

CONSUMER PROTECTION LAW OF MONGOLIA

24 June, 1991

Ulaanbaatar

Chapter One General Provisions

Article 1. Purpose of the Law

1. The purpose of this law is to regulate relations connected with protection of the rights of consumers.

Note: For the purposes of this law, “consumer” means an individual buyer or customer who acquires products or services.

Article 2. Legislation On Consumer Protection

1. Legislation on consumer protection shall consist of this law and other legislative acts of the MPR enacted in conformity therewith.
2. If an international treaty to which the MPR is a party establishes procedures other than those in this, then the former shall prevail.

Chapter Two Protection of Consumers’ Fundamental Rights

Article 3. Use of Quality Products

1. Consumers shall have the right to use products and services that comply with standards, building and health norms approved by competent authorities, products of quality that meets the pharmacopoeias, prescriptions and contractual terms.
2. Manufacturers shall indicate the quality, price, date of manufacture and warranty period of their products on their containers, packaging, labels and operating instructions (instructions of use).

Article 4. Certification of the Safe Use of Products

1. The safe use of products hazardous to the human life and health or the environment shall be certified by the following means:
 - 1) by establishing requirements for such products by State standards or by registering such products with the State registry kept by a competent agency and by issuing licenses for their the manufacture ;
 - 2) by complying with the State standards by the manufacturer or contractor;
 - 3) by prohibiting the manufacture, sale or import of such products without certificate of quality;
 - 4) by issuing certificates of quality from laboratories authorised by the quality inspection agency.

2. Manufacturers and sellers shall identify products that are hazardous for human life and health or the environment by printing clear generally used international identification marks and labels on the containers, packaging or labels of such products.

Note: For the purposes of this law, “seller” means any business entity or individual offering products or services to consumers.

3. Manufacturers shall be obligated to include the requirements for storage, transportation, use or consumption of perishable products and products that are hazardous for human life and health or the environment in their operating instructions (instructions on use) or other relevant documents.
4. Sale or trade in products that are hazardous for human life and health or the environment according to their original designation after their expiry date shall be prohibited.

Article 5. Protection By Consumers of Their Financial Interests

1. Consumers shall have the right to protect their financial interests and to compensation of the losses suffered at the fault of manufacturers, contractors or sellers.
2. Consumers may demand a reduction in price (hereinafter referred to as “price, cost”) of products or services which are defective, damaged or incomplete, or which do not meet quality requirements.
3. Consumers shall be compensated for losses suffered due to the purchase of products which are defective, damaged, incomplete or which do not meet quality requirements in the following ways:
 - 1) if the seller did not notify the consumer in advance that the product is of a defective quality, damaged or incomplete, the seller shall immediately replace or complete the product at the consumer’s demand, or do so within the term agreed upon with the consumer or in the first place, when the seller receives delivery of the product. If this is not possible or if the consumer so demands, the contract shall be terminated and the price (cost) paid for the product or service shall be partly or fully refunded;
 - 2) if the product ceases to satisfy the consumer’s demand for the reason which is not his/her fault or if the consumer discovers hidden defects or damage in the product, the seller shall replace or repair the product free of charge within the term agreed upon with the consumer. If this is not possible or if the consumer so demands, the contract shall be terminated and the price paid for the product shall be partly or fully refunded.
4. If a contractor performs work or provides services using the consumer’s materials and the consumer refuses to accept the work or services because the conditions of the contract were not met, the contractor shall, unless the contract provided otherwise, perform the work or provide the services in accordance with the conditions of the contract by using materials of the same kind and quality as those provided by the consumer.
5. Seller shall bear any expenses connected with taking back and delivery of the products referred to in paragraph 3 above. Rules on application of paragraphs 3 and 4 above shall be approved by the state central administrative body in charge of trade and service by way of agreement with the consumers’ and other relevant organisations.
6. If a consumer’s complaint about the poor quality, defect, damage or incompleteness of the product is found to be unjustified or the consumer has violated the rules of its use, transportation or storage the seller shall not be liable for the relevant costs and losses.

Article 6. Receiving True and Complete Information About Products

1. Consumers shall be entitled to receive true and complete information about products.
2. Manufacturers and sellers shall provide consumers with the following information:
 - 1) names and addresses of the manufacturer or seller and trademarks of the goods;
 - 2) designation and nature of use;
 - 3) instructions on storage and use;
 - 4) brand of the product, its price or tariff;
 - 5) dimensions, units in which the product is measured and its quality;
 - 6) warranty and usage periods of the product; and
 - 7) safety warnings.
3. Manufacturers and sellers shall be prohibited from providing deliberately confusing information to consumers.
4. If it is proved that products put into circulation are hazardous for human life and health or the environment, the manufacturer and seller are obliged to immediately notify the public. The manufacturer and seller shall take measures to inform the public through the executive boards of local Hurals, the relevant State inspection agencies, the media and other means.

Article 7. Choosing Between Products

1. Consumers shall have the right to choose between products at their discretion.
2. Sellers shall create for consumers all opportunities to choose between the products, such as to check the quality, completeness, weight, size and price as well as to become familiar with the safe use (operating) instructions of products.
3. Sellers shall be prohibited from inducing consumers to buy products and to conclude contracts that infringe on their rights.

Article 8. Learning the Culture of Use of Products

1. Consumers shall have the right to learn the culture of use of products and to have the opportunity to learn so.
2. Consumers shall observe the rules of trading and services and shall check the quality, completeness, weight, size, description and price of the product on the spot.
3. Consumers shall comply with the instructions for the transportation, storage and use (operating instructions) of products.

Article 9. Complaining About Products

1. Consumers shall have the right to complain about products personally or through their legal representatives.
2. Consumers' claims shall be decided as follows:
 - 1) the consumer shall first make claim to the seller, and if the seller refuses to satisfy it, he/she may make a complaint with the relevant State inspection agency; and
 - 2) if the consumer disagrees with the decision of the State inspection body, he/she may complain to court.

Article 10. Control Over Implementation of the Consumer Protection Legislation

1. The executive boards of local Hurals and the relevant State inspection agencies shall exercise the State control over the implementation of the consumer protection legislation.
2. Consumers shall have the right to be protected by means of public control.

Article 10¹. Rights of the Consumers Protection NGO

The NGOs engaged in protection of consumer right shall have the following rights:

- 1)to conduct inspections and reviews of the quality and security of products and services jointly with the specialized inspection agencies and have opinions rendered;
- 2)to review the implementation of procedures for trade, commodity and other types of services and of consumer right legislation, to publicize the results;
- 3)to address the competent specialized inspection agencies and state inspectors to stop the manufacture or sale of products that are hazardous for human life and health, consumers' property or environment;
- 4)to make proposals and demands to the government agencies and business entities to improve the quality and ensure the safety of products and services;
- 5)to make proposals to the relevant authorities on bringing to liability the individuals, business entities and organizations that have manufactured or sold products that are hazardous for human life and health, consumers' property or environment or those that do not meet quality requirements;
- 6)to make claims to the court by way of power of attorney to protect rights of the consumers whose legitimate rights have been infringed;
- 7)to submit proposals and opinions on the operation of consumer protection state inspection agency. *[This article was added by Law of November 20, 1997]*

Article 11. Liability

[1. The relevant State inspection agency shall impose the following administrative penalties on the manufacturer or seller who breaches the consumer protection legislation:

- 1) breach of paragraphs 2, 3 or 4 of Article 4 *[amended bylaw of 17 April 1995]*, or failure to fulfill the duties imposed on them by paragraph 4 of Article 6 of this law shall be subject to a fine of up to 50,000 togrogs in case of individuals and of up to 200,000 togrogs in case of business entities and organizations; the income from the sale of the products concerned shall be forfeited in favour of the State;
- 2) breach of paragraphs 2 or 3 of Article 4 *[amended bylaw of 17 April 1995]* shall be subject to a fine of up to 40,000 togrogs in case of individuals and of up to 140,000 togrogs in case of business entities or organizations; the income generated shall be forfeited in favour of the State;
- 3) breach of paragraph 3 or 3 of Article 6 *[amended by law of 17 April 1995]* shall be subject to a fine of up to 30,000 togrogs in case of individuals and of up to 100,000 togrogs in case of business entities or organizations; the income generated shall forfeited in favour of the State;

- 4) contracts concluded by sellers who have sold products under contract in breach of paragraph 3 of Article 7 *[amended bylaw of 17 April 1995]* of this law and which infringe the rights of consumer shall be considered null and void, the income from such sales shall be forfeited in favour of the State;
2. Unless otherwise provided in the contract, a seller who infringes consumer's rights shall be subject to the following liability:
 - 1) breach of the term referred to in subparagraph 1, paragraph 3, Article 5 of this law *[amended by law of 17 April 1995]* shall be subject to a penalty equal to one percent of total price of the product per each day of the delay payable to the consumer. However, the total amount of the penalty shall not exceed 50 percent of the total price of the product;
 - 2) if the contractor fails to re-execute works or provide services anew in accordance with paragraph 4 of Article 5 of this law *[amended by law of 17 April 1995]* and if the consumer so demands, the contract shall be terminated and the price of materials prescribed in the contract shall be refunded twofold;
 - 3) if the contractor loses, worsens the quality of or changes the materials given to him/ her to execute works or provide services, the price of the materials prescribed in the contract shall be refunded threefold;
 - 4) if the contractor fails to execute works or provide services within the time fixed in the contract, he/she shall pay the consumer a penalty equal to 2 percent of the total price of the works or services as provided in the contract per each day of such delay. However, the penalty shall not exceed 50 percent of the total price of the works or services.
3. If it has been proved by opinion of a relevant specialised agency that a product or service is hazardous for human life and health or the environment, the competent central and local inspection agencies shall decide to stop the manufacture or of the product, execution of works or provision of services and to take back from consumers.

Article 12. Entry into Force of the Law

This law shall enter into force on 1 September, 1991.

R. Gonchigdorj Chairman of the Baga Hural of the MPR

B. Chimid Chairman of the Baga Hural of the MPR

Source: World Intellectual Property Organization

<http://www.wipo.int>