

**Consumer Protection Act (No.2), B.E. 2541(1998)**

**Translation**

BHUMIBOLADULYADEJ, REX.

Given on the 15<sup>th</sup> Year of the Present Reign.

His Majesty King Bhumibol Adulyadej is graciously pleased to proclaim that:

Whereas it is expedient to amend the law on consumer Protection being the amendment causing the restriction on liberties to engage in an enterprise or an occupation and to a fair and free competition which is permissible under Section 50 of The Constitution of The Kingdom of Thailand that such restriction may be, imposed only by virtue of the law;

Be it, therefore, enacted by the King, by and the advice and consent of the National Assembly, as follows;

**Section 1**

This Act is called the "Consumer Protection Act (No. 2), B.E. 2541 (1998)"

**Section 2**

This Act shall come into force as from the day following the date of its publication in the Government Gazette, except the provisions of Section 8 shall come into force after promulgation of the Royal Decree.

**Section 3**

The definition of "Consumer" in Section 3 of consumer Protection Act, B.E. 2522 shall be repealed and replaced by the following:

"Consumer" means a person who buys or obtains services from a businessman or a person who has been offered or invited by a businessman to purchase goods or obtain services and includes a person who duly uses goods or a person who duly obtains services from a businessman even he/she is not a person who pays the remuneration

**Section 4**

The definition of "contract" shall be inserted between the definition of "label" and "Board" in Section 3 of the Consumer Protection Act, B.E. 2522 as follows:

"Contract" means an agreement between a consumer and a businessman for purchasing and selling goods or providing and obtaining services.

**Section 5**

The following shall be inserted as (3 bis) of Section 4 of the Consumer Protection Act, B.E. 2522: "(3 bis) the right to receive a fair contract".

**Section 6**

The provisions of Section 9 of the Consumer Protection Act, B.E. 2522 shall be repealed and replaced by the following:

"Section 9

There shall be a Board called the "Consumer Protection Board" consisting of the Prime Minister as Chairman, Secretary-General to the Prime Minister, Permanent Secretary of the Office of the Prime Minister, Permanent Secretary of the Ministry of Agriculture and Cooperatives, Permanent Secretary of the Ministry of Commerce, Permanent Secretary of the Ministry of Interior, Permanent Secretary of the Ministry of Industry, Permanent Secretary of the Ministry of Transport and Communications, Secretary-General of the Food and Drug Board and not more than

eight qualified members appointed by the Council of Ministers as members and the Secretary-General of the Consumer Protection Board shall be a member and secretary”.

### **Section 7**

The following shall be inserted as (3) of paragraph one of Section 14 of the Consumer Protection Act, B.E. 2522:

“(3) the Committee on Contract”.

### **Section 8**

The provisions of Section 19 of the Consumer Protection Act, B.E. 2522 shall be repealed and replaced by the following:

“Section 19

There shall be established the Office of the Consumer Protection Board attached to the office of the Prime Minister. There shall be the Secretary-General of the Consumer Protection Board having powers and duties to exercise general supervision and being responsible for the performance of official duties of the Office of the Consumer Protection Board, and there may be the Deputy Secretary-General and Assistant Secretary-General to assist in the administration of the affairs of the office”.

### **Section 9**

The provisions of Section 21 of the Consumer Protection Act, B.E. 2522 shall be repealed and replaced by the following:

“Section 21

In the case where any law has specifically provided for any matter, such matter shall be subject to the provisions of such law, and the provisions of this Act shall apply only insofar as it is not a repetition or contrary to such provisions, unless:

- (1) in the case of necessity for the benefits of the consumers as a whole, if it appears that the competent official under such law has still not proceeded or has not completed the proceeding thereof in accordance with the law concerned and has not issued orders pertaining to consumer protection in accordance with such law within ninety days as from the date of the receipt of the written notice from the ad hoc committees or the Board, the ad hoc committees or the Board shall submit to the Prime Minister the matter for issuing orders in accordance with the provisions of this Chapter;
- (2) in the case under (1), if it is necessary and urgent which can not delay, the ad hoc committees or the Board shall submit to the Prime Minister the matter for considering and issuing orders in accordance with the provisions of this Chapter without notifying in written thereof or waiting until the period of ninety days in accordance with the conditions in (1) is elapsed.

In the case where such law does not contain any provisions empowering the competent official to issue orders for the consumer protection as provided in this Chapter, the ad hoc committees shall have the power to issue orders in accordance with the provisions of this Chapter, except in the case where such law has provided for a competent official, the Board may delegate the power to the competent official under such law to exercise it on behalf of the ad hoc committees.

The delegation of power to the competent official under the law on such matter under paragraph two shall be published in the Government Gazette”.

### **Section 10**

The provisions of Section 30 of the Consumer Protection Act, B.E. 2522 shall be repealed and replaced by the following:

### “Section 30

Goods which are manufactured for sale by the factories under the law on factories and goods which are ordered or imported into the Kingdom for sale shall be a label-controlled goods.

The provisions of paragraph one shall not apply to the goods prescribed by the Committee on Labels by publishing in the Government Gazette.

In the case where it appears that goods which may be harmful to health or cause physical or mental harm because of the use or the nature of such goods or the goods regularly used by the public and the requirement of labels for such goods will be beneficial to the consumers so that they may be aware of the material facts concerning such goods but such goods not being a label-controlled goods under paragraph one, the Committee on Labels shall have the power to declare such goods to be a label-controlled goods by publishing in the Government Gazette”.

### **Section 11**

The provisions of Section 31 of the Consumer Protection Act, B.E. 2522 shall be repealed and replaced by the following:

#### “Section 31

The label of label-controlled goods shall be of the following descriptions:

- (1) it shall contain truthful statements and have no other statements which may induce misunderstanding as to the material facts concerning such goods;
- (2) it shall contain the following statements:
  - the name or trade mark of the manufacturer or the importer for sale, as the case may be;
  - the place of manufacturing or the place of operating import business, as the case may be;
  - the statements which indicate what the goods are; in the case of imported goods, the name of the manufacturing country shall be specified;
- (3) it shall contain necessary statements such as price, quantity, usage, recommendation, caution and an expiry date in the case of goods which can be expired or in other cases to protect the consumer rights; provided that, such protection shall be made in accordance with the rules and conditions prescribed by the Committee on Labels by publishing in the Government Gazette.

The businessman who is the manufacturer or importer for sale of a label-controlled goods, as the case may be, shall prepare the label of such goods before the sale and such label shall contain statements in paragraph one. For this purpose, the statements in (2) and (3) of paragraph one shall be made in accordance with the rules and procedure prescribed by the Committee on Labels by publishing in the government Gazette”.

### **Section 12**

The following shall be inserted as Part 2 bis: Consumer Protection on Contract, Section 35 bis, Section 35 ter, Section 35 quarter, Section 35 quinque, Section 35 sex, Section 35 septem, Section 35 octo and Section 35 novem, of Chapter 11 of the Consumer Protection Act. B.E. 2522.

#### “Part 2 bis

#### Consumer Protection on Contract

### Section 35 bis

In any business in connection with the sale of any goods or the provision of services if such contract of sale or such contract of service required by law or the custom to be made in writing, the Committee on Contract shall have the power to provide such business to be a controlled business with respect to contract.

A contract between a businessman and the consumers in the controlled business with respect to contract shall be of the following descriptions:

- (1) stipulating the necessary contract terms which if not stipulated in the contract the consumers would be unreasonable disadvantageous:
- (2) does not stipulating the unfair contract terms to the consumers. Provided that, subject to the rules, conditions and details prescribed by the Committee on Contract, and to the benefit of the consumers as a whole, the Committee on Contract may permit a businessman to prepare a contract in accordance with the form prescribed by the Committee on Contract.

The prescription under paragraph one and two shall be in accordance with the rules and procedure prescribed by the Royal Decree.

### Section 35 ter

When the Committee on Contract prescribes that any contract term for a contract of a controlled business with respect to contract must stipulate or does not stipulate any contract terms with a condition under Section 35 bis, if that contract does not stipulate such contract terms or stipulate such contract terms but does not comply with its condition, that contract shall be deemed to stipulate such contract terms or stipulate such contract terms under that condition, as the case may be.

### Section 35 quarter

When the Committee on Contract prescribes that any contract of a controlled business with respect to contract shall not stipulate any contract terms under Section 35 bis, if that contract stipulate such contract terms, it shall be deemed that such contract terms does not exist.

### Section 35 quinque

The Committee on Contract shall have the power to prescribe any one of the businessman in connection with the sale of goods or the provision of services to be a controlled business with respect to receipt of payment.

The receipt of payment of a controlled business with respect to evidence on receipt of payment shall be of the following descriptions:

- (1) having particulars and necessary statements which if such particulars or statements are not used, the consumers would be unreasonable disadvantageous.
- (2) Not having the unfair statements to the consumers. Provided that, it shall be in accordance with the rules, conditions and particulars prescribed by the Committee on Contract.

The prescription under paragraph one and two shall be in accordance with the rules and procedure prescribed by the Royal Decree.

### Section 35 sex

When the Committee on Contract prescribes that receipt of payment of the controlled business with respect to evidence on receipt of payment shall contain any statement or any statement with conditions or shall not contain any statement under Section 35 quinque, the provisions of Section 35 ter and Section 35 quarter shall apply to such evidence of receipt of payment *mutates mutandis*.

#### Section 35 septem

In the case where a person operating a business in connection with the sale of goods or the provision of services makes a promise for a guarantee contract to the consumer, such contract shall be made in writing, signed by such person or his agent and delivered to the consumer together with the goods or services.

If the contract under paragraph one is made in foreign language, the Thai translation shall be attached thereto.

#### Section 35 octo

The businessman shall have a duty to deliver the contract having contract terms or contract terms with the correct form in accordance with Section 35 bis or deliver the evidence of receipt of payment having correct particulars and statements in accordance with Section 35 quinque to the consumer within the normal course of the operation of that type of business or within the period of time prescribed by the Committee on Contract by publishing in the Government Gazette regarding which period of time becomes due first.

#### Section 35 novem

Any businessman who doubt whether his contract form or form of evidence on receipt of payment will violate or fail to comply with this Act, such businessman may require the Committee on Contract to give a prior opinion on such form. In this case, the provisions of Section 29 shall apply *mutatis mutandis*"

### **Section 13**

The provisions of Section 37 and Section 38 of the Consumer Protection Act, B.E. 2522 shall be repealed.

### **Section 14**

The provisions of Section 47 and Section 48 of the Consumer Protection Act, B.E. 2522 shall be repealed and replaced by the following:

#### "Section 47

Any person who, with an intention to cause misunderstanding as to the origin, condition, quality, quantity or other essential matters concerning goods or services, whether they belong to him or other persons, advertises or uses a label containing a statement which is false or know or should be known to cause the misunderstanding shall be liable to imprisonment for a term not exceeding six months or fine not exceeding fifty thousand Baht, or to both.

If the offender under paragraph one commits the same offence, the offender shall be liable to imprisonment for a term not exceeding one year or fine not exceeding one hundred thousand Baht, or to both.

#### Section 48

Any person who advertises by using a statement under Section 22 (3) or (4) or statement prescribed in the Ministerial Regulation issued under Section 22 (5) or violates or fails to comply with Section 23, Section 24, Section 25 or Section 26 shall be liable to imprisonment not exceeding three months or fine not exceeding thirty thousand Baht, or to both".

### **Section 15**

The provisions of Section 51 of the Consumer Protection Act, B.E. 2522 shall be repealed and replaced by the following:

#### "Section 51

If the offence under Section 47, Section 48, Section 49 or Section 50 is a continual offence, the offender shall be liable to a fine not exceeding ten thousand Baht a day

or not exceeding double the advertising expenses throughout period of the violation or non-compliance”.

### **Section 16**

The provisions of Section 52 of the Consumer Protection Act, B.E. 2522 shall be repealed and replaced by the following:

“Section 52

Any person who sells the label-controlled goods under Section 30 without having labels displayed thereon or having labels incorrectly displayed thereon or sells goods bearing labels which the Committee on Labels has prohibited the use thereof under Section 33 and knows or ought to have known that the non-display of label or the display of such label is against the law, shall be liable to imprisonment not exceeding six months or fine not exceeding fifty thousand Baht, or to both.

If the act under paragraph one is committed by a manufacturer or importer for sale, the offender shall be liable to imprisonment for a term not exceeding one year or fine not exceeding one hundred thousand Baht, or to both”.

### **Section 17**

The provisions of Section 54 of the Consumer Protection Act, B.E. 2522 shall be repealed and replaced by the following:

“Section 54

Any person who agrees in return for remuneration to produce labels which do not conform to the law or to attach labels which do not conform to the law to any goods and knows or ought to have known that such labels do not conform to the law shall be liable to a fine not exceeding twenty thousand Baht”.

### **Section 18**

The provisions in paragraph one of Section 57 of the Consumer Protection Act; B.E. 2522 shall be repealed and replaced by the following:

“Section 57

Any businessman who fails to deliver the contract having contract terms or contract terms with the correct form in accordance with Section 35 bis or fail to deliver the receipt of payment containing correct particulars and statements in accordance with Section 35 quinque to the consumer within the period of time in accordance with Section 35 octo shall be liable to imprisonment for a term not exceeding one year or fine not exceeding on hundred thousand Baht, or to both”.

### **Section 19**

The following shall be inserted as Section 57 bis of the Consumer Protection Act, B.E. 2522:

“Section 57 bis

Any businessman who violates or fails to comply with Section 35 septem shall be liable to imprisonment for a term not exceeding one year or fine not exceeding one hundred thousand Baht or to both”.

### **Section 20**

The Consumer Protection Board under the Consumer Protection Act, B.E. 2522 existing on the date of publication of this Act in the Government Gazette shall perform the duties continuously until the Consumer Protection Board under this Act is established.

### **Section 21**

During the period of the inapplicability of the provisions of Section 8, the powers and duties of the Secretary-General of the Consumer Protection Board and the Office of the

Consumer Protection Board in the Office of the Prime Minister under the Consumer Protection Act, B.E. 2522 as amended by this Act, shall be the powers and duties of the Director of the Office of the Consumer Protection Board or the Office of the Consumer Protection Board in the Office of the Secretariat of the Prime Minister under the Consumer Protection Act, B.E. 2522, as the case may be.

**Section 22**

The Prime Minister shall have charge and control of the execution of this Act.

Countersigned by

Mr. Chuan Leekpai

Prime Minister

**Disclaimer**

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