

Consumer Protection Law, 5741—1981
(of April 1, 1981)

Chapter One
Interpretation

Definition

1. In this Law—

“the Commissioner” means the Commissioner appointed under section 19;

“this Law” includes the regulations thereunder;

“sale” includes letting, hire-purchase, display and sale, offer for sale, and exchange;

“commodity” means goods, immovables, rights, securities within the meaning of the Securities Law, 5728—1968 and Government bonds; “dealer” means a person who sells a commodity or performs a service by way of business and includes a producer;

“consumer” means a person who buys a commodity or receives a service from a dealer in the course of his business for mainly personal, domestic or family use; “the Minister” means the Minister of Industry, Commerce and Tourism.

Chapter Two
Misleading Act and Taking Advantage of a Person’s Distress

Consumer must not be Misled

2.—(a) A dealer shall do nothing—by an act or an omission, in writing, by word of mouth or in any other manner—likely to mislead a consumer as to any matter material to a transaction (any such act or omission hereinafter referred to as a “misleading act”); without prejudice to the generality of the aforesaid, the following shall be regarded as matters material to a transaction:

(1) the quality, nature, quantity and type of any commodity or service;

(2) the measurements, weight, form and components of any commodity;

(3) the date of delivery or date of provision of the service;

(4) the use that can be made of the commodity and the benefit that can be derived from it;

(5) the modes of handling the commodity;

(6) the identity of the producer or the performer of the service;

(7) the names or commercial appellation of the commodity or service;

- (8) the place of production of the commodity;
- (9) the date of production or expiry date of the commodity or service;
- (10) the sponsorship, encouragement or authorisation given to the production or sale of the property or to the performance of the service;
- (11) the conformity of the commodity or service to a standard, specification or model;
- (12) the existence of spare parts, accessories or materials special or suitable to the repair or use of the commodity;
- (13) the ordinary or normal price or the price charged in the past, including credit terms and the rate of interest;
- (14) a professional opinion or the results of an examination, as to the quality or nature of the commodity or as to the service;
- (15) an earlier use made of the commodity or the fact of its being new or renovated;
- (16) a maintenance service and the conditions thereof;
- (17) the conditions of any warranty applicable to the commodity or service;
- (18) the quantity of goods in stock of the type the subject of the transaction;
- (19) the fact of the transaction not being in the course of business.

(b) A dealer shall not sell, import, or keep for commercial purposes, or use for the performance of a service, a commodity in respect of which a misleading act is committed.

Taking Advantage of Consumer's Distress

3. A dealer shall do nothing—by an act or an omission, in writing or by word of mouth or in any other manner—which constitutes taking advantage of a consumer's distress, mental or physical weakness, ignorance, lack of knowledge of a language or inexperience or the exertion of undue influence upon him, all in order to conclude a transaction on abnormal or unreasonable terms or to obtain a consideration exceeding the normal consideration.

Duty of Disclosure to Consumer

4. A dealer shall disclose to the consumer—

- (1) any defect or qualitative inferiority or other feature known to him that materially diminishes the value of the commodity;
 - (2) any feature of the commodity that necessitates a special manner of maintenance or use in order to avoid injury to the user or another person, or to the property, during ordinary use or handling;
 - (3) any such material detail in respect of any commodity as the Minister may have prescribed with the approval of the Economic Committee of the Knesset;
- however, it shall be a good defence for the dealer if he proves that the defect, inferiority, other feature or material detail was known to the consumer.

Written Agreement

5. Where the Minister has reason to believe that it is necessary to do so to prevent the consumer being misled or his distress taken advantage of, he may, by regulations, require a dealer to make an agreement with the consumer, indicating therein the details prescribed in the regulations, and to deliver a signed copy of the agreement to the consumer.

Responsibility for Misleading Act in Packaging

- 6.—(a) Where the misleading act is found in the design of the commodity or its packaging—on or in conjunction with the packaging—the producer, importer, packer and designer shall also be regarded as infringing the provisions of section 2.
(b) In an action for a civil wrong under this section, the producer, importer, packer or designer shall have a good defence if he proves that not he but a person whose name and address he supplies is responsible for the misleading act.

Responsibility for Misleading Act in Advertisement

- 7.—(a) Where the misleading act is found in an advertisement, the following shall be regarded as infringing the provisions of section 2:
(1) the person on whose behalf the advertisement is made and the person who transmits the material for publication and thereby causes it to be published and—
(2) if the advertisement is misleading on the face of it or if he knows that it is misleading—also the person who distributes the material or who actually decides on its publication.
(b) If the advertisement alleges facts as to the properties of the commodity or service or as to the findings of an examination carried out thereon, the Commissioner may require the person on whose behalf the advertisement is made or the person who transmitted the material for publication and thereby causes it to be published to produce evidence proving such facts. If the person does not produce evidence as aforesaid to the satisfaction of the Commissioner, this shall be prima facie evidence that the advertisement is misleading; but it shall be a good defence for the person on whose behalf the advertisement is made or who transmitted the material for publication and thereby causes it to be published that he did not know and need not have known that the advertisement was misleading.
(c) Where an advertisement appears in a newspaper in the form of an article so that a reasonable person may be led to believe that the contents of the article are not an advertisement, the article shall be regarded as a misleading advertisement even if its contents are not misleading.
(d) Where an advertisement is likely to mislead a consumer in Israel, it shall, for the purposes of this section, be immaterial whether it is made in or outside Israel.

Chapter Three
Sale on Credit, Advance
Payments, Peddling and Special Sales

(This Chapter is not reproduced here)

Chapter Four
Labelling of Goods

Labelling and Packing of Goods

17.—(a) A dealer shall indicate the following particulars upon, or upon a thing attached to, goods intended for the consumer:

- (1) the name or commercial appellation of the commodity;
- (2) the country of production;
- (3) the name and address of the producer and, if the commodity is imported, the name and address of the importer;
- (4) the quantity of the commodity and a detailed statement of the basic materials of which it consists.

(b) The Minister may prescribe by order—

- (1) goods to which the provisions of subsection (a) shall not apply;
- (2) further particulars to be indicated, including the consumer price of the goods, the date of production, the expiry date, the fact that the goods are dangerous in use, the manner of using them, the quality, tolerance, resistance or other properties thereof, including properties making them fit for use in the view of the whole of the public or of part thereof;
- (3) the duty of labelling goods prior to import;
- (4) provisions as to the manner and form of labelling goods.

(c) The labelling shall be in Hebrew unless otherwise provided.

(d) Where it appears to the Minister that it is necessary to do so for the purpose of protecting the consumer, he may by order, generally or for particular classes of cases, prescribe the duty of packing goods in the manner, form or way stated in the order.

(e) The provisions of this section shall not apply to goods for which a duty of labelling or packing has been prescribed by another enactment for the purpose of protecting the consumer.

(f) Where a provision for the protection of the consumer in some other enactment conflicts with subsection (a) or with an order made under subsection (b), the provision of the other enactment shall prevail.

Prohibition of Sale and Keeping for Sale

18. A dealer shall not sell or keep for sale any goods in respect of which a duty under section 17 has not been fulfilled.

Chapter Five
Commissioner of Consumer Protection

Commissioner

19. The Government shall appoint a Commissioner of Consumer Protection. Notice of the appointment shall be published in Reshumot.

Functions of Commissioner

20.—(a) The functions of the Commissioner shall be—

- (1) to supervise the implementation of the provisions of this Law;
- (2) to handle complaints which appear to him to be of substance with regard to infringements of the provisions of this Law or any other act prejudicial to the consumer;
- (3) to carry out or initiate surveys and research on consumer affairs;
- (4) to deal with any other matter connected with consumer protection and not assigned by law to some other authority.

(b) Where a complaint reaches the Commissioner as to a matter in which, according to any enactment, some other authority is competent to exercise supervision and to adopt measures following clarification of a complaint, he shall consult that authority before handling the complaint and may refer the complaint to it. Where the Commissioner has referred a complaint as aforesaid, the authority shall notify him of the results of its handling thereof.

Powers of Commissioner

21. Where the Commissioner or the person empowered by him in that behalf considers that it is necessary so to do for the implementation of this Law, he may—

- (1) enter any place used for business and investigate compliance with the provisions of this Law, examine documents, samples and goods and seize anything of which he has

reason to believe that an offence under the provisions of this Law has been or is intended to be committed by means thereof or in respect thereof;

(2) examine any person concerned in the matter or possessing relevant information and demand from him documents, samples and data pertaining to the subject of the examination;

(3) carry out tests of goods or services and publish the results thereof: provided that no publication likely to prejudice any person shall be made before such person has been given an opportunity to state his arguments;

(4) point out to a dealer his duty to discontinue or not to repeat practices constituting prima facie an infringement of the provisions of this Law.

Auxiliary Powers of Commissioner

22.—(a) The Commissioner and a person empowered by him in that behalf shall have the powers of a police officer of the rank of inspector under section 2 of the Criminal Procedure (Evidence) Ordinance, and section 3 of that Ordinance shall apply to statements taken down by them.

(b) The provisions of sections 26 to 28 and Chapter Four of the Criminal Procedure (Arrest and Searches) Ordinance (New Version), 5729—1969, shall apply mutatis mutandis to an investigation and seizure under section 21(1) as if the investigation were a search within the meaning of that Ordinance.

Chapter Six **Penalties and Remedies**

Penalties

23. A person who does any of the following shall be liable to imprisonment for one year or a fine of 50,000 shekalim:

(1) contravenes any of the provisions of Chapter Two, Three or Four or of regulations made thereunder;

(2) infringes an undertaking given under section 28(a) (2) or (3);

(3) obstructs a person validly acting under from exercising his powers;

(4) without reasonable justification fails to give the Commissioner, at his request, the name of the person from whom he, as a dealer, acquired goods in respect of which a misleading act has been committed or which have not been properly labelled.

Additional Power of Court

24. Where a person is convicted of an offence under section 23, the Court may, in addition to any other penalty, order—

- (1) that the whole or part of any goods by means or in respect of which the offence was committed shall be forfeited;
- (2) that a business of the accused shall be closed for the period and in the manner prescribed by it;
- (3) that a licence issued to the accused shall be cancelled or be suspended for the period prescribed by it.

Responsibility of Body of Persons

25. Where an offence under this Law is committed by a body of persons, every person who at the time of its commission is an active director or a partner—other than a limited partner—thereof or a senior administrative employee thereof responsible for the field in question shall also be guilty of the offence unless he proves that it was committed without his knowledge and that he took all reasonable measures to ensure compliance with this Law.

Responsibility of Employer and Principal

26. Where an offence under this Law is committed by an employee in the course of the business of his employer or by an authorised agent acting within the scope of his assignment, his employer or principal shall also be guilty thereof unless he proves that it was committed without his knowledge and that he took all reasonable measures to ensure compliance with this Law.

Defence to Charge

27. Where a person is charged with an offence under the provisions of Chapters Two, Three or Four or any regulations thereunder, it shall be a good defence if he proves that he did not know and need not have known that the thing sold, or the service, infringed the said provisions.

Undertaking by Dealer

28.—(a) Where the Commissioner is of the opinion that a person has committed an offence under the provisions of this Law, he may, with the approval of the Attorney-General or his representative, receive from him a written undertaking—

(1) to refrain from any act or omission stated in the undertaking which in the opinion of the Commissioner constitutes an offence under this Law; an undertaking as aforesaid shall be accompanied by security, with or without sureties, in an amount not exceeding 10,000 shekalim and for a period not exceeding two years;

(2) to return money or a commodity to a consumer;

(3) to publish such announcements as the Commissioner deems fit.

(b) Where a dealer has given an undertaking under subsection (a), no criminal proceedings shall be taken against him for the act or omission which was the ground for giving the undertaking.

(c) Where a dealer is convicted of an offence from which he has undertaken to refrain under subsection (a)(1), the court may do one of the following:

(1) declare the whole or part of the security forfeit and not impose any other penalty;

(2) impose a penalty and leave the security in force without declaring it forfeit;

(3) declare the whole or part of the security forfeit and impose any other penalty.

(d) The Minister of Justice may, with the approval of the Economic Committee of the Knesset, vary the amount stated in subsection (a)(1).

Exemption

29. Where any commodity is sold by a court, execution office or other statutory authority or by a person who, on behalf of the State, sells commodities forfeited or abandoned to it or other commodities which the State has not acquired or used, the sale shall not be regarded as a transaction for the purposes of sections 2, 4, 6 and 7, provided that the offer for sale discloses the fact that a commodity of a category as aforesaid is offered for sale and warns the customer that its main properties are not known and that the authority bears no responsibility for them.

Court Order to Prevent Offence

30. On the application of the Attorney-General or his representative or of the Commissioner, the court may—

(1) order any person to refrain from an act constituting an offence under this Law and to give security for his so refraining;

(2) order any act necessary to prevent an offence as aforesaid.

Compensation

31.—(a) Any act or omission in contravention of Chapters Two, Three or Four shall be treated as a civil wrong under the Civil Wrongs Ordinance (New Version).

(b) Where the court finds that the public or part thereof was or was likely to be adversely affected by any act or omission of the defendant, and the plaintiff, in filing the action, was assisted by the consumers' organization, the court may, in addition to the remedy awarded to the plaintiff, decide that compensation shall be paid to that organization in an amount not exceeding four times the amount of the damage caused to the plaintiff or 15,000 shekalim, whichever is more. The Minister of Justice may, with the approval of the Economic Committee of the Knesset, vary the last-mentioned amount.

(c) In this section, "consumers' organization" means the Israeli Consumers' Council or some other organization approved for this purpose by the Minister of Justice.

Cancellation of Sale

32.—(a) Where it is found that an act or omission constituting a misleading act or an act taking advantage of a person's distress, within the meaning of this Law, has been done or made in respect of a commodity sold, such act or omission being material in the circumstances of the case, then—even if, in the case of a misleading act, it was not committed by the seller—the consumer may cancel the sale by written notice to the seller within two weeks from the day of the sale. The court may, for special reasons, cancel the sale even after the said period.

(b) Where a sale is cancelled under subsection (a), the seller shall, within seven days from receiving notice of the cancellation, return the consideration he has received to the purchaser, and the purchaser shall return the commodity. If the purchaser has meanwhile used the commodity and thereby considerably diminished its value or caused damage to it, the seller may deduct from the consideration the amount by which the value of the commodity is less than it was at the time of the sale.

(c) The Minister may, by regulations, designate particulars the non-disclosure of which shall be a ground for cancellation of the sale. The provisions of this section shall apply also to such a cancellation.

Publication of Judgment or of Correction of Misleading Publication

33.—(a) Following a conviction, or a finding against the defendant, under this Law, the court may order that a final judgment or an abstract thereof, or a correction of a misleading publication, be published in such form and manner as it shall prescribe, and may direct who shall bear the costs of publication.

(b) Where the court orders that the accused shall bear the costs of publication, such costs shall be treated in like manner as a fine imposed by the court.

Evidence of Publication

34. Where a copy of a newspaper or some other circulated printed matter containing a misleading publication is submitted, this shall be prima facie evidence that the publication has in fact been made in that newspaper or publication.

Customs Powers

35. For the purposes of the powers of the customs authorities and customs officers, import in contravention of sections 2(b) and 17 shall be regarded as an offence under the customs laws, and a customs officer may seize the goods by means or in respect of which the offence was committed as forfeited goods within the meaning of the Customs Ordinance.

Chapter Seven
Miscellaneous Provisions

Overriding Effect of this Law

36. The provisions of this Law shall apply notwithstanding any waiver or agreement to the contrary.

Implementation and Regulations

37.—(a) The Minister is charged with the implementation of this Law and may make regulations as to any matter relating to its implementation.

(b) Regulations under this Law specially concerned with commodities or services within the sphere of activity of a particular Government Ministry shall be made in consultation with the Minister in charge of that Ministry.

Power of Delegation of Commissioner

38. The Commissioner may delegate powers vested in him by this Law, except powers under section 28 or 30, to another State employee.

Restriction on Application

39. The provisions of this Law shall not apply to a service performed by one of the following:

(1) a banking corporation, within the meaning of the Banking (Service to Customer) Law, 5741—1981;

(2) an insurer or insurance agent within the meaning of the Insurance Business (Control) Law, 5741—1981.

Repeal

40. There are hereby repealed—

- (1) the Trade in Used Vehicles Law, 5737—1977;
- (2) sections 29A to 29J of the Commodities and Services (Control) Law, 5718—1957;
- (3) the definition of “trade mark” in section 2, and sections 3(1)(a) (b) and (c), 4, 5, 8, 9 and 15A to 15G, of the Merchandise Marks Ordinance.

Saving of Laws

41. This Law shall be in addition to, and not in derogation of, any other law.

Status of State

42. For the purposes of this Law, the State as a dealer shall be treated like any other dealer.

Commencement

43. This Law shall come into force on the 1st Av, 5741 (August 1, 1981).

Publication

44. This Law shall be published within 30 days from the date of its adoption by the Knesset.

* Official English title.

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Note: This text is the official English translation furnished by the Israeli authorities.

** Added by WIPO.