

CONSUMER PROTECTION AND SAFETY ACT

CHAPTER 82:34

Act
30 of 1985
Amended by
22 of 1998

Current Authorised Pages

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CONSUMER PROTECTION AND SAFETY ACT

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CHAPTER 82:34

CONSUMER PROTECTION AND
SAFETY ACT

30 of 1985. **An Act to make provision with respect to the protection and safety of consumers and others.**

Commencement.
[227/1986].

[20TH OCTOBER 1986]

Preamble.

WHEREAS it is enacted by section 13(1) of the Constitution that an Act of Parliament to which that section applies may expressly declare that it shall have effect even though inconsistent with sections 4 and 5 of the Constitution and, if any Act does so declare, it shall have effect accordingly:

And whereas it is provided in section 13(2) of the Constitution that an Act of Parliament to which that section applies is one the Bill for which has been passed by both Houses of Parliament and at the final vote thereon in each House has been supported by the votes of not less than three-fifths of all the members of that House:

And whereas it is necessary and expedient that the provisions of this Act shall have effect notwithstanding sections 4 and 5 of the Constitution:

Short title.

1. (1) This Act may be cited as the Consumer Protection and Safety Act.

Act inconsistent
with
Constitution.

(2) This Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution.

Interpretation.

2. (1) In this Act—
“agreement” means any agreement or arrangement, in whatever way and in whatever form it is made, and whether it is, or is intended to be, legally enforceable or not;
“business” includes a professional practice and includes any other undertaking which is carried on for gain or reward or which is an undertaking in the course of which goods or services are supplied otherwise than free of charge;

“commercial activities in Trinidad and Tobago” means any of the following, that is to say, the production and supply of goods in Trinidad and Tobago, the supply of services in Trinidad and Tobago and the export of goods from Trinidad and Tobago;

“conditional sale agreement” means an agreement for the sale of goods under which the purchase price or part of it is payable by instalments, and the property in the goods is to remain in the seller, notwithstanding that the buyer is to be in possession of the goods until such conditions as to the payment of instalments or otherwise as may be specified in the agreement are fulfilled;

“Council” means the Consumer Guidance Council established by section 5(1);

“consumer”, subject to subsection (2), means any person who is either—

(a) a person to whom goods are or are sought to be supplied in the course of a business carried on by the person supplying or seeking to supply them, or

(b) a person to whom services are or are sought to be supplied in the course of a business carried on by the person supplying or seeking to supply them,

and who does not receive or seek to receive the goods or services in the course of a business carried on by him;

“contract of employment” means a contract of service or of apprenticeship, whether it is express or implied, and if it is express whether it is oral or in writing;

“credit sale agreement” means an agreement for the sale of goods under which the purchase price is payable by five or more instalments, but which is not a conditional sale agreement;

“the Director” means the Director of Consumer Guidance;

“goods” means, except in Part IV, commodities such as are the subject of trade or commerce and includes buildings and other structures, ships, aircraft but does not include electricity;

“hire-purchase agreement” means an agreement for the bailment of goods under which the bailee may buy the goods or under which the property in the goods will or may pass to the

bailee, and where by virtue of two or more agreements, none of which by itself constitutes a hire purchase agreement, there is a bailment of goods and either the bailee may buy the goods, or the property therein will or may pass to the bailee, the agreements shall be treated for the purposes of this Act as a single agreement made at the time when the last of the agreements was made;

“notice” means notice in writing;

“Notice to Warn” has the meaning assigned to it in section 31(1);

“personal injury” includes disease and other impairment of a person’s physical or mental condition;

“practice” means any practice, whether adopted in pursuance of an agreement or otherwise;

“produce”, in relation to the production of minerals or other substances, includes winning them, and, in relation to the production of animals or fish, includes taking them;

“Prohibition Notice” has the meaning assigned to it in section 31(1);

“Prohibition Order” has the meaning assigned to it in section 31(1);

“publicised information”, in relation to a disclosure, means information which before the disclosure occurred, was published in proceedings mentioned in section 32(3)(a) or (b) or in warning mentioned in section 32(3)(d);

“Safety Regulations” has the meaning assigned to it in section 29(1).

(2) The following applies to the definition of “consumer” in this section:

- (a) it is immaterial whether any person supplying goods or services has a place of business in Trinidad and Tobago or not;
- (b) any goods or services supplied wholly or partly outside Trinidad and Tobago, if they are supplied in accordance with arrangements made in Trinidad and Tobago, whether made orally or by one or more documents delivered in Trinidad and Tobago or by correspondence posted from and to addresses in Trinidad and Tobago, shall be treated as goods supplied to, or services supplied for, persons in Trinidad and Tobago;

- (c) in relation to the supply of goods under a hire purchase agreement, a credit-sale agreement or a conditional sale agreement, the person conducting any antecedent negotiations, as well as the owner or seller, shall be treated as a person supplying or seeking to supply the goods; and in this paragraph “buyer”, “hirer”, “owner” and “seller” have the meanings assigned to them by section 2(1) of the Hire Purchase Act and “antecedent negotiations” means any negotiations or arrangements with the hirer or buyer whereby he was induced to make the agreement or which otherwise promoted the transaction to which the agreement relates; Ch. 82:33.
- (d) any reference—
- (i) to a person to or for whom goods or services are supplied shall be construed as including a reference to any guarantor of such a person, and
 - (ii) to the terms or conditions on or subject to which goods or services are supplied shall be construed as including a reference to the terms or conditions on or subject to which any person undertakes to act as such a guarantor,
- and in this paragraph “guarantor”, in relation to a person to or for whom goods or services are supplied, includes a person who undertakes to indemnify the supplier of the goods or services against any loss which he may incur in respect of the supply of the goods or services to or for that person;
- (e) goods or services supplied by a person carrying on a business shall be taken to be supplied in the course of that business if payment for the supply of the goods or services is made, or (whether under a contract or by virtue of a written law or otherwise) is required to be made.

(3) In this Act “the supply of services” does not include the rendering of any services under a contract of employment but, with that exception—

- (a) includes the undertaking and performance for gain or reward of engagements, whether professional or other, for any matter other than the supply of goods; and
- (b) includes both the rendering of services to order and the provision of services by making them available to potential users,

and any reference in those provisions to services supplied, or to be supplied, or to services provided or to be provided, shall be construed accordingly.

(4) For the purposes of this Act, any two bodies corporate are to be treated as interconnected if one of them is a body corporate of which the other is a subsidiary, within the meaning of section 125 of the Companies Ordinance* (or the corresponding section of any Act replacing that Ordinance), or if both of them are subsidiaries, within the meaning of that section, of one and the same body corporate; and in those provisions “interconnected bodies corporate” shall be construed accordingly, and “group of interconnected bodies corporate” means a group consisting of two or more bodies corporate all of whom are interconnected with each other.

*Ch.31 No.1.
1950 Edition.

(5) For the purposes of the application of any provision of this Act in relation to goods or services of a particular description or to which a particular practice applies, “consumers” means persons who are consumers, as defined by subsection (1), in relation to goods or services of that description or in relation to goods or services to which that practice applies.

PART I

INTRODUCTORY

Director and
other officers.

3. (1) There shall be a public officer to be designated as Director of Consumer Guidance (hereafter referred to as “the Director”) to perform the functions assigned to the Director by or under this Act.

* The Companies Ordinance has been repealed and replaced by the Companies Act, Ch. 81:01.

(2) There shall be such number of public officers as may be required for the purposes of this Act.

4. (1) Without prejudice to any other functions assigned to him by or under this Act, the Director shall, so far as appears to him to be practicable from time to time—

General
functions of
Director.

- (a) keep under review the carrying on of commercial activities in Trinidad and Tobago which relate to goods supplied to consumers in Trinidad and Tobago or produced with a view to their being so supplied, or which relate to services supplied for consumers in Trinidad and Tobago, and to collect information with respect to such activities, and the persons by whom they are carried on, with a view to his becoming aware of, and ascertaining the circumstances relating to, practices which may adversely affect the economic interests of consumers in Trinidad and Tobago;
- (b) receive and collate evidence becoming available to him with respect to such activities as are mentioned in paragraph (a) and which appears to him to be evidence of practices which may adversely affect the interests of consumers in Trinidad and Tobago.

(2) The Director shall, where either he considers it expedient or he is requested by the Minister to do so—

- (a) give information and assistance to the Minister with respect to any of the matters in respect of which the Director has any duties under subsection (1); or
- (b) subject to Part II in relation to recommendations under that Part, make recommendations to the Minister as to any action which in the opinion of the Director it would be expedient for the Minister or any other Minister to take in relation to any of the matters in respect of which the Director has any such duties.

(3) The Director shall have regard to evidence becoming available to him with respect to any course of conduct on the part of a person carrying on a business which appears to be conduct detrimental to the interests of consumers in Trinidad and Tobago and in accordance with Part III to be regarded as unfair to them, with a view to considering what action, if any, he should take under Part III.

Consumer
Guidance
Council.
[22 of 1998]

5. (1) There shall be established a Council to be called a “Consumer Guidance Council” constituted in accordance with this section.

(2) The membership of the Consumer Guidance Council shall comprise five representatives of Government Ministries and six representatives of consumer organisations, non-governmental organisations and the general public.

(3) The five representatives of Government Ministries on the Council shall be drawn from each of the following:

- (a) the Ministry of Agriculture, Land and Marine Resources;
- (b) the Ministry of Health;
- (c) the Ministry of Trade and Industry;
- (d) the Ministry of Consumer Affairs;
- (e) the Ministry of Information, Communications, Training and Distance Learning.

(4) The President shall appoint the members of the Council by instrument in writing in the following manner:

- (a) the five representatives of the Minister, after consultation with the relevant Ministries;
- (b) the representatives of consumer organisations and non-governmental organisations, after consultation with these organisations; and
- (c) representatives of the general public, in his discretion.

(5) Appointments shall be made for a fixed period of time not exceeding three years, on such terms and conditions as the Minister may think fit.

(6) The President shall also appoint one member to be the Chairman and another member to be the Deputy Chairman of the Council.

(7) The Ministry with responsibility for Consumer Affairs shall be responsible for the Secretariat to the Council.

6. (1) Subject to this section, a member of the Council shall hold and vacate office as such in accordance with the terms of his appointment as may be prescribed in the instrument of appointment.

Tenure of office of members of the Council.

(2) A person shall not be appointed to the Council for a term exceeding two years but previous membership shall not affect eligibility.

(3) The Chairman or the Deputy Chairman or a member of the Council may at any time resign his membership by notice in writing addressed to the President.

(4) The President may terminate the appointment of any member of the Council who—

- (a) becomes of unsound mind or is incapable of carrying out his duties;
- (b) becomes bankrupt or compounds with or suspends payment to his creditors;
- (c) is convicted and sentenced to a term of imprisonment;
- (d) is convicted of any offence involving dishonesty;
- (e) is guilty of misconduct in relation to his duties;
- (f) is absent, except on leave granted by the Council, from three consecutive meetings of the Council; or
- (g) fails to carry out any of the functions conferred or imposed on him under this Act.

(5) The names of all members of the Council as first constituted and every change in the membership thereof shall be published in the *Gazette*.

7. (1) A quorum shall consist of five members of which at least two shall be representatives from the Ministries and two from the other bodies.

Quorum and decisions of Council. [22 of 1998].

(2) The decisions of the Council shall be adopted by a majority of votes.

(3) A member of the Council whose interest is likely to be affected whether directly or indirectly by a decision of the Council on any matter whatsoever, shall disclose the nature of his interest at the first meeting of the Council at which he is present after the relevant facts have come to his knowledge.

(4) A disclosure under subsection (3) shall be recorded in the minutes of the Council and after the disclosure the member making it shall not vote on the matter and, unless the Council otherwise directs, shall not be present or take part in the deliberations at any meeting, when the matter is being decided by the Council.

(5) All documents made by, and all decisions of, the Council may be signified under the hand of the Chairman.

Functions and powers of the Council. [22 of 1998].

7 A. (1) The following are the functions of the Council:

- (a) to monitor the implementation of the Consumer Policy; and
- (b) to advise the Cabinet on matters relating to the implementation of the Policy.

(2) For the purpose of performing the functions described at subsection (1), the Council shall have the power to request information on any aspect of the Consumer Policy.

PART II

PROTECTION OF CONSUMER

Meaning of "consumer trade practice".

8. In this Act "consumer trade practice" means any practice which is for the time being carried on in connection with the supply of goods to consumers or in connection with the supply of services for consumers and which relates—

- (a) to the terms or conditions, whether as to price or otherwise, on or subject to which goods or services are or are sought to be supplied;
- (b) to the manner in which those terms or conditions are communicated to persons to whom goods are

- or are sought to be supplied or for whom services are or are sought to be supplied;
- (c) to promotion, by advertising, labelling or marking of goods, canvassing or in any other manner, of the supply of goods or of the supply of services;
 - (d) to methods of salesmanship employed in dealing with consumers;
 - (e) to the way in which goods are packed or otherwise got up for the purpose of being supplied; or
 - (f) to methods of demanding or securing payment for goods or services supplied.

9. Subject to this Act, the Director shall determine whether any consumer trade practice adversely affects the economic interests of consumers in Trinidad and Tobago.

Director to determine economic interests. [22 of 1998].

10. }
11. } *(Repealed by Act No. 22 of 1998).*

12. (1) Where it appears to the Director that a consumer trade practice has the effect, or is likely to have the effect—

Reference to Council proposing recommendation to Minister to make Order.

- (a) of misleading consumers as to, or withholding from them adequate information as to, or an adequate record of, their rights and obligations under relevant consumer transactions;
- (b) of otherwise misleading or confusing consumers with respect to any matter in connection with relevant consumer transactions;
- (c) of subjecting consumers to undue pressure to enter into relevant consumer transactions;
- (d) of causing the terms or conditions, on or subject to which consumers enter into relevant consumer transactions, to be so adverse to them as to be inequitable,

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the Director may recommend to the Minister that he should exercise his power under this Part with respect to that consumer trade practice.

(2) In this Part “relevant consumer transaction”, in relation to a consumer trade practice, means any transaction to which a person is, or may be invited to become, a party in his capacity as a consumer in relation to that practice.

13. (Repealed by Act No. 22 of 1998).

Scope of recommendation proposed in reference to which section 12 applies. [22 of 1998].

14. (1) Where the Director exercises his functions under section 12, he shall have regard—

- (a) to the particular respects in which it appears to him that the consumer trade practice may adversely affect the economic interests of consumers in Trinidad and Tobago; and
- (b) to the class of relevant consumer transactions, or the classes (whether being some or all classes) of such transactions, in relation to which it appears to him that the practice may so affect those consumers,

and the proposed recommendation shall be for an Order making, in relation to relevant consumer transactions of that class or of those classes, as the case may be, such provision as the Director may consider requisite for the purpose of preventing the continuance of that practice or causing it to be modified, in so far as it may so affect those consumers in those respects.

(2) Without prejudice to the generality of subsection (1), for the purpose mentioned in that subsection any such proposals may in particular recommend the imposition by such an Order of prohibitions or requirements of any description specified in the Second Schedule.

Second Schedule.

Second Schedule.

(3) In the Second Schedule, in its application to “the specified consumer trade practice” means the consumer trade practice, “specified consumer transactions” means transactions which are relevant consumer transactions in relation to that

consumer trade practice and are of a description, and “specified” (elsewhere than in those expressions) means specified in the proposals.

15. After making a decision to which section 12 applies, the Director shall send a report to the Minister stating—

Report of Council on reference to which section 12 applies. [22 of 1998].

- (a) whether the consumer trade practice specified in the reference adversely affects the economic interests of consumers in Trinidad and Tobago, and
- (b) if so, whether it does so by reason, or partly by reason, that it has or is likely to have such one or more of the effects specified in section 12(2) as are specified in the report.

16. (1) The Minister may consider any recommendations for the making of an Order put forward by the Director under this Part, and may, if he thinks fit, make such provision in the Order for giving effect to the recommendations set out in the report.

Order of Minister in pursuance of report on reference to which section 12 applies. [22 of 1998].

(2) Any such Order may contain such supplementary or incidental provisions as the Minister may consider appropriate in the circumstances.

(3) Such Order and any Order varying or revoking any such Order shall be subject to affirmative resolution of Parliament.

17. Subject to the following provisions of this Part, any person who contravenes a prohibition imposed by an Order under section 16, or who does not comply with a requirement imposed by such an Order which applies to him, is liable—

Penalties for contravening Order under section 16.

- (a) on summary conviction, to a fine of five thousand dollars and to imprisonment for four months;
- (b) on conviction on indictment to a fine of ten thousand dollars and to imprisonment for two years.

18. Where the commission by any person of an offence under section 17 is due to the act or default of some other person, that other person is guilty of the offence, and a person may be charged with and convicted of the offence by virtue of this section whether or not proceedings are taken against the first-mentioned person.

Offence due to default of other person.

Defences in proceedings under section 17.

19. (1) In any proceedings for an offence under section 17, it is, subject to subsection (2), a defence for the person charged to prove—

- (a) that the commission of the offence was due to a mistake, or to reliance on information supplied to him, or to the act or default of another person, an accident or some other cause beyond his control, and
- (b) that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence by himself or any person under his control.

(2) If, in any case the defence provided by subsection (1) involves the allegation that the commission of the offence was due to the act or default of another person or to reliance on information supplied by another person, the person charged, is not without leave of the Court, entitled to rely on that defence unless, within a period ending seven clear days before the hearing, he has served on the prosecutor a notice in writing, giving such information identifying or assisting in the identification of that other person as was then in his possession.

(3) In proceedings for an offence under section 17 committed by the publication of an advertisement, it is a defence for the person charged to prove that he is a person whose business it is to publish or arrange for the publication of advertisements, and that he received the advertisement for publication in the ordinary course of business and although he exercised all due diligence to avoid the commission of such offence he did not know and had no reason to suspect that its publication would amount to an offence under section 17.

Limitation of effect of Orders under section 16.

Ch. 3:01.

20. A contract for the supply of goods and services shall not be void or unenforceable by reason only of a contravention of an Order made under section 16, and, subject to section 62 of the Interpretation Act (which relates to offences under two or more laws), this Part shall not be construed as—

- (a) conferring a right of action in any civil proceedings (other than proceedings for the

- recovery of a fine) in respect of any contravention of such an Order;
- (b) affecting any restriction imposed by or under any other written law; or
 - (c) derogating from any right of action or other remedy (whether civil or criminal) in proceedings instituted otherwise than under this Part.

PART III

ADDITIONAL FUNCTIONS OF DIRECTOR FOR PROTECTION OF CONSUMERS

21. (1) Where the Director has reasonable grounds for believing that the person carrying on business has in the course of that business persisted in a course of conduct which—

Additional functions of Director.

- (a) is detrimental to the interests of consumers in Trinidad and Tobago, whether those interests are economic interests or interests in respect of health, safety or other matters, and
- (b) in accordance with the following provisions of this section is to be regarded as unfair to consumers,

the Director shall use his best endeavours, by communication with that person or otherwise, to obtain from him a satisfactory written assurance that he will refrain from continuing that course of conduct and from carrying on any similar course of conduct in the course of that business.

(2) For the purposes of subsection (1)(b), a course of conduct shall be regarded as unfair to consumers if it consists of contraventions of one or more written laws which impose duties, prohibitions or restrictions enforceable by criminal proceedings, whether any such duty, prohibition or restriction is imposed in relation to consumers as such or not and whether the person carrying on the business has or has not been convicted of any offence in respect of any such contravention.

(3) A course of conduct on the part of the person carrying on a business shall also be regarded for those purposes as unfair to consumers if it consists of things done, or omitted to be done, in the course of that business in breach of contract or in breach of a

duty (other than a contractual duty) owed to any person by virtue of any written law or rule of law and enforceable by civil proceedings, whether in any such case civil proceedings in respect of the breach of contract or breach of duty have been brought or not.

(4) For the purpose of determining whether there are reasonable grounds for believing that a person has persisted in such a course of conduct as is mentioned in subsection (1), the Director shall have regard to either or both of the following, that is to say:

- (a) complaints received by him, whether from consumers or from other persons;
- (b) any other information collected by or furnished to him, whether by virtue of this Act or otherwise.

Failure to give satisfactory written assurance.

22. Subject to section 23(3) if, in the circumstances specified in section 21(1)—

- (a) the person in question fails to give to the Director a satisfactory written assurance as is mentioned in section 21(1); or
- (b) that person has given such an assurance and he has failed to observe it,

then that person is liable, upon the Director bringing proceeding against him before a Summary Court, on summary conviction to a fine of ten thousand dollars and to imprisonment for six months.

Order of, or undertaking given to, Court in proceedings under section 22.

23. (1) Where in any proceedings before a Summary Court under section 22—

- (a) the Court finds that the person against whom the proceedings are brought (in this section referred to as “the defendant”) has in the course of a business carried on by him persisted in such a course of conduct as is mentioned in section 21(1), and
- (b) the defendant does not give an undertaking to the Court under subsection (3) which is accepted by the Court, and

- (c) it appears to the Court that, unless an order is made against the defendant under this section, he is likely to continue that course of conduct or to carry on a similar course of conduct,

the Court may make an order against the defendant under this section.

(2) An order of the Court under this section shall, with such degree of particularity as appears to the Court to be sufficient for the purposes of the order, indicate the nature of the course of conduct to which the finding of the Court under subsection (1)(a) relates, and shall direct the defendant—

- (a) to refrain from continuing that course of conduct, and
(b) to refrain from carrying on any similar course of conduct in the course of his business,

and if he fails to so refrain he is liable on summary conviction to a fine of five hundred dollars for every day on which the offence is continued.

(3) Where in any proceedings before a Summary Court under section 22, the Court makes such a finding as is mentioned in subsection (1)(a) and the defendant offers to give to the Court an undertaking either—

- (a) to refrain as mentioned in subsection (2)(a) and (b); or
(b) to take particular steps which, in the opinion of the Court, would suffice to prevent a continuance of the course of conduct to which the complaint relates and to prevent the carrying on by the defendant of any similar course of conduct in the course of his business,

the Court may, if it thinks fit, accept that undertaking and reprimand and discharge the defendant instead of making an order of conviction under section 22.

(4) Where the defendant violates the undertaking given to the Court in subsection (3), he is liable on summary conviction to a fine of twenty thousand dollars and to imprisonment for six months.

Persons
consenting to or
conniving at
courses of
conduct
detrimental to
interests of
consumers.

24. (1) The provisions of this section shall have effect where the Director has reasonable grounds for believing—

- (a) that a body corporate has in the course of a business carried on by that body persisted in such a course of conduct as is mentioned in section 21(1); and
- (b) that the course of conduct in question has been so persisted in with the consent or connivance of a person (in this and section 25 referred to as “the accessory”) who at a material time fulfilled the relevant conditions in relation to that body.

(2) For the purposes of this section, a person is taken to fulfil the relevant conditions in relation to a body corporate at any time if that person either—

- (a) is at that time a director, manager, secretary or other similar officer of the body corporate or a person purporting to act in any such capacity; or
- (b) whether being an individual or a body of persons, corporate or unincorporate, has at that time a controlling interest in that body corporate.

(3) Subject to section 25(3) if, in the circumstances specified in subsection (1)—

- (a) the accessory fails to give to the Director a satisfactory written assurance that he will refrain—
 - (i) from continuing to consent to or connive at the course of conduct in question;
 - (ii) from carrying on any similar course of conduct in the course of any business which may at any time be carried on by him; and
 - (iii) from consenting to or conniving at the carrying on of any such course of conduct by any other body corporate in relation to which, at any time when that course of conduct is carried on, he fulfils the relevant conditions; or

- (b) the accessory has given such an assurance to the Director and it appears to the Director that he has failed to observe it,

the accessory is liable on summary conviction to a fine of ten thousand dollars and to imprisonment for six months.

(4) Proceedings may be brought against the accessory before a Summary Court under this section whether or not any proceedings are brought under section 22 against the body corporate referred to in subsection (1).

(5) For the purposes of this section, a person, whether being an individual or a body of persons, corporate or unincorporate, has a controlling interest in a body corporate if, but only if, that person can, directly or indirectly, determine the manner in which one-half of the votes which could be cast at a general meeting of the body corporate are to be cast on matters and in circumstances not of such a description as to bring into play any special voting rights or restrictions on voting rights.

25. (1) Where in any proceedings brought against the accessory before a Summary Court under section 24—

- (a) a Court finds that the conditions specified in section 24(1)(a) and (b) are fulfilled in the case of the accessory; and
- (b) the accessory does not give an undertaking to the Court under subsection (3) which is accepted by the Court; and
- (c) it appears to the Court that, unless an order is made against the accessory under this section, it is likely that he will not refrain from acting in one or more of the ways mentioned in section 24(3)(a),

Order of undertaking given to Court in proceedings under section 24.

the Court may make an order against the accessory under this section.

(2) An order of the Court under this section shall, with such degree of particularity as appears to the Court to be sufficient for the purposes of the order, indicate the nature of the course of conduct to which the finding of the Court under subsection (1)(a) relates, and shall direct the accessory, in relation to the course of conduct so indicated, to refrain from acting in any of the ways

mentioned in section 24(3)(a); and, if he fails to so refrain from acting, he is liable on summary conviction to a fine of five hundred dollars for every day on which the offence is continued and to imprisonment for three months.

(3) Where in any proceedings under section 24 the Court makes such a finding as is mentioned in subsection (1)(a) of this section, and the accessory offers to give to the Court an undertaking either—

- (a) to refrain from acting in any of the ways mentioned in section 24(3)(a); or
- (b) to take particular steps which, in the opinion of the Court, would suffice to prevent him from acting in any of those ways,

the Court may, if it thinks fit, accept that undertaking and reprimand and discharge the accessory instead of making an order of conviction under section 24(3).

(4) Where the accessory violates the undertaking given to the Court in subsection (3), he is liable on summary conviction to a fine of twenty thousand dollars and to imprisonment for six months.

Provisions as to interconnected bodies corporate.

26. (1) This section applies to any order made under section 23 or 25.

(2) Where an order to which this section applies is made against a body corporate which is a member of a group of interconnected bodies corporate, the Summary Court, on making the order, may direct that it shall be binding upon all members of the group as if each of them were the body corporate against which the order is made.

(3) Where an order to which this section applies has been made against a body corporate, and at a time when that order is in force—

- (a) the body corporate becomes a member of a group of interconnected bodies corporate; or
- (b) a group of interconnected bodies corporate of which it is a member is increased by the addition of one or more further members,

the Summary Court may direct that the order shall thereafter be binding upon each member of the group as if it were the body corporate against which the order was made.

(4) The power conferred by subsection (3) is exercisable—

- (a) whether, at the time when the original order was made, the body corporate against which it was made was a member of a group of interconnected bodies corporate or not; and
- (b) if it was such a member, whether a direction under subsection (2) was given or not.

27. Notwithstanding anything in any other written law, an appeal, whether on a question of fact or on a question of law, shall lie from any decision or order of any Court in proceedings under Part III and any such appeal shall lie to the Court of Appeal.

Appeals from decisions or orders of Court under Part III.

PART IV

CONSUMER SAFETY

28. (1) In this Part and Parts V and VI “goods” includes substances whether natural or manufactured and whether or not incorporated in or mixed with other goods and, in relation to a Notice to Warn, includes things comprised in land which by operation of law became land on becoming so comprised but does not include food or drug within the meaning of the Food and Drugs Act.

Definitions.

Ch. 30:01.

(2) In this Part and Part V “safe” means such as to prevent or adequately to reduce any risk of death and risk of personal injury from the goods in question or from circumstances in which the goods might be used or kept, and for the purposes of section 29 the Minister is entitled to consider that goods containing radioactive substances are safe or not safe by reference to the radiation from the goods and from other sources and to the consequences of the radiation for users of the goods and other persons.

(3) Subject to subsection (4), for the purposes of this Part and Part V, a person supplies goods only if, in the course of carrying

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on a business (whether or not a business of dealing in the goods in question) and either as principal or agent —

- (a) he sells (otherwise than under a hire purchase agreement), hires out or lends the goods to another person; or
- (b) he enters into a hire purchase agreement, or a contract for work and materials, to furnish the goods to another person; or
- (c) he exchanges the goods for any consideration (which may consist of trading stamps) other than money; or
- (d) he gives the goods to another person either as a prize or otherwise,

and “supply” and related expressions shall be construed accordingly.

(4) In this Part and Part V any reference to supply does not include supply to a person with whom the goods in question were insured against danger and, except in relation to a Notice to Warn, does not include supply which is incidental to the letting or sale of land and, except in relation to a Prohibition Notice, does not include —

- (a) supply to a person who carries on a business of buying such goods as those in question and repairing or reconditioning them; and
- (b) supply by a sale of articles as scrap (that is to say, for the value of materials included in the articles and not of the articles themselves),

and if a person supplies goods by hiring them out or lending them, then, for the purposes of this Part and Part V, he does not supply them by reason only of anything done in pursuance of the arrangements for the hiring out or loan.

(5) Where a person supplies goods to another person under a hire purchase agreement, conditional sale agreement or credit-sale agreement or under an agreement for the hiring of goods (other than a hire purchase agreement), and the first-mentioned person —

- (a) carries on the business of financing the provision of goods for others by means of such agreements; and

- (b) in the course of that business acquired his interest in the goods supplied to the other person as a means of financing the provision of them for the other person by a further person,

the further person and not the first-mentioned person shall be treated for the purposes of this Part and Part V as supplying the goods to other persons.

29. (1) The Minister may make Regulations containing such provision authorised by subsections (2) and (3) as the Minister considers appropriate for the purpose of securing that goods are safe or that appropriate information is provided and inappropriate information is not provided in respect of goods; and, Regulations in pursuance of this subsection are hereafter in this Act referred to as “Safety Regulations”.

Safety
Regulations in
respect of
goods.

- (2) Safety Regulations may contain provision—
- (a) with respect to the composition or contents, design, construction, finish or packing of goods or with respect to other matters relating to goods;
 - (b) for requiring goods to conform to a particular standard or to be approved or of a kind approved by a particular person and for requiring information to be given, and determining the manner in which it is to be given, for the purpose of indicating that the goods conform to that standard or are so approved or of such a kind;
 - (c) with respect to standards for goods (which may be standards set out in the Regulations or standards or parts of standards of which particulars have been published by any person in Trinidad and Tobago or elsewhere) and with respect to the approval by the Minister from time to time, for any purpose of the Regulations, of standards or parts of standards of which particulars have been so published;
 - (d) with respect to the giving, refusal, alteration and cancellation of approvals for goods or kinds of

goods, with respect to the conditions and alteration of the conditions, which may be attached to and the fees which may be charged for approvals and with respect to appeals against refusals, alterations and cancellations of such approvals and against the conditions and alteration of conditions of such approvals;

- (e) with respect to the testing or inspection of goods, for determining the manner in which any person by whom any test or inspection required by the Regulations is to be carried out and for determining the standards to be applied in carrying out such a test or inspection;
- (f) with respect to the ways of dealing with goods of which some or all do not satisfy a test prescribed by the Regulations or a standard connected with a procedure so prescribed;
- (g) for requiring a warning or instructions or other information relating to goods to be marked on or to accompany the goods or to be given in some other manner in connection with the goods, and for securing that inappropriate information is not given in respect of goods either by means of misleading marks or otherwise;
- (h) for prohibiting persons from supplying, or from offering to supply, agreeing to supply, exposing for supply or possessing for supply, goods which the Minister considers are not safe and goods in respect of which requirement of the Regulations are not satisfied;
- (i) for prohibiting persons from supplying, or from offering to supply, agreeing to supply, exposing for supply or possessing for supply, goods which are designed to be used as component parts of other goods and which would if so used cause the other goods to contravene requirements of the Regulations.

- (3) Safety Regulations may—
- (a) make different provisions for different circumstances or provision relating only to specified circumstances;
 - (b) provide for exemptions from any provision of the Regulations;
 - (c) contain such incidental and supplemental provisions as the Minister considers appropriate.

30. (1) Where Safety Regulations prohibit a person from supplying or offering or agreeing to supply goods or from exposing or possessing goods for supply, then, subject to the following provisions of this section, the person is guilty of an offence if he contravenes the prohibition.

Offences against
the Safety
Regulations.

(2) Where Safety Regulations require a person who makes or processes goods in the course of carrying on a business—

- (a) to carry out a particular test or use a particular procedure in connection with the making or processing of the goods with a view to ascertaining whether the goods satisfy other requirements of the Regulations; or
- (b) to deal or not to deal in a particular way with a quantity of the goods of which the whole or part does not satisfy the test or does not satisfy standards connected with the procedure,

then, subject to the following provisions of this section, the person is guilty of an offence if he does not comply with the requirement.

(3) If a person contravenes a provision of Safety Regulations which prohibits the provision, by means of a mark or otherwise, of information of a particular kind in connection with goods, then, subject to the following provisions of this section, he is guilty of an offence.

(4) A person who commits an offence in pursuance of this section (hereafter in this section referred to as “a relevant offence”) is liable on summary conviction to a fine of ten thousand dollars and to imprisonment for three months.

(5) Where the commission of a relevant offence by any person is due to the act or default of some other person, the other person is guilty of the offence and may be charged with and convicted of it whether or not proceedings are taken against the first-mentioned person.

(6) It shall be a defence to a charge of committing a relevant offence to prove that the accused took all reasonable steps and exercised all due diligence to avoid committing the offence; but, if in any case the defence provided by this subsection involves an allegation that the commission of the offence was due to the act or default of another person or due to reliance on information supplied by another person, the person charged is not, without the leave of the Court, entitled to rely on the defence unless, within a period ending seven clear days before the hearing, he has served on the prosecutor a notice giving such information identifying or assisting in the identification of the other person as was then in his possession.

(7) Safety Regulations may contain provision—

- (a) for requiring persons on whom a duty is imposed by virtue of section 36 to have regard, in performing the duty so far as it relates to a provision of Safety Regulations, to matters specified in a direction issued by the Minister with respect to that provision;
- (b) for securing that a person is not guilty of an offence by virtue of subsection (1), unless it is provided that the goods in question do not conform to a particular standard;
- (c) for securing that proceedings for a relevant offence are not begun except by or with the consent of the Director of Public Prosecutions;
- (d) for enabling summary proceedings for a relevant offence to be begun at any time within twelve months from the time when the offence was committed,

and it is hereby declared that section 29(3) applies to Safety Regulations made by virtue of this subsection.

31. (1) The Minister may—

(a) make Orders (hereafter in this Act referred to as “Prohibition Orders”) prohibiting persons from supplying, or from offering to supply, agreeing to supply, exposing for supply or possessing for supply—

Orders and Notices to prohibit supply of goods or give warning of danger from goods.

(i) any goods which the Minister considers are not safe and which are described in the Orders, and

(ii) any goods which are designed to be used as component parts of other goods and which would if so used cause the other goods to be goods described in the Orders in pursuance of subparagraph (i);

(b) serve on any person a Notice (hereafter in this Act referred to as a “Prohibition Notice”) prohibiting the person, except with the consent of the Minister and in accordance with the conditions, if any, on which the consent is given, from supplying, or from offering to supply, agreeing to supply, exposing for supply or possessing for supply, any goods which the Minister considers are not safe and which are described in the Notice;

(c) serve on any person a Notice (hereafter in this Act referred to as a “Notice to Warn”) requiring the person to publish, in a form and manner and on occasions specified in the Notice, and at his own expense, a warning about any goods so specified which the Minister considers are not safe and which the person supplies or has supplied.

(2) Part I of the Third Schedule shall have effect with respect to Prohibition Orders, Part II of that Schedule shall have effect with respect to Prohibition Notices, and Part III of that Schedule shall have effect with respect to Notices to Warn; and, section 29(3) shall apply to Prohibition Orders as it applies to Safety Regulations.

Parts I, II, III
Third Schedule.

(3) A person who contravenes a Prohibition Order, a Prohibition Notice or a Notice to Warn is liable on summary conviction to a fine of ten thousand dollars and to imprisonment for six months; but, it is a defence to a charge of committing an offence under this subsection to prove that the accused took all reasonable steps and exercised all due diligence to avoid committing the offence.

(4) If in any case the defence provided by subsection (3) involves an allegation that the commission of the offence was due to the act or default of another person or to reliance on information supplied by another person, the person charged is not, without the leave of the Court, entitled to rely on the defence unless, within a period ending seven clear days before the hearing, he has served on the prosecutor a notice giving such information identifying or assisting in the identification of the other person as was then in his possession.

(5) Where the commission by any person of an offence of contravening a Prohibition Order is due to the act or default of some other person, the other person is guilty of the offence and may be charged with and convicted of the offence by virtue of this subsection, whether or not proceedings are taken against the first-mentioned person.

Power to obtain information.

32. (1) If the Minister considers that, for the purpose of deciding whether to make, vary or revoke Safety Regulations or a Prohibition Order or to serve, vary or revoke a Prohibition Notice or to serve or revoke a Notice to Warn, he requires information which another person is likely to be able to furnish, the Minister may serve on the other person a notice requiring the person —

- (a) to furnish to the Minister, within a period specified in the notice, such information as is so specified;
- (b) to produce such documents as are specified in the notice at a time and place so specified and to permit a person appointed by the Minister for the purpose to take copies of the documents at that time and place.

(2) A person who—

- (a) fails, without reasonable cause, to comply with a notice served on him in pursuance of subsection (1); or
- (b) in purporting to comply with a requirement which by virtue of subsection (1)(a) is contained in a notice served on him in pursuance of that subsection, furnishes information which he knows is false in a material particular or recklessly furnishes information which is false in a material particular,

in the case of an offence under paragraph (a) of this subsection, is liable on summary conviction to a fine of ten thousand dollars and to imprisonment for six months and, in the case of an offence under paragraph (b) of this subsection, is liable on summary conviction to a fine of fifteen thousand dollars and to imprisonment for twelve months.

(3) No information obtained by virtue of this section shall be disclosed except—

- (a) for the purpose of any criminal proceedings or any investigation with a view to such proceedings;
- (b) for the purpose of facilitating the performance by the Director of his functions under Part III or for the purpose of any proceedings under Part III;
- (c) for the purpose of enabling the Minister to decide whether to make, vary or revoke, Safety Regulations or a Prohibition Order or whether to serve, vary or revoke a Prohibition Notice or to serve, or revoke a Notice to Warn; or
- (d) in a Prohibition Notice, a Notice to Warn or a warning published as required by a Notice to Warn or in a warning about goods which is published by the Minister,

but the prohibition on disclosure imposed by this subsection does not apply to publicised information.

(4) A person who discloses information in contravention of subsection (3) is liable, on summary conviction, to a fine of ten thousand dollars and to imprisonment for six months.

Regulations.
Third Schedule. **33.** The Minister may make Regulations with respect to the manner of giving information in pursuance of the Third Schedule.

PART V

ENFORCEMENT

Interpretation. **34.** In this Part—
“premises” includes any place, any stall, any ship, aircraft and other vehicle of any kind;
“relevant provisions” means provisions of Safety Regulations or a Prohibition Order or a Prohibition Notice.

Authorised officers.
Fourth Schedule. **35.** The Minister may designate one or more persons to be authorised officers for the purposes of this Act, and shall furnish every such person with a certificate of his designation as such, the certificate being in the form set out as in the Fourth Schedule and shall be signed by the Minister and the person so designated.

Duty of authorised officers. **36.** Every authorised officer is empowered to enforce the provisions of any Order made under section 16, the provisions of Safety Regulations and section 30, and the provisions of Prohibition Orders and Prohibition Notices and subsections (3) and (5) of section 31 so far as those subsections relate to such Orders and Notices.

Power to make test purchases. **37.** The Permanent Secretary of the Ministry shall have power to make, or to authorise any of the officers of the Ministry to make on his behalf, such purchases of goods or to ascertain whether any relevant provisions are being complied with, and may authorise any of the authorised officers to obtain such services, as may be expedient for the purpose of determining whether or not any Order made under section 16 is being complied with.

Power to enter premises and inspect and seize goods and documents. **38.** (1) An authorised officer may at all reasonable hours, and on production, if required, of his credentials, exercise the following powers:
(a) he may, for the purpose of ascertaining whether any offence under section 17 has been committed, or any relevant provisions have been contravened,

inspect any goods and enter any premises other than premises or such part thereof used exclusively as a dwelling;

- (b) if he has reasonable cause to suspect that an offence under section 17 has been committed or relevant provisions have been contravened, he may, for the purpose of ascertaining whether it has been committed or the provisions have been contravened, require any person carrying on a business or employed in connection with a business to produce any books or documents relating to the business and may take copies of, or of any entry in, any such book or document;
- (c) he may, for the purpose of ascertaining whether an offence under section 30(2) has been committed, examine any procedure, including any arrangements for carrying out a test, connected with the production of goods;
- (d) if he has reasonable cause to believe that an offence under section 17 has been committed, or relevant provisions have been contravened, he may seize and detain any goods for the purpose of ascertaining, by testing or otherwise, whether the offence has been committed or the provisions have been contravened;
- (e) he may seize and detain any goods or documents which he has reason to believe may be required as evidence in proceedings for an offence under section 17 or 30, or under section 31, so far as it relates to Prohibition Orders and Prohibition Notices;
- (f) he may, for the purpose of exercising his powers under this subsection to seize goods, but only if and to the extent that it is reasonably necessary in order to secure that the provisions of an Order made under section 16 are duly observed or relevant provisions are complied with, require

any person having authority to do so to break open any container or open any vending machine, and if that person does not comply with the requirement, he may do so himself.

(2) An authorised officer seizing any goods or documents in the exercise of his powers under this section shall inform the person from whom they are seized and, in the case of goods seized from a vending machine, the person whose name and address are stated on the machine as being the proprietors or, if no name and address are so stated, the occupier of the premises on which the machine stands or to which it is affixed.

(3) The information referred to in subsection (2) shall be in writing and shall specify the nature and amount of the goods seized and shall for the purpose of any proceedings taken or transactions made under this Act have effect as a receipt for the goods so seized.

(4) If a Magistrate, on sworn information in writing—

(a) is satisfied that there is reasonable ground to believe either—

(i) that any goods, books or documents which a duly authorised officer has power under this section to inspect are on any premises and that their inspection is likely to disclose evidence of the commission of an offence under section 17 or that relevant provisions have been contravened, or

(ii) that any offence under section 17 has been, is being, or is about to be, committed on any premises, or

(iii) that relevant provisions have been, or are being, or are about to be, contravened on any premises; and

(b) is also satisfied either—

(i) that admission to the premises has been or is likely to be refused and that notice of

intention to apply for a warrant under this subsection has been given to the occupier, or

- (ii) that an application for admission, or the giving of such a notice, would defeat the object of the entry or that the premises are unoccupied or that the occupier is temporarily absent, and it might defeat the object of the entry to await his return,

the Magistrate may by warrant under his hand, which shall continue in force for a period of one month, authorise any such officer as is mentioned in subsection (1) to enter the premises, if need be by force.

(5) An authorised officer entering any premises by virtue of this section may take with him such other persons and such equipment as may appear to him necessary; and, on leaving any premises which he has entered by virtue of a warrant under subsection (4) where either the premises are unoccupied or the occupier of the premises is temporarily absent he shall affix a notice in a conspicuous place stating that the premises were entered for the purposes of this section and as far as practicable leave such premises as effectively secured as he found them.

39. (1) Subject to subsection (6), any person who—

- (a) wilfully obstructs any authorised officer as is mentioned in section 38(1) acting in the exercise of any powers conferred on him by or under that section;
- (b) wilfully fails to comply with any requirement properly made to him by such an authorised officer under section 38; or
- (c) without reasonable cause fails to give to such an authorised officer so acting any other assistance or information which he may reasonably require of him for the purpose of the performance of his functions under this Part,

Offences in connection with exercise of powers under section 38.

is guilty of an offence.

(2) If any person, in giving any such information as is mentioned in subsection (1)(c), makes any statement which he knows to be false, he is guilty of an offence.

- (3) If any person discloses to any other person—
- (a) any information with respect to any manufacturing process or trade secret obtained by him in premises which he has entered by virtue of section 38, or
 - (b) any information obtained by him under section 38 or by virtue of subsection (1),
- he is, unless the disclosure was made in the performance of his duty, guilty of an offence.
- (4) If any person who is not an authorised officer purports to act as such under section 38 or under this section, he is guilty of an offence.
- (5) Any person guilty of an offence under subsection (1) is liable on summary conviction to a fine of five hundred dollars; and any person guilty of an offence under subsection (2), (3) or (4) is liable—
- (a) on summary conviction, to a fine of two thousand dollars;
 - (b) on conviction on indictment, to a fine of five thousand dollars and to imprisonment for two years.
- (6) Nothing in this section shall be construed as requiring a person to answer any question or give any information if to do so might incriminate that person or the person's spouse.

Notice of test.

- 40.** (1) Where any goods seized or purchased by an authorised officer in pursuance of this Part are submitted to a test, then—
- (a) if the goods were seized, he shall inform any such person as is mentioned in section 38(2) of the result of the test;
 - (b) if the goods were purchased and the test leads to the institution of proceedings for an offence under section 16 or 30, or under section 31, so far as it relates to Prohibition Orders and Prohibition Notices, he shall inform the person from whom the goods were purchased, or, in the case of goods sold through a vending machine, the person mentioned in relation to such goods in section 38(2), of the result of the test,

and where, as a result of the test, proceedings for an offence are instituted against any person, he shall allow that person to have the goods tested on his behalf if it is reasonably practicable to do so.

(2) The Minister may make Regulations regarding the testing of goods seized by an authorised officer or purchased by an officer on behalf of the Ministry in pursuance of this Act and in particular may make such Regulations providing that the test shall be carried out at the expense of the Ministry in a manner specified therein, by a person specified therein and at a laboratory or at a testing facility specified therein.

41. (1) Where in the exercise of his powers under section 38, an authorised officer seizes and detains any goods, and their owner suffers loss by reason of their being seized or by reason that the goods, during the detention, are lost or damaged or deteriorate, unless the owner is convicted of an offence under this Act committed in relation to the goods, the owner is entitled to compensation for the loss so suffered. Compensation.

(2) Any disputed question as to the right to, or the amount of, any compensation payable under this section, shall on the written application of the owner or of the Attorney General be determined as follows:

- (a) if the amount of the compensation claimed does not exceed five thousand dollars, by a Magistrate; or
- (b) if the amount of the compensation claimed exceeds five thousand dollars, by a Judge of the Supreme Court,

in like manner as if the Magistrate or the Judge were a single arbitrator appointed pursuant to the provisions of the Arbitration Act, and the provisions of that Act shall apply accordingly. Ch. 5:01.

(3) Compensation payable under this section shall be defrayed out of moneys provided for the purpose by Parliament.

42. (1) Any obligation imposed on a person by Regulations or a Prohibition Order or a Prohibition Notice is a duty owed by him to any other person who may be affected by a failure to perform Civil liability.

the obligation, and a breach of that duty is actionable, subject to the defences and other incidents applying to actions for breach of statutory duty.

(2) An agreement shall be void so far as it would, apart from this subsection, have the effect of excluding or restricting an obligation mentioned in subsection (1) or liability for a breach of such an obligation.

(3) References in the preceding provisions of this section to an obligation imposed by Safety Regulations do not include such an obligation as to which the Regulations state that those provisions do not apply to it.

(4) A contravention of any provision of Safety Regulations, a Prohibition Order or a Prohibition Notice and the commission of an offence under section 30 or 31 shall not affect the validity of any contract or rights arising under any contract except so far as the contract provides otherwise.

PART VI

MISCELLANEOUS AND SUPPLEMENTARY PROVISIONS

Service of documents.

43. The principal office of a company registered outside Trinidad and Tobago or a partnership carrying on business outside Trinidad and Tobago is its principal office within Trinidad and Tobago for the purposes of service of any document required or authorised by virtue of this Act to be served on any person.

Publication of information and advice.
[22 of 1998].

44. (1) With respect to any matter in respect of which the Director has any functions under section 4(1), he may arrange for the publication, in such form and in such manner as he may consider appropriate, of such information and advice as it may appear to him to be expedient to give to consumers in Trinidad and Tobago, including the identification of recalcitrant traders by name.

(2) Without prejudice to the exercise of his powers under subsection (1), the Director shall encourage relevant associations to prepare, and to disseminate to their members, codes of practice for guidance in safeguarding and promoting the interests of consumers in Trinidad and Tobago.

(3) In this section—

- (a) “recalcitrant trader” means a person who in the course of his business has engaged in conduct which is detrimental to the interest of consumers;
- (b) “relevant association” means any association, whether incorporated or not, whose membership consists wholly or mainly of persons engaged in the production or supply of goods or in the supply of services or of persons employed by or representing persons so engaged and whose objects or activities include the promotion of the interests of persons so engaged and includes a consumer association.

45. No prosecution for an offence under this Act shall be commenced after the expiration of three years from the commission of the offence or one year from its discovery by the prosecutor, whichever is the earlier.

Time limit for prosecutions.

46. Where an offence under this Act which has been committed by a body corporate, whose affairs were managed by its members, is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a member of the body corporate in connection with his functions of management he as well as the body corporate is liable to be proceeded against and punished accordingly.

Offences by bodies corporate.

47. (1) Subject to subsections (2) to (4), no information with respect to any particular business which has been obtained under or by virtue of this Act, other than Part II, shall, so long as that business continues to be carried on, be disclosed without the consent of the person for the time being carrying on that business.

Restrictions on disclosure of information.

(2) Subsection (1) does not apply to any disclosure of information which is made for the purpose of facilitating the performance of any functions of the Minister, the Director or the Council under this Act.

(3) Subsection (1) does not apply to any disclosure of information which is made for the purposes of any legal proceedings under this Act.

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- (4) Nothing in subsection (1) shall be construed—
- (a) as limiting the matters which may be included in, or made public as part of, a report of the Council; or
 - (b) as applying to any information which has been made public as part of such a report.

(5) Any person who discloses any information in contravention of this section is liable on summary conviction to a fine of five thousand dollars and to imprisonment for six months.

FIRST SCHEDULE

(Deleted by Act No. 22 of 1998).

Section 14(2).

SECOND SCHEDULE

**MATTERS FALLING WITHIN SCOPE OF PROPOSALS
UNDER SECTION 14(2)**

1. Prohibition of the specified consumer trade practice either generally or in relation to specified consumer transactions.
 2. Prohibition of specified consumer transactions unless carried out at specified times or at a place of a specified description.
 3. Prohibition of the inclusion in specified consumer transactions of terms or conditions purporting to exclude or limit the liability of a party to such a transaction in respect of specified matters.
 4. A requirement that contracts relating to specified consumer transactions shall include specified terms or conditions.
 5. A requirement that contracts or other documents relating to specified consumer transactions shall comply with specified provisions as to lettering (whether as to size, type, colouring or otherwise).
 6. A requirement that specified information shall be given to parties to specified consumer transactions.
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THIRD SCHEDULE

Sections 31(2),
and 33.

**PROHIBITION ORDERS, PROHIBITION NOTICES
AND NOTICES TO WARN**

PART I

PROHIBITION ORDERS

1. If the Minister proposes to make a Prohibition Order (hereafter in this Part of this Schedule referred to as “an Order”), then, subject to paragraph 5, he shall before he makes the Order—

- (a) publish, in such manner as he thinks fit and not less than twenty-six days before he makes the Order, a notice stating—
 - (i) that he proposes to make the Order and, in such terms as he thinks fit, the proposed effect of the Order; and
 - (ii) that any person may make representations in writing to the Minister about the proposed Order before a date specified in the notice (which must be after the expiration of the period of twenty-eight days beginning with the date of first publication of the notice); and
- (b) consider any such representations made within that period.

2. The effect of an Order must not be more restrictive, but may be less restrictive, than the proposed effect of it as stated in the notice.

3. Without prejudice to the power to make a further Order and subject to paragraph 4, an Order shall cease to have effect at the expiration of a period specified in the Order which must not be longer than twelve months beginning with the date on which the Order comes into force.

4. An Order may revoke a previous Order or may vary it otherwise than by providing for it to be in force after expiration of twelve months beginning with the date of the coming into force of the previous Order.

5. Paragraphs 1 and 2 shall not apply to an Order if the Order contains a statement that in the opinion of the Minister the risk of danger connected with the goods to which the Order relates is such that the Order must be made without delay.

PART II**PROHIBITION NOTICES****PRELIMINARY**

6. In this Part—

“Notice” means a Prohibition Notice;

“Notification” means a Notification in writing;

“the trader” in relation to a proposed Notice or an actual Notice means the person on whom the proposed Notice is proposed to be served or on whom the actual Notice has been served.

7. A Notice must specify the date on which it comes into force.

GENERAL PROCEDURE

8. If the Minister proposes to serve a Notice in respect of any goods, then, subject to paragraph 14, he shall before he serves the Notice serve on the trader a Notification—

- (a) stating that the Minister proposes to serve on him a Notice in respect of the goods; and
- (b) specifying the goods in a manner sufficient to identify them and stating that, for the reasons set out in the Notification, the Minister considers that the goods are not safe; and
- (c) stating that the trader may make representations, in writing, or both in writing and orally, for the purpose of satisfying the Minister that the goods are safe but that if the trader intends to make such representations he must, before the expiration of the period of fourteen days beginning with the day when the Notification is served on him, inform the Minister of his intention indicating whether the representations are to be in writing only, or both in writing and orally.

9. Subject to paragraph 14, the Minister shall not serve a Notice on the trader in respect of any goods before the expiration of the period of fourteen days beginning with the day on which the Minister served on him a Notification in pursuance of paragraph 8 relating to the goods; and, if within that period the trader informs the Minister as mentioned in paragraph 8(c), then—

- (a) the Minister shall not serve a Notice on the trader in consequence of the Notification before the expiration of the period of twenty-eight days beginning with the day aforesaid; and
- (b) if during that period the trader makes to the Minister such written representations as are mentioned in paragraph 8(c),

the Minister shall not serve a Notice on the trader in consequence of the Notification before the Minister has considered the report of a person appointed in pursuance of paragraph 10 in consequence of the representations.

10. Where, in consequence of the service on the trader of a Notification in pursuance of paragraph 8, the trader informs the Minister as mentioned in paragraph 8(c) within the period so mentioned and makes to the Minister within that period or the fourteen days beginning with the end of that period such written representations as are so mentioned, the Minister shall—

- (a) appoint a person to consider the written representations; and
- (b) if the trader informed the Minister in pursuance of paragraph 8(c) that the representations would be both written and oral, inform the trader of the place and time (which must not be before the expiration of the fourteen days aforesaid and of seven days beginning with the day when the information is given to the trader) at which the oral representations may be made to the person appointed,

and the trader or his representative may at that place and time make to the person appointed oral representations for the purpose of satisfying the Minister that the goods in question are safe and may call and examine witnesses in connection with the representations.

11. The person appointed in pursuance of paragraph 10 to consider written representations with respect to any goods shall, after considering the representations, any oral representations made in pursuance of that paragraph with respect to the goods, and any statements made by witnesses in connection with the oral representations, make a report (including recommendations) to the Minister about the representations and the proposed Notice.

12. If at any time after the Minister has served a Notification on the trader in pursuance of paragraph 8, the Minister decides not to serve a Notice on him in consequence of the Notification, the Minister shall inform him of the decision; and, after the Minister informs him of the decision, the Notification and anything done in consequence of it in pursuance of the preceding paragraphs shall be disregarded for the purposes of those paragraphs.

13. Where a Notification is served on the trader in respect of any goods in pursuance of paragraph 8, a Notice served on him in consequence of the notification may relate to some only of those goods.

SPECIAL PROCEDURE

14. Paragraphs 8 to 13 shall not apply to a Notice which contains a statement that the Minister considers that the risk of danger connected with the goods to which the Notice relates is such that the Notice must come into force without delay; and, references to a Notice in paragraphs 15 to 18 are to a Notice containing such a statement.

15. A Notice in respect of any goods must—

- (a) state that, for the reasons set out in the Notice, the Minister considers that the goods are not safe; and
- (b) state that the trader may, at such time as the trader thinks fit, make representations in writing to the Minister for the purpose of satisfying him that the goods are safe.

16. If representations in writing about a Notice are made by the trader to the Minister, the Minister shall consider the representations and either revoke the Notice and inform the trader that he has revoked it, or—

- (a) appoint a person to consider the representations; and
- (b) serve on the trader a Notification stating that he may make to the person appointed oral representations for the purpose mentioned in paragraph 15 and specifying the place and time (which, except with the agreement of the trader, must not be before the expiration of twenty-one days beginning with the date of service of the Notification) at which the oral representations may be made,

and the trader or his representative may at that place and time make to the person appointed oral representations for the purpose aforesaid and may call and examine witnesses in connection with the representations.

17. The person appointed in pursuance of paragraph 16 to consider written representations with respect to any goods shall, after considering the representations, any oral representations made in pursuance of that paragraph with respect to the goods, and any statements made by witnesses in connection with the oral representations, make a report including recommendations to the Minister about the representations and the Notice in question.

18. Where the Minister has appointed a person in pursuance of paragraph 16 to consider any representations relating to a Notice then, without prejudice to the operation of paragraphs 19 and 20, paragraphs 16 and 17 shall not apply to any subsequent representations in writing about the Notice.

OTHER REPRESENTATIONS

19. If at any time the trader on whom a Notice has been served makes representations in writing to the Minister for the purpose of satisfying him that the goods to which the Notice relates are safe and, by virtue of paragraph 18, paragraph 16 does not apply to the representations, the Minister shall consider the representations and serve on the trader, before the expiration of one month beginning with the day when the Minister receives the representations, a Notification stating—

- (a) that the Minister will revoke the Notice or vary it or declines to do so; or
- (b) that the Minister has appointed a person to consider the representations and that the trader may make to the person

appointed, at a place specified in the Notification and a time so specified (which, except with the agreement of the trader, must not be before the expiration of the period of twenty-one days beginning with the date of service of the Notification), oral representations for the purpose,

and the trader or his representative may at that place and time make to the person appointed oral representations for the purpose and may call and examine witnesses in connection with the representations.

20. The person appointed in pursuance of paragraph 19 to consider written representations with respect to any goods shall, after considering the representations, any oral representations made in pursuance of that paragraph with respect to the goods, and any statements made by witnesses in connection with the oral representations, make a report including recommendations to the Minister about the representations and the Notice in question.

MISCELLANEOUS

21. The Minister may revoke or vary a Notice by serving on the trader a Notification stating that the Notice is revoked or, as the case may be, is varied as specified in the Notification; but, the Minister shall not have power to vary a Notice so as to make the effect of the Notice more restrictive for the trader.

22. The Minister shall consider any report made to him in pursuance of paragraph 17 or 20 and, after considering the report, inform the trader of his decision with respect to the Notice in question.

23. Where the Minister has appointed a time in pursuance of this Part for oral representations, he may appoint a later time or further times for the representations; and, where he does so references in this Part to the appointed time shall be construed as references to the later time or, as the case may be, as including the further times.

24. If a person discloses a secret manufacturing process or a trade secret contained in information obtained by him in consequence of the inclusion of the information in written or oral representations made in pursuance of this Part or in a statement made by a witness in connection with such oral representations, then, subject to the following paragraph, he is liable on summary conviction to a fine of five thousand dollars and to imprisonment for six months; and, it is hereby declared that the reference above to written representations includes such written representations as are mentioned in paragraph 19.

25. A person shall not be guilty of an offence under paragraph 24 in consequence of his disclosure of a process or trade secret contained in information if—

- (a) the information was obtained by him as a person appointed by the Minister in pursuance of this Part to consider the representations in question and the disclosure was made in his

- report to the Minister about the representations or was made for the purpose of criminal proceedings or an investigation with a view to such proceedings;
- (b) the information was obtained by him otherwise than as a person so appointed and the disclosure was made as mentioned in paragraphs (a) to (d) of section 32(3) of this Act; or
 - (c) the disclosure was of publicised information.

PART III

NOTICES TO WARN

26. If the Minister proposes to serve on a person a Notice to Warn in respect of any goods, the Minister shall, before he serves the Notice, serve on the person a Notification in writing—

- (a) containing a draft of the Notice and stating that the Minister proposes to serve on the person such a Notice in the form of the draft; and
- (b) stating that, for the reasons set out in the Notification, the Minister considers that the goods specified in the draft are not safe; and
- (c) stating that the person may make representations, in writing, or both in writing or orally, for the purpose of satisfying the Minister that the goods are safe but that if the person intends to make such representations he must, before the expiration of the period of fourteen days beginning with the day when the Notification is served on him, inform the Minister of his intentions indicating whether the representations are to be in writing only or both in writing or orally.

27. Paragraphs 9 to 13, 21, 23 to 25 shall with the necessary modifications have effect in relation to a Notice to Warn as they have effect in relation to a Prohibition Notice but as if—

- (a) the reference to paragraph 14 in paragraph 9 were omitted;
 - (b) for the references to paragraph 8 in paragraphs 9, 10, 12 and 13 there were substituted references to paragraph 26;
 - (c) in paragraph 13 for the words from “relate” onwards there were substituted the words “be less onerous than the draft of the Notice contained in the Notification”;
 - (d) in paragraph 21 the words “or vary” and the words from “or, as” onwards were omitted; and
 - (e) in paragraph 24 the words from “and it is” onwards were omitted and in that paragraph and paragraph 25 for the references to this Part there were substituted references to provisions of that Part as applied by this paragraph.
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FOURTH SCHEDULE

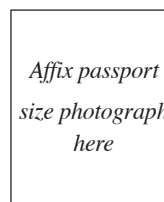
Section 35.

**CERTIFICATE OF DESIGNATED
AUTHORISED OFFICER**

*[Section 35 of the Consumer Protection and Safety Act,
(Ch. 82:34)]*

THIS IS TO CERTIFY that
has been designated as an authorised officer under
section 35 of the Consumer Protection and Safety Act,
(Ch. 82:34)

Official Stamp



.....
Signature of Authorised Officer

.....
Signature of Minister

SUBSIDIARY LEGISLATION

ADVERSE TRADE PRACTICES ORDER

ARRANGEMENT OF ORDERS

ORDER

1. Citation.
 2. Interpretation.
 3. Prohibition against display, of notice containing invalid statements.
 4. Prohibition against display, publication, etc., of invalid statements.
 5. Terms, etc., to be included in contract.
 6. Supplier to state rights and obligations, including statutory rights of consumer.
 7. Display of price and VAT.
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ADVERSE TRADE PRACTICES ORDER

125/2000.

made under section 16

1. This Order may be cited as the Adverse Trade Practices Order. Citation.

2. In this Order— Interpretation.

“Act” means the Consumer Protection and Safety Act; Ch. 82:34.

“advertisement” has the meaning assigned to it in section 2 of the Trade Descriptions Act; Ch. 82:04.

“consumer transaction” means any transaction to which a person is or may be invited to become a party in his capacity as a consumer;

“container” includes any form of packaging of goods whether by way of wholly or partially enclosing the goods, or by way of attaching the goods to, or winding the goods around some other article and in particular includes a wrapper or confining band;

“notice” includes any business announcement, whether or not in writing, and any other business communication or pretended communication.

3. A person shall not, in the course of a business, display, at any place where consumer transactions are effected, a notice containing statements which are invalid by virtue of— Prohibition against display of notice containing invalid statements. Ch. 82:37.

(a) section 9 of the Unfair Contract Terms Act; or

(b) any other written law.

4. A person shall not in the course of a business— Prohibition against display, publication, etc., of invalid statements.

(a) display;

(b) publish, or cause to be published;

(c) supply; or

(d) furnish,

at any place where consumer transactions are effected, any advertisement, receipts, bills or other documents containing, or

L.R.O. 1/2006

any goods bearing, or goods in a container bearing, any statement which is invalid by virtue of the Unfair Contract Terms Act, or any other written law.

Terms, etc., to be included in contract.

5. A contract which relates to any consumer transaction shall include all such terms and conditions, representations, warranties or guarantees of any kind, under which the goods relating to such transaction are to be supplied, including any such terms and conditions, representations, warranties or guarantees as relates to the cost or costs, if any, to be borne by the consumer if the goods are to be returned for servicing or inspection with a view to effecting repairs.

Supplier to state rights, and obligations, including statutory rights of consumer.

6. (1) This paragraph applies to goods which are supplied in the course of a business by one person (hereinafter called “the supplier”) to another, where, at the time of the supply, the goods were intended by the supplier to be, or might reasonably have been expected by him to be, the subject of a subsequent consumer transaction.

(2) Where a supplier—

- (a) supplies goods which bear, or are in a container bearing a statement which sets out or describes or limits the obligations accepted or to be accepted by him in relation to the goods; or
- (b) furnishes a document in relation to the goods which contains the statement referred to in paragraph (a),

he shall, together with any such statement, include, in letters or figures of the same size and prominence, another statement to the effect that—

- (i) the consumer possesses certain statutory rights by virtue of sections 14, 15, 16, and 17 of the Sale of Goods Act and sections 1, 4(2), 6, 8, 10 and 13 of the Hire Purchase Act; and
- (ii) the statement referred to in paragraph (a) does not or will not affect those statutory rights.

Ch. 82:30.

Ch. 82:33.

7. (1) Where a person who supplies goods in the course of a business advertises, displays or quotes a price at which the goods will be supplied which is exclusive of the tax to be charged under the Value Added Tax Act, the price must be accompanied by a quotation of the tax to be applied to the price of the goods.

Display of price and VAT.

Ch. 75:06.

(2) The quotation of the tax referred to in subparagraph (1) shall be displayed in—

- (a) money terms;
- (b) figures or letters of the same size and prominence as the price of the goods.