

Law no. 24/96 of 31 July

The Assembleia da República decrees the following, under the terms of articles 164., item d), and article 169., no. 3 of the Constitution:

CHAPTER I General principles

Article 1. General duty of protection

1—The State, the Autonomous Regions and the local municipalities are responsible for protecting the consumer, namely with respect to support for the creation and functioning of consumer associations and consumer cooperatives, as well as the execution of the present law.

2—The State's general responsibility in protecting consumers requires adequate legislative and regulatory intervention in all areas involved.

Article 2. Definition and scope

1—A consumer is anyone who has been supplied -- by a person who professionally exercises an economic activity for profit -- with goods, services or rights destined for non-professional use.

2—Are included within the scope of this law any goods, services, and rights supplied, rendered and transferred by Public Administration bodies, by public collective persons, by publicly owned companies or companies majority owned by the Estate, by the Autonomous Regions or by the local municipalities and by concessionary companies providing public services.

CHAPTER II Consumer rights

Article 3. Consumer rights

Consumers have the right:

- a) To the quality of goods and services;
- b) To the protection of physical health and safety;
- c) To receive consumption training and education;
- d) Of access to consumption information;
- e) To the protection of economic interests;
- f) To prevention and repair of property damage, or other type of damage, that may result from an offence against individual homogeneous interests or rights, either collective or diffuse;

- g) Legal protection and prompt, accessible justice;
- h) To participation, via representation, in the legal or administrative definition of their rights and interests.

Article 4.

Right to quality of goods and services

1—The goods and services destined for consumption shall be suitable for satisfying the purposes they were conceived for and produce the effects that have been attributed to them, in accordance with legally established norms, or in their absence, in a manner appropriate to the legitimate expectations of the consumer.

2—Notwithstanding the establishment of more favourable time periods via agreement of the parties or via convention of usage, the supplier of non-consumable moveable goods is bound to guarantee their proper condition and functioning for a period of no less than one year.

3—The consumer has the right to a minimum guarantee of five years for real estate.

4—The guarantee period shall be suspended during the period of time in which the consumer feels he has been deprived of the use of the goods due to repair operations resulting from original defects.

Article 5.

Right to protection of physical health and safety

1—The supply of goods and services that under normal or foreseeable conditions of usage, including durability, may cause risks that are incompatible with their usage and unacceptable in accordance with a high level of physical health and safety protection, is prohibited.

2—The Public Administration services that, during the exercise of their functions, become aware of the existence of goods or services prohibited under the terms of the previous number shall report such existence to the appropriate entities in charge of supervising the market.

3—The appropriate Public Administration bodies shall order the apprehension and removal of goods from the market and prohibit the rendering of services that may cause danger to the physical health and safety of consumers when used under normal or reasonably foreseeable conditions.

Article 6.

Right to receive training and education

1—The State is responsible for promoting a consumer education policy via insertion in school programmes and activities, as well as in continuing education initiatives, materials related to consumption and the rights of consumers, using, for instance, the appropriate technological resources of the information society.

2—The State, the Autonomous Regions and the local municipalities are responsible for developing initiatives and adopting consumer training and education measures, namely via:

- a) Implementation of programmes and activities related to consumer education in the educational system, particularly at the elementary and secondary level;
- b) Support of initiatives that are promoted in this area by consumer associations;
- c) Promotion of continuing education initiatives involving training and awareness for consumers in general;
- d) Promotion of a national training policy for instructors and technicians specialised in consumption.

3—Educational programmes broadcast over the public radio and television networks shall include air time dedicated to consumer education and training.

4—Telematic resources shall also be used during consumer training, namely via national and international information networks, thereby stimulating the use of such resources by the public and private sector.

Article 7.

General right to information

1—The State, Autonomous Regions, and local municipalities shall be responsible for developing initiatives and adopting measures directed at generally informing the consumer, namely via:

- a) The support of information initiatives promoted by consumer associations;
- b) Creation of municipal consumer information services;
- c) Establishment of municipal consumer councils that include representatives from associations that represent economic and consumer interests;
- d) Creation of databases and digital archives accessible on a national scale within the scope of consumer rights, with the aim of diffusing general and specific information;
- e) Creation of databases and digital archives unconditionally accessible, containing information on consumer rights.

2—Public radio and television networks shall reserve airtime under the terms to be defined by the law, for promoting consumer rights and interests.

3—Consumer information shall be provided in Portuguese.

4—Advertising shall be licit, unequivocally identified and it shall be truthful and respect consumer rights.

5—The concrete and objective information contained in the advertising messages for a particular good, service or right shall be considered part of the

content of the contracts that may be signed following their broadcast. Any contractual clauses that run contrary to this information shall be considered void.

Article 8. Right to information in particular

1—The supplier of goods or services shall, both in terms of negotiations and contract signing, clearly, objectively and adequately inform the consumer of the characteristics, composition, and price of the good or service, as well as of the duration of the contract, guarantees, and deadlines for delivery and assistance following the legal business transaction.

2—The producer, manufacturer, importer, distributor, packager, and storer also have the obligation to inform. Each link in the production-consumption chain shall be able to comply with his obligation to inform the next link in the chain right up until the consumer, which is the final destination of the information.

3—Consumer health and safety risks that may result from the normal usage of dangerous goods or services shall be reported clearly, completely and adequately to the potential consumer by the supplier or person rendering the services.

4—When there is lack of information or insufficient, illegible or ambiguous information that may compromise the proper usage of the goods or service, the consumer may retract the contract for acquisition or supply within a period of seven business days from the date of reception of the good or the date the contract for the rendering of services was signed.

5—Any supplier of goods or services who does not comply with his duty to inform shall be responsible for the damages he may cause the consumer. The remaining links in the chain of production and distribution that have also failed to fulfil their duty to inform shall be held jointly responsible.

6—The duty to inform may not be negated or limited for reasons related to trade secrets not provided for by law, nor can it prejudice the legal regimes of the general contractual clauses or other legislation that is more favourable to the consumer.

Article 9. Right to the protection of economic interests

1—The consumer has the right to have his economic interests protected, ensuring that his legal consumer relationships guarantee material equality of the participants, loyalty and good faith during the preliminary phases, drafting and enforcement of the contracts.

2—In order to prevent abuses resulting from pre-drawn contracts, the suppliers of goods and services are bound to:

- a) To clearly and precisely supply the general contractual clauses in easily legible print, as well as those clauses pertaining to individual contracts;

- b) Failure to include clauses in individual contracts that may originate in significant imbalance to the detriment of the consumer.

3—Failure to comply with the provisions of the previous number shall be subject to the regime of the general contractual clauses.

4—The consumer shall not be obliged to pay for goods or services that he has not previously and expressly ordered or requested or which do not conform with a valid contract. Moreover, he is not responsible for returning the goods or services or making compensation for them, nor is he responsible for the risk of the object perishing or deteriorating.

5—The consumer has the right to receive after-sales assistance related to the supply of parts and accessories for the normal average duration period of the products supplied.

6—The supplier of goods or services is prevented from making the supply of a good or service dependant on the acquisition or supply of another good or service.

7—Notwithstanding more favourable regimes, those contracts that result from the initiative of the supplier of the goods or services outside of the commercial establishment via correspondence or similar means are subject to the right of retraction by the consumer within a period of seven business days from the date of reception of the good or conclusion of the contract for the supply of services.

8—The government is responsible for adopting appropriate measures in order to ensure the equality of the legal relationships that deal with essential goods and services, namely water, electrical power, gas, telecommunications and public transportation.

9—The government is responsible for adopting measures that prevent consumers' interests from being harmed in terms of sales methods that hinder conscious evaluation of the clauses included in individual contracts or that hinder the making of free, enlightened and pondered decisions to contract.

Article 10.

Right of prevention and inhibitory action

1—The right of inhibitory action destined to prevent, correct or terminate practices that harm the consumer rights protected by the present law is guaranteed, namely practices that:

- a) Endanger physical health and safety;
- b) Employ prohibited general clauses;
- c) Consist of commercial practices expressly prohibited by law.

2—The sentence delivered in an inhibitory action may be accompanied by a compulsory monetary sanction pursuant to article 829.-A of the Civil Code, notwithstanding the indemnification that may be payable.

Article 11.

Procedural form of inhibitory action

1—An inhibitory action has a value equivalent to that of the jurisdiction of the Court of Appeals plus PTE 1.00. It follows the terms of the summary procedure and is exempt from costs.

2—The decision shall specify the scope of the abstention or correction, namely via specific reference to its content and indication of the type of situations it refers to.

3—Once it passes into judgment, the condemnatory decision shall be published at the expense of the offender according to the terms stipulated by the judge, and shall be registered into service according to the terms of the regulatory legislation of the present law.

4—When dealing with general contractual clauses, articles 31. and 32. of Decree-Law no. 446/85 of 25 October shall also apply in accordance with the drafting formulated by Decree-Law no. 220/95 of 31 August.

Article 12. Right to repair of damages

1—Consumers who receive a defective object, unless they have been previously informed of its defect before signing the contract, can demand, regardless of the fault of the supplier of the good, the repair of the good or its replacement, or the reduction of its price or termination of the contract.

2—Consumers shall report defects within a period of 30 days with respect to moveable goods, within a period of one year in terms of real estate, following knowledge of the defect and within the guarantee periods stipulated in nos. 2 and 3 of article 4. of the present law.

3—The rights granted to the consumer under the terms of no. 1 shall expire upon end of the time periods referred to in the previous number if the consumer has not lodged any complaints, or six months from the time the complaint is made, without counting the time spent with repair operations.

4—Notwithstanding the provisions of the previous number, the consumer has the right to be compensated for property damage and other damages that result from the supply of defective goods or services.

5—The manufacturer is responsible, regardless of fault, for the damage caused by the defective products he puts on the market, pursuant to the terms of the law.

Article 13. Active legitimacy

1—The following persons may legitimately take the actions referred to in the previous articles:

- a) Consumers that are directly harmed;
- b) Consumers and consumer associations, even if they are not directly harmed, pursuant to the terms of Law no. 83/95 of 31 August;

- c) The Public Prosecutor and the Consumer Institute, when homogeneous individual interests, either collective or diffuse, are at stake.

Article 14.
Right to legal protection
and right to accessible and prompt justice

1—The bodies and departments of the Public Administration are responsible for promoting the creation of and support of arbitration centres with the aim of reducing consumer conflicts.

2—Consumers are guaranteed the right of exemption from prepayment of costs for the proceedings in which they seek protection of their interests or rights, penalties for non-compliance by the supplier of the goods or services or the repair of losses or damages resulting from the illicit facts or the objective responsibility stipulated under the law, as long as the amount of the suit does not exceed that of a court of first instance.

3—The persons who initiated the proceedings stipulated in the previous number shall be exempt from paying costs in case of partial execution of the respective action.

4—In the event of total failure, the complainants shall pay monetary amounts to be established by the judge, ranging between one-tenth and the total of the costs that normally would be due, taking into account the economic situation of the complainants and the formal or substantive reason for the withdrawal.

Article 15.
Right of participation via representation

The right of participation consists of the prior hearing and consultation, within a reasonable period, of the consumer associations with respect to measures that affect legally protected consumer rights or interests.

CHAPTER III
Injunctive character of consumer rights

Article 16.
Nullity

1—Notwithstanding the general contractual clauses regime, any agreement or contractual provision that excludes or restricts the rights attributed by the present law shall be considered null and void.

2—The nullity referred to in the previous number may only be invoked by the consumer or his representatives.

3—Consumers may opt to maintain the contract in force when some of its clauses are null and void pursuant to the terms of no. 1.

CHAPTER IV
Consumer rights protection and promotion institutions

Article 17.
Consumer associations

1—Consumer associations are non-profit legal entities whose main objective is the protection of the rights and interests of consumers in general or of the consumers that are associated with them.

2—Consumer associations may operate on a national, regional or local scale, in accordance with the area they have chosen to carry out their activity. They must have at least 3000, 500 or 100 members respectively.

3—Consumer associations may be of general or specific interest:

- a) Consumer associations are considered of general interest when their legal objective is the protection of consumer rights in general and whose bodies are freely elected via universal secret ballot cast by all its members;
- b) Consumer associations that deal with consumers of specific goods or services are deemed to be of specific interest. Their governing bodies shall be freely elected via universal secret ballot cast by all its members;

4—Consumer cooperatives are treated similarly to consumer associations for the purposes of the present legal instrument.

Article 18.
Consumer associations rights

1—Consumer associations are entitled to the following rights:

- a) Social partner status in matters dealing with consumer policies, permitting appointment of representatives to consultative or cooperative bodies that deal with the subject matter;
- b) Airtime on radio and television under the same terms as associations that have social partner status;
- c) The right to represent consumers during the public consultative and hearing process to be held as part of the decision-making process in matters that may affect consumers;
- d) The right to solicit, from the appropriate administrative and legal authorities, apprehension and removal of goods from the market or the prohibition of services that are harmful to the rights and interests of consumers;
- e) The right to correct and respond to the content of advertising messages related to goods and services placed on the market, as

- well as request, from the appropriate authorities, that false or abusive advertising be withdrawn from the advertising market;
- f) The right to consult cases and other existing elements at public service departments of the central, regional or local public administration that contain data concerning the characteristics of consumer goods and services, as well as disclose information necessary to the protection of consumer interests;
 - g) The right to receive clarifications regarding the pricing of goods and services, whenever such is requested;
 - h) The right to participate in regulatory procedures involving prices of essential goods and services, namely with respect to water, energy, gas, transportation, and telecommunications, as well as request clarifications regarding applied tariffs and the quality of services in order to express an opinion on them;
 - i) The right to request chemical analyses, from official laboratories, regarding the composition, state of conservation or other characteristics of goods and services destined for public consumption, as well as make public the corresponding results. These services shall be offered at cost price.
 - j) The right to presumption of good faith regarding the information they provide;
 - l) Right to popular action;
 - m) Right to complain and denounce, as well as the right to act as assistants in a penal procedure and accompany summary offence procedures, whenever requested, by presenting memorandums, technical opinions, suggestion of tests and other testing diligences up until the time the case is ready for final decision;
 - n) Right to be exempted from payment and prepayment of costs, and stamp taxes, pursuant to the terms of Law no. 83/95 of 32 August;
 - o) Right to receive support from the State via the central, regional and local public administrations to execute its objectives, namely the exercise of its activities regarding training, information and representation of consumers;
 - p) Right to receive tax benefits identical to those granted to or to be granted to private social aid institutions.

2—The rights mentioned in items a) and b) of the previous number are exclusively granted to national-scale consumer associations of general interest

3—The right referred to in item h) of no. 1 is granted to associations of general or specific interest when such an interest is directly related to the good or service that is the object of the price regulation or to non-regional or non-local services, and is exclusively granted to national-scale associations.

Article 19.

Proper conduct agreements

1—Consumer associations may negotiate, with professionals or their representative organisations, proper conduct agreements aimed at governing relationships between parties.

2—The agreements referred to in the previous number may not violate the law's imperative provisions, namely in terms of the law of competition, nor may they contain provisions that are less favourable to consumers than those stipulated by law.

3—Proper conduct agreements signed between consumer associations of general interest shall bind the professionals or represented parties to all the consumers, whether or not they are members of the intervening associations.

4—The aforementioned agreements shall be subject to publication, namely via posting at commercial establishments, notwithstanding other more detailed informational means.

Article 20. Public Prosecutor

The Public Prosecutor is responsible for defending consumers within the scope of the present law and within the framework of the respective jurisdictions, intervening in administrative and civil actions involving the protection of individual homogenous interests, as well as the protection of collective or diffuse individual consumer interests.

Article 21. Consumer Institute

1—The Consumer Institute shall be the public institute designated to promote a policy of consumer rights protection. It is also responsible for coordinating and executing measures related to consumer protection, information and education, as well as those measures that support consumer organisations.

2—During the execution of its attributed responsibilities, the Consumer Institute is considered a public authority with the following powers:

- a) Request and obtain from suppliers of goods and services and from the entities referred to in no. 2 of article 2., via justified request, information, documents and whatever diligences it deems necessary for the protection of the rights and interest of consumers;
- b) Participate in the definition of the public radio and television service with respect to consumer information and education;
- c) Legally represent the collective and diffuse rights and interests of consumers;
- d) Order precautionary termination, suspension or interdiction measures with respect to the supply of goods and services, which regardless of evidence of real loss, due to their object, form or purpose may entail risks to the health, safety and economic interests of consumers.

Article 22.
National Consumer Council

1—The National Consumer Council is an independent consultative body that conducts pedagogical and preventive actions, intervening in all subjects related to consumer interests.

2—The Council is responsible for:

- a) Making declarations regarding all consumer matters that are submitted to it for assessment by the government, the Consumer Institute, by consumer associations or by entities represented in the Council;
- b) Issue prior opinions regarding relevant legislative initiatives related to consumption;
- c) Study and propose the definition of general and sector specific political and strategic lines of action regarding consumption to the government;
- d) Issue opinions regarding the report and plan of annual activities of the Consumer Institute;
- e) Approve recommendations to public or private entities or consumers regarding subjects, actions or situations of interest to the protection of consumer rights.

3—The government, via the Consumer Institute, shall provide the necessary administrative, technical and logistical support.

4—The government is responsible, subject to the appropriate legal instrument, for regulating the functioning, composition, and manner of appointing the members of the National Consumer Council. Under no circumstances may there be a consumer representation that is less than 50% of the total amount of members of the Council.

CHAPTER V
Final provisions

Article 23.
Self-employed professionals

The responsibility regime for services rendered by self-employed professionals shall be governed by specific laws.

Article 24.
Revocatory norm

1—Law no. 29/81 of 22 August is hereby revoked.

2—Any references made to Law no. 29/81 of 22 August shall be considered references to the present law.

Article 25.

Validity

The regulations required for the execution of the present law shall be published within a period of 180 days from the date the present law comes into force.

Promulgated on 4 July 1996.

To be published.

The President of the Republic, JORGE SAMPAIO.

Ratified on 7 July 1996.

The Prime Minister, *António Manuel de Oliveira Guterres*.