payment for or the return or safekeeping of the goods supplied or services provided by the trader, but not solicited by the consumer unless the goods are a substitute supplied in conformity with subsection 99 (3) of the Law of Obligations Act (inertia selling);
 - 7) explicitly informing a consumer that if the consumer does not buy the goods or services, the trader's job or livelihood will be in jeopardy;
 - 8) creating a false impression that the consumer has already won, will win, or will on doing a particular act win, a prize or other equivalent benefit, when in fact either there is no prize or other equivalent benefit, or receiving the prize or other equivalent benefit is subject to the consumer paying money or incurring a cost.
- [RT I 2007, 56, 375 - entry into force 12.12.2007]

§ 13. Contract negotiated away from business premises

(1) Upon entry into a contract negotiated away from business premises as provided for in §§ 46–51 of the Law of Obligations Act, the trader shall submit an information note in the format approved by the Minister of Economic Affairs and Communications to the consumer.

(2) In the event that goods are sold, the information note specified in subsection (1) of this section shall be submitted to the consumer not later than when the consumer receives the goods or the first part of the goods. In other cases, the information note shall be submitted to the consumer not later than when the consumer makes an offer or accepts the offer of the trader.

(3) The information note specified in subsection (1) of this section need not be submitted if the goods or services are offered:

- 1) outside the business premises of the trader at a place where the goods or services are ordinarily offered and sold, or

2) at a place to which consumers have been publicly invited through the media or by other means to purchase goods or services, or

3) at a place to which the trader has come at the clearly expressed request of the consumer in order to offer goods or services requested by the consumer.

§ 14. Distance contracts

The offering and sale of goods or services to consumers through a marketing system organised by a trader where contracts are entered into and the offers preceding the contracts are made only through a means of communication without the simultaneous physical presence of the parties shall be carried out in accordance with the provisions of §§ 52–62¹ of the Law of Obligations Act.

Chapter 4 ORGANISATION OF CONSUMER PROTECTION

Division 1 Non-governmental Consumer Associations

§ 15. Consumer associations

(1) A consumer association is a voluntary association of persons the objective of the activities of which is to protect and promote the interests and rights of consumers and which is founded and registered in accordance with the Non-profit Associations Act.

(2) A consumer association has the right to:

- 1) participate in the development and implementation of consumer protection policy;
- 2) organise the dissemination of information as well as consultation and training relating to consumer protection;
- 3) advise and assist consumers;
- 4) represent a consumer, on the basis of an unattested authorisation document, in court and other state authorities and in relationships with traders or producers;
- 5) represent a consumer, on the basis of an unattested authorisation document, in the settlement of extra-judicial disputes;
- 6) organise surveys relating to consumer protection;
- 7) co-operate with supervisory authorities engaging in consumer protection.

(3) For the purposes of this Act, a consumer association is deemed to be representing the collective interests of consumers if the association has at least 50 members and the federation of consumer associations is deemed to be representing the collective interests of consumers if the associations which are the members of the federation have at least 50 members in total, and if the association or federation:

- 1) represents the interests of consumers at local or national level;
- 2) is independent of undertakings and political parties.

(4) In addition to the rights specified in subsection (2) of this section, a consumer association or the federation of consumer associations representing the collective interests of consumers has the right:

- 1) in the cases provided by the Law of Obligations Act and in order to protect the collective interests of consumers, to demand through a court that the application of standard terms which cause unfair harm to consumers be terminated or that other violations be terminated and that any future violations be refrained from;
- 2) to participate in negotiations concerning the standard terms of contracts between providers of universal services and consumers, including on issues relating to price formation.

(5) The consumer protection activities carried out by a consumer association or the federation of consumer associations representing the collective interests of consumers may be financed from the state budget pursuant to the procedure established by the Minister of Economic Affairs and Communications.

(6) A consumer association shall submit the annual report without information concerning the principal activity in accordance with subsections 36 (5) and 78 (3) of the Non-profit Associations Act.
[RT I 2009, 54, 363 - entry into force 01.01.2010]

Division 2 Consumer Protection at Local Government Level

§ 16. Consumer protection activities of local governments

(1) Local governments shall organise the provision of advice relating to consumer protection for consumers within their administrative territories. Local governments are required to provide advice and assistance to

consumers with regard to issues which are connected with services organised by the local governments pursuant to law.

(2) In order to perform the duties specified in subsection (1) of this section, a local government may form a consumer protection unit, authorise an official to engage in consumer protection or enter into a corresponding contract under public law, in accordance with the Administrative Co-operation Act, with a consumer association specified in subsection 15 (1) of this Act.

Division 3

State Consumer Protection

§ 17. Consumer Protection Board

(1) The Consumer Protection Board is a government authority within the area of government of the Ministry of Economic Affairs and Communications.

(2) The primary duty of the Consumer Protection Board is to protect the rights and interests of consumers in accordance with this Act and other legislation. The Consumer Protection Board is competent to:

- 1) exercise supervision over compliance with the requirements provided for the protection of consumer rights in this Act, legislation established on the basis of this Act, and other Acts;
- 2) make proposals to amend or establish legislation relating to consumer protection;
- 3) settle petitions and complaints submitted to the Board concerning violations of consumer rights or forward such petitions and complaints to the relevant institutions for settlement;
- 4) inform the public of the activities of a trader or producer which violate consumer rights or damage the legitimate interests of consumers;
- 5) advise consumers, consumer associations and traders and to assist in increasing their awareness of consumer protection issues;
- 6) conduct negotiations with undertakings and business organisations, including providers of universal services in a dominant position, on issues relating to the quality of the services and reasonable prices for the consumers;
- 7) enter into co-operation agreements with other supervisory authorities and local governments;
- 8) demand through county courts that the application of standard terms which cause unfair harm to the collective interests of consumers and unfair commercial practices be prohibited and that any other activities which violate consumer rights be terminated.

[RT I 2007, 56, 375 - entry into force 12.12.2007]

§ 17¹. Consumer Protection Board supervision information system

(1) The Consumer Protection Board supervision information system is a database, which is maintained for the purpose of electronic storage, systematising and exchanging between relevant authorities of the information related to the activities and procedures associated with the performance of the tasks of the Consumer Protection Board under the legislation and exercising supervision and drawing up reports on the basis of such information.

(2) The chief processor of the database is the Consumer Protection Board.

(3) Information to be entered in the database:

- 1) information concerning the conducting of proceedings on requests for explanation, requests for information and complaints by persons;
- 2) information concerning administrative proceedings;
- 3) information concerning misdemeanour proceedings;
- 4) information concerning product safety.

(4) The detailed composition of the information to be entered in the database shall be provided by the statutes for the maintenance of the database.

(5) The database and its statutes shall be established by a regulation of the Minister of Economic Affairs and Communications.

[RT I, 31.12.2013, 1 - entry into force 10.01.2014]

§ 18. Maintaining business secrets

Officials competent to engage in consumer protection and representatives of the consumer associations and the federations of consumer associations are required to maintain any business secrets which become known to them in the course of performing the duties related to consumer protection. Information relating to violations of law committed by a trader or information subject to communication pursuant to law is not deemed to be a business secret.

Chapter 5

SETTLEMENT OF CONSUMER COMPLAINTS

Division 1

General Procedure for Settlement of Consumer Complaints

§ 19. Submission of complaints to traders

(1) A consumer may submit a complaint arising from a breach of contract to a trader in any form. The consumer may submit the complaint himself or herself or through a representative.

(2) If possible, a dispute between a consumer and a trader shall be settled by an agreement between the consumer and the trader.

(3) If it is not possible to settle a dispute on the basis of an oral complaint, the consumer shall submit the complaint in writing or in a format which can be reproduced in writing and set out:

- 1) his or her name and contact details;
- 2) the date of submission of the complaint;
- 3) the defects of the goods or services;
- 4) the claim submitted to the trader.

(4) A written complaint shall contain a reference to a document certifying the performance of the transaction or the existence of a warranty against defects or a contractor's guarantee or have the relevant document or a copy thereof annexed to the complaint.

(5) If the complaint from a consumer is submitted in writing or in a format which can be reproduced in writing, the trader shall confirm receipt of the complaint in the same format.

(6) A trader is required to review a complaint submitted by a consumer in writing or in a format which can be reproduced in writing within 15 days as of receipt of the complaint and to notify the consumer of the probable solution to the complaint. If it is not possible to settle the complaint during this term, the trader is required to justify the delay, give corresponding written notification to the consumer and specify a new reasonable term.

(7) If a trader finds that a claim from a consumer is unfounded or unjustified and if no agreement is reached with the consumer or an agreement is reached only partially, corresponding written notification shall be given to the consumer within the term specified in subsection (6) of this section. The trader is required to justify refusal to satisfy the claim from the consumer or partial satisfaction of the claim.

(8) If a trader fails to fulfil a promise to settle a complaint within the term specified in subsection (6) of this section, the trader is deemed to have refused to settle the complaint.

§ 20. Customer service

The provider of a universal service shall ensure that appropriate customer service exists to settle consumer complaints and provide information to consumers without charge.

§ 21. Consumer's right to protection

If a trader refuses to settle a complaint from a consumer or the consumer does not consent to the solution proposed by the trader and finds that his or her rights have been violated or his or her interests have been damaged, the consumer may submit a complaint to the person or institution which settles corresponding disputes, to the consumer complaints committee through the Consumer Protection Board or to a court. The consumer may submit the complaint himself or herself or through a representative.

Division 2

Competence, Formation and Rules of Procedure of Consumer Complaints Committee

§ 22. Competence of consumer complaints committee

(1) The consumer complaints committee (hereinafter *committee*) is an independent institution which settles disputes between consumers and traders.

(2) The committee is competent to settle disputes arising from contracts between consumers and traders if the parties have not been able to settle the disputes by agreement and if the value of the disputed goods or services is at least 20 euros.

[RT I 2010, 22, 108 - entry into force 01.01.2011]

(3) The committee shall not settle a dispute if the claim arises from an event of death, physical injury or damage to health. Such disputes shall be settled in court.

(4) The committee shall not settle disputes relating to the provision of health services or legal services or the transfer of immovables or buildings, or disputes for which the settlement procedure is prescribed by other Acts. Such disputes shall be settled by the competent institution or court.

(5) The committee shall not deal with a complaint if settlement of the dispute is outside the competence of the committee due to circumstances arising from subsection (2), (3) or (4) of this section.

§ 23. Status and members of committee

(1) The committee operates at the Consumer Protection Board within the area of government of the Ministry of Economic Affairs and Communications and makes decisions independently pursuant to Acts and other legislation.

(2) The committee consists of a chairman of the committee and members in the form of representatives appointed by business organisations, professional associations, the Consumer Protection Board and the consumer associations or the federation of consumer associations specified in subsection 15 (3) of this Act.

(3) A chairman of the committee must be a person who has completed an academic education in law and is proficient in consumer law. The list of the chairmen of the committee shall be approved by the Minister of Economic Affairs and Communications in co-ordination with the Minister of Justice.

(4) Business organisations, professional associations and the consumer associations or the federation of consumer associations specified in subsection 15 (3) of this section shall submit written proposals to the Consumer Protection Board for their representatives to be entered in the list of members of the committee. The representatives of the Consumer Protection Board to be entered in the list of members of the committee shall be appointed by a directive of the Director General of the Board. A member of the committee shall be excluded from the list at the request of the organisation which nominated the member or at the member's own request.

§ 24. Composition of committee

(1) In order to hear a complaint, the Director General of the Consumer Protection Board or an official authorised by him or her shall approve the composition of the committee, consisting of at least three members one of whom shall be chairman. The committee shall comprise an equal number of representatives of undertakings and representatives of consumers.

(2) The procedure for approving the composition of the committee, and the rules of procedure of the committee shall be established by the Minister of Economic Affairs and Communications.

§ 25. Working conditions and expenses related to work of committee

(1) The hearing of a complaint by the committee shall be free of charge for the parties.

(2) The Consumer Protection Board shall ensure the administration of the committee, the availability of session rooms, the taking of minutes at the sessions and the publication of the decisions of the committee.

(3) The limits of remuneration for the work of the chairman of the committee shall be established by the Minister of Economic Affairs and Communications.

(4) Expenses relating to the activities of the committee shall be covered from the state budget out of the funds allocated to the Consumer Protection Board for that purpose.

Division 3 Settlement of Complaints by Committee

§ 26. Submission of complaints

(1) A consumer or his or her representative submits a written complaint to the committee through the Consumer Protection Board if a trader has refused to settle a complaint made by the consumer or the consumer does not consent to the solution proposed by the trader.

(2) If the representative of a consumer submits a complaint on behalf of the consumer, the unattested authorisation document of the representative shall be annexed to the complaint.

(3) A complaint shall set out:

- 1) the name, residence and other contact details of the consumer;
- 2) the name or business name of the trader and the address of the place of business;
- 3) the content of the complaint, the clearly expressed claim of the consumer submitting the complaint, and the circumstances substantiating the claim.

(4) Documentary evidence, including a copy of the document certifying the purchase and, if possible, copies of the complaint submitted to the trader and of the reply received, shall be annexed to a complaint.

(5) The Consumer Protection Board shall keep records of the complaints received.

§ 27. Refusal to forward complaint to committee

(1) A complaint shall not be forwarded to the committee if:

- 1) settlement of the dispute is not within the competence of the committee, or
- 2) the same dispute on the same grounds and between the same parties is currently before a court, or
- 3) a court judgment concerning the same matter has entered into force.

(2) A consumer shall be notified in writing of refusal to forward his or her complaint to the committee and of the reason for such refusal within three working days as of the day of receipt of the complaint.

(3) If a complaint does not meet the requirements provided for in subsections 26 (3) and (4) of this Act, the Consumer Protection Board shall grant a term for eliminating the deficiencies. If the consumer who submitted the complaint fails to eliminate the deficiencies within that term, the complaint shall not be forwarded to the committee and the consumer shall be notified of the refusal in writing.

§ 28. Preparations for hearing complaints

(1) The Consumer Protection Board shall ascertain the circumstances relevant to the settlement of a complaint and has the right to contact the consumer who submitted the complaint and the trader specified in the complaint in order to achieve an agreement between the parties.

(2) Within three working days as of the day of receipt of a complaint submitted by a consumer, a copy of the complaint shall be sent to the trader concerned who shall then reply to the complaint in writing within ten working days as of receiving the copy.

(3) A copy of the trader's written reply shall be sent to the consumer within three working days as of the day of receipt of the reply.

(4) If the trader's written reply offers a solution which is acceptable to the consumer, the complaint is deemed to be settled.

(5) If the trader's reply offers a solution which is unacceptable to the consumer, the consumer shall notify the Consumer Protection Board thereof and the consumer's complaint together with a written explanation from the trader and the position of the consumer shall be forwarded to the committee. If necessary, the position of the competent supervisory authority concerning issues relevant to the settlement of the complaint shall also be forwarded to the committee. The consumer's complaint together with the materials annexed to the complaint shall be forwarded to the committee within 30 working days as of the day of receipt of the complaint.

(6) If a trader does not submit a written reply, the matter shall be heard on the basis of the consumer's complaint.

§ 29. Termination of proceedings concerning complaint

(1) The committee has the right to terminate the proceedings concerning a complaint, if:

- 1) it becomes evident upon hearing the complaint that settling the complaint is not within the competence of the committee;
- 2) settlement of the complaint is not possible based on the evidence provided because it requires a thorough investigation and hearing of witnesses;
- 3) the parties to the dispute reach an agreement before the session, during the session or in a period between the sessions of the committee;
- 4) the consumer withdraws the complaint.

[RT I 2007, 56, 375 - entry into force 12.12.2007]

(2) A decision on the termination of proceedings concerning a complaint shall be taken by the chairman of the committee. The consumer shall be notified immediately in writing of termination of the proceedings and the reasons for the termination.

§ 30. Term for hearing complaints

- (1) A complaint submitted to the committee shall be heard at a committee session within one month as of the day following the day on which the complaint is forwarded to the committee.
- (2) The chairman of the committee shall determine the time and place of the committee session and arrange for the delivery of summonses to the parties to the dispute.
- (3) The term specified in subsection (1) of this section may be extended at the reasoned request of a party or for any other good reason.

§ 31. Committee sessions

- (1) The committee shall hear a complaint at a session in the presence of the parties to the dispute or their representatives.
- (2) Failure of the parties to a dispute or their representatives to appear at the session does not prevent the complaint from being heard.
- (3) The committee session shall be chaired by the chairman of the committee who shall also explain the nature of the consumer's complaint and the relevant provisions of law at the session.
- (4) The consumer shall present his or her claim and the bases therefor. The consumer may supplement the claims submitted in his or her written complaint at the session.
- (5) The trader against whom the claims have been submitted shall either accept or contest the claims. The trader has the right to submit supplementary evidence.
- (6) At the session, the persons concerned shall be heard and documents and other evidence shall be examined and assessed.

§ 32. Expert opinion

- (1) If necessary and if the parties to the dispute consent thereto, the committee has the right to order an expert assessment of the disputed goods or services. The committee shall take into consideration the opinions of the parties when appointing an expert. The term for conducting the expert assessment shall be determined by the committee and agreed with the expert.
- (2) The expert opinion shall be sent to both parties to the dispute. The expenses relating to the expert assessment of goods or services shall be paid by the party who loses the dispute according to the decision of the committee.
- (3) The committee has the right to divide the expenses relating to the expert assessment of goods or services between the consumer and the trader if it is not possible to determine conclusively which of the parties is the loser in the dispute.
- (4) The committee also has the right to order an expert assessment of disputed goods or services if the expert opinion is requested by one of the parties to the dispute and the party agrees to pay the expenses relating thereto.

§ 33. Minutes of committee sessions

- (1) Minutes shall be taken of committee sessions by an official of the Consumer Protection Board who is not a member of the committee.
- (2) The minutes of a committee session shall contain information relevant to the dispute.
- (3) The minutes of a committee session shall set out:
 - 1) the date and place of the session;
 - 2) the time at which the session begins and ends;
 - 3) the names of the members of the committee, the person chairing the session and the person taking the minutes;
 - 4) the names of the parties to the dispute;
 - 5) information on whether the parties appeared at the session;
 - 6) the essential content of the explanations, claims and objections of the parties;
 - 7) information concerning the presentation of documentary evidence;
 - 8) the date on which the minutes are signed.
- (4) The minutes shall be signed by the chairman of the committee and the person who took the minutes.

Division 4

Decisions and Compliance with Decisions of Committee

§ 34. Decision making

(1) The committee shall make a decision within five working days as of the day of hearing a complaint. Only members of the committee shall be present while the decision is made.

(2) The decisions of the committee shall be reasoned and be based on law and other legislation. The committee shall evaluate all evidence from all perspectives, thoroughly and objectively, when making a decision.

(3) Decisions shall be made by a simple majority of votes. Members of the committee who maintain a minority position have the right to dissent.

(4) Members of the committee do not have the right to remain undecided.

§ 35. Preparation of decisions

(1) Decisions shall be prepared in writing and consist of an introduction, a descriptive part, the statement of reasons of the committee and a conclusion. Decisions shall be signed by all the members of the committee.

(2) The introduction to a decision shall set out the time of making the decision and the names of the parties.

(3) The descriptive part of a decision shall set out the claim of the consumer and the objections of the other party.

(4) The statement of reasons of a decision shall set out the facts and evidence established by the committee, the conclusions reached by the committee on the basis thereof, and the legal acts applied by the committee.

(5) The conclusion of a decision shall set out the position of the committee concerning the satisfaction, partial satisfaction or dismissal of the complaint.

§ 36. Disclosure of decisions

(1) A copy of a decision shall be sent to the parties by registered mail with advice of delivery within two working days as of the day on which the decision is made.

(2) A decision of the committee shall be published on the website of the Consumer Protection Board within two working days after the members of the committee have signed the decision.

§ 37. Compliance with decisions

(1) A decision of the committee shall be complied with within one month as of the day following the day of receipt of a copy of the decision unless a different term is specified in the decision.

(2) A trader shall notify the Consumer Protection Board in writing when it complies with a decision.

(3) If a party to a dispute does not consent to the decision of the committee or fails to comply with the decision, the parties have the right to file an action with the county court for the same dispute to be heard.
[RT I 2005, 71, 547 - entry into force 08.01.2006]

(4) In the event of failure to comply with a decision of the committee, the Consumer Protection Board has the right, with the consent of the consumer and as the representative of the consumer, to file an action with a county court for the same dispute to be heard if the dispute is relevant to the application of an Act or other legislation or to the general interests of consumers.
[RT I 2005, 71, 547 - entry into force 08.01.2006]

Chapter 6

SUPERVISION

§ 38. Supervisory authorities engaging in consumer protection

Officials of the Consumer Protection Board, the Health Board, the police authority and local governments who have supervisory competence (hereinafter *supervisory officials*) shall exercise supervision, within the limits of their competence, over the safeguarding of the rights granted to consumers on the basis of this Act and other legislation.

[RT I 2009, 62, 405 - entry into force 01.01.2010]

§ 39. Rights of supervisory officials

(1) In order to perform their duties, supervisory officials have the right to:

- 1) verify whether the goods and services offered to consumers meet the requirements and, if necessary, to purchase goods or services for such purpose;
- 2) have free access to premises used for the business or professional activities of traders and, in the presence of the trader, a representative of the trader or a police officer, open means of transport used to transport goods;
- 3) demand that traders or producers submit relevant documents, materials and explanations and other relevant information;
- 4) suspend the offering and sale of goods or services which are harmful to consumers, if necessary by affixing a seal;
- 5) issue oral warnings to traders and draw their attention to any failure to comply with the requirements relating to consumer protection;
- 6) make proposals to competent persons and institutions for suspension or termination of the activities of a trader pursuant to the procedure prescribed by law if the trader fails to comply with the requirements established for activities in the area of activity of the trader;
- 7) issue precepts within the limits of their competence.

(2) In the performance of their duties, supervisory officials are required to present identification.

§ 40. Precepts of supervisory officials

(1) Upon detection of an offence, a supervisory official may issue a precept in which the official:

- 1) demands that the offence be terminated and, if possible, that the initial situation be restored, or
- 2) requires the offering and sale of goods or services which do not meet the requirements to be suspended and prescribes a term for bringing the goods or services into compliance with the requirements.

(2) A precept shall set out:

- 1) the name and position of the person issuing the precept;
- 2) the date of issue of the precept;
- 3) the name and address of the recipient of the precept;
- 4) the factual and legal basis for the precept;
- 5) a clearly expressed demand together with references to the provisions of relevant legislation;
- 6) the term for compliance with the precept;
- 7) the size of the penalty payment to be imposed upon failure to comply with the precept;
- 8) the procedure for contestation of the precept.

(3) A precept shall be submitted to the representative of a trader immediately against a signature or sent to the representative of the trader by registered mail with advice of delivery.

(4) Compliance with precepts is mandatory for traders. Contestation of the precept does not release the trader from the obligation to comply with the precept unless a court decides otherwise.

(5) Upon failure to comply with a precept specified in subsection (1) of this section, a penalty payment may be imposed pursuant to the procedure provided for in the Substitutive Enforcement and Penalty Payment Act. The upper limit for a penalty payment is 640 euros.

[RT I 2010, 22, 108 - entry into force 01.01.2011]

§ 41. Termination of activities harmful to collective interests of consumers

(1) To require termination of or refraining from activities harmful to the collective interests of consumers, the Director General of the Consumer Protection Board or an official authorised by him or her may issue precepts or the Consumer Protection Board may file an action with a court on behalf of the Republic of Estonia.

[RT I 2008, 59, 330 - entry into force 01.01.2009]

(2) Any act which prejudices the common interests of an undefined number of consumers and is in conflict with the provisions of this Act, the Law of Obligations Act or any other Act, primarily the use of or the the intention to use unfair commercial practices, is an activity harmful to collective interests.

[RT I 2008, 59, 330 - entry into force 01.01.2009]

(3) [Repealed - RT I 2008, 59, 330 - entry into force 01.01.2009]

(3¹) [Repealed - RT I 2008, 59, 330 - entry into force 01.01.2009]

(4) A precept shall be communicated to a trader and delivered against a signature or sent to the trader by registered mail with advice of delivery within two working days as of the day of issue of the precept.

(5) It is mandatory for a trader to comply with a precept issued thereto pursuant to subsection 40 (2) of this Act by the Director General of the Consumer Protection Board or an official authorised by him or her. Contestation of the precept does not release the trader from the obligation to comply with the precept unless a court decides otherwise.

(6) Upon failure to comply with a precept, a penalty payment may be imposed pursuant to the procedure provided for in the Substitutive Enforcement and Penalty Payment Act. The upper limit for a penalty payment is 640 euros.

[RT I 2010, 22, 108 - entry into force 01.01.2011]

§ 41¹. Termination of activities which are in conflict with provisions of Law of Obligations Act and harmful to collective interests of consumers

(1) The Director General of the Consumer Protection Board or an official authorised him or her may issue a precept and require a trader having violated the notification obligations provided for in §§ 54, 54¹, 55, 62¹, 380, 403¹, 403², 404, 404¹, 406, 407, 408, 417¹, 418, 711, 711¹, 727, 727¹ and 867–870 of the Law of Obligations Act to terminate the violation and refrain from further violation.

[RT I 2010, 77, 590 - entry into force 01.07.2011]

(2) The Consumer Protection Board may file an action with a court on behalf of the Republic of Estonia and require a trader to terminate the violation of the rights of consumers and refrain from such violation in accordance with §§ 45, 50, 61, 236, 387, 420, 656, 733¹⁴ and 881 of the Law of Obligations Act.

[RT I 2010, 2, 3 - entry into force 22.01.2010]

(3) Before filing an action with a court, the Consumer Protection Board shall notify a trader of the intent to file an action with a court and enable the trader to express a position thereon.

[RT I 2008, 59, 330 - entry into force 01.01.2009]

§ 42. Termination of cross-border activities harmful to collective interests of consumers

(1) The provisions of this section apply if the activities of a trader operating in one of the Member States of the European Union are in conflict with the provisions of a directive as transposed into the legislation applicable in that Member State and if the consequences of the infringement become apparent in another Member State.

(2) A list of the directives specified in subsection (1) of this section shall be established by a regulation of the Minister of Economic Affairs and Communications.

(3) The authorities and organisations of the Member States as published in the Official Journal of the European Union have the right to apply to the Consumer Protection Board for filing an action or for issuing a precept or to file an action itself for the termination of such activities of a trader operating in Estonia as are in conflict with the provisions of a directive specified in subsection (2) of this section as transposed into the legislation applicable in Estonia and which are harmful to the collective interests of consumers in the Member State concerned.

[RT I 2008, 59, 330 - entry into force 01.01.2009]

(4) The Minister of Economic Affairs and Communications in co-ordination with the relevant ministers shall appoint the Estonian authorities and organisations which have the right to apply for the termination of such activities of a trader operating in a Member State of the European Union as are in conflict with the provisions of a directive specified in subsection (2) of this section as transposed into the legislation applicable in that Member State and which are harmful to the collective interests of consumers in Estonia.

§ 42¹. Co-operation in consumer protection

(1) Co-operation between the competent authorities designated as responsible for enforcement of the legislation protecting the interests of consumers in the Member States of the European Union shall be effected pursuant to Regulation (EC) No 2006/2004 of the European Parliament and of the Council on cooperation between national authorities responsible for the enforcement of consumer protection laws (the Regulation on consumer protection cooperation) (OJ L 364, 09.12.2004, p. 1–11).

(2) The Consumer Protection Board shall be the contact authority in the implementation of the Regulation specified in subsection (1) of this section.

(3) The Minister of Economic Affairs and Communications in co-ordination with the relevant ministers shall designate the competent authorities responsible for the implementation of the Regulation specified in subsection (1) of this section.

(4) The Minister of Economic Affairs and Communications shall notify the European Commission and other Member States of the competent authorities appointed as responsible for the implementation of the Regulation specified in subsection (1) of this section and the single liaison office.

[RT I 2005, 71, 547 - entry into force 08.01.2006]

Chapter 7 LIABILITY

§ 43.–§ 44.[Repealed - RT I 2007, 56, 375 - entry into force 12.12.2007]

§ 45. Violation of requirements for providing information concerning characteristics, conditions of use or warranty of goods or services or for indicating prices

(1) Violation by a trader of the requirements for providing information concerning the characteristics, conditions of use or warranty of goods or services or for indicating prices is punishable by a fine of up to 100 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 2000 euros.
[RT I 2010, 22, 108 - entry into force 01.01.2011]

§ 46. Violation of requirements for goods, sale of goods or provision of services

(1) Violation by a trader of the requirements for the expiry dates, labelling or instruction manuals of goods or for the warranty applicable to goods or services or of any other requirements for goods or services or the sale of goods is punishable by a fine of up to 200 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 2600 euros.
[RT I 2010, 22, 108 - entry into force 01.01.2011]

§ 47. Deceiving consumers

(1) Commission of the following acts by a trader upon the sale of goods or provision of services to a consumer:
1) inaccurate weighing, inaccurate measuring, or miscalculation;
2) failure to adhere to the approved rates or the prices agreed upon or indicated; or
3) failure to provide or concealment of truthful information in Estonian concerning the characteristics, price or origin of goods or services
is punishable by a fine of up to 100 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 2000 euros.
[RT I 2010, 22, 108 - entry into force 01.01.2011]

§ 47¹. Violation of prohibition on use of unfair commercial practices

(1) Violation by a trader of the prohibition on the use of unfair commercial practices is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 3200 euros.
[RT I 2010, 22, 108 - entry into force 01.01.2011]

§ 47². Refusal to accept legal tender

(1) Refusal to accept legal tender, upon the sale of goods or payment for a service, to the extent established in § 2 and subsection 3 (2) of the Act on the Introduction of the Euro is punishable by a fine of up to 200 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 2000 euros.
[RT I 2010, 22, 108 - entry into force 01.01.2011]

§ 48. Proceedings

(1) The provisions of the General Part of the Penal Code and the Code of Misdemeanour Procedure apply to misdemeanours provided for in §§ 45–47² of this Act.
[RT I 2010, 22, 108 - entry into force 01.01.2011]

(2) The following bodies shall conduct extra-judicial proceedings concerning the misdemeanours provided for in §§ 45–47 of this Act:

- 1) the Consumer Protection Board;
[RT I 2007, 56, 375 - entry into force 12.12.2007]
- 2) the Health Board;
[RT I 2009, 49, 331 - entry into force 01.01.2010]
- 3) rural municipality and city governments.
[RT I 2007, 56, 375 - entry into force 12.12.2007]

(3) The body conducting extra-judicial proceedings concerning the misdemeanours provided for in §§ 47¹ and 47² of this Act shall be the Consumer Protection Board.
[RT I 2010, 22, 108 - entry into force 01.01.2011]

Chapter 8

IMPLEMENTING PROVISIONS

§ 49.–§ 52. [Omitted from this text.]

§ 52¹. Specifications for indication of prices

From 1 June to 31 July 2010 the final price of goods may be higher than the selling price or unit price indicated on the goods or packaging thereof or displayed in close proximity to the goods, and the final price of a service may be higher than the selling price or unit price indicated in the price list of services offered or any other document stating the bases on which the price of the service is calculated as displayed at the place of providing the services, by up to 1 percent in a trader's place of business located in Tallinn where such information is displayed at the entrance to the trader's service hall or at the cash register.
[RT I 2010, 24, 117 - entry into force 01.06.2010]

§ 53. Entry into force of Act

- (1) This Act enters into force on 15 April 2004.
- (2) Section 42 of this Act enters into force upon Estonia's accession to the European Union.

¹Directive 2005/29/EC of the European Parliament and of the Council concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council (Unfair Commercial Practices Directive) (OJ L 149, 11.06.2005, p. 22–39).
[RT I 2007, 56, 375 - entry into force 12.12.2007]