

## Consumer Protection Act

Passed 15 December 1993

(RT<sup>1</sup> I 1994, 2, 13; consolidated text RT I 1999, 35, 450),

entered into force 1 January 1994,

amended by the following Act:

19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387;

19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375;

05.06.2002 entered into force 01.07.2002 - RT I 2002, 53, 336;

27.03.2002 entered into force 01.06.2002 - RT I 2002, 35, 214;

23.01.2002 entered into force 01.07.2002 - RT I 2002, 18, 97;

05.06.2001 entered into force 01.10.2001 - RT I 2001, 56, 332;

16.05.2001 entered into force 11.06.2001 - RT I 2001, 50, 289;

09.05.2001 entered into force 01.01.2002 - RT I 2001, 50, 283;

19.06.2000 entered into force 01.01.2001 - RT I 2000, 59, 379;

16.05.2000 entered into force 05.06.2000 - RT I 2000, 40, 252;

15.12.1999 entered into force 01.01.2000 - RT I 1999, 102, 907.

### Chapter I

#### General Provisions

##### § 1. Purpose of Act

(1) The purpose of this Act is to safeguard the protection of consumer rights in Estonia.

(2) (Repealed - 05.06.2002 entered into force 01.07.2002 - RT I 2002, 53, 336)

(3) The provisions of the Administrative Procedure Act (RT I 2001, 58, 354; 2002, 53, 336; 61, 375) apply to administrative proceedings prescribed in this Act, taking account of the specifications provided for in this Act.

(19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375)

##### § 2. (Repealed - 05.06.2002 entered into force 01.07.2002 - RT I 2002, 53, 336)

##### § 3. Definitions

In this Act, the following definitions are used as follows:

1) "consumer" means a natural person who consumes goods or services for private use outside his or her economic or professional activity;

(05.06.2002 entered into force 01.07.2002 - RT I 2002, 53, 336)

2) (Repealed - 05.06.2002 entered into force 01.07.2002 - RT I 2002, 53, 336)

3) (Repealed - 05.06.2002 entered into force 01.07.2002 - RT I 2002, 53, 336)

4) "mandatory requirement" means a requirement for goods or services or for trade therein which is established by legislation and compliance with which is mandatory;

(05.06.2002 entered into force 01.07.2002 - RT I 2002, 53, 336)

5) "trading" means the offer or sale of goods or services;

(21.01.99 entered into force 15.02.99 - RT I 1999, 10, 156)

6) "sales document" means an activity licence, trade licence or other document issued by a state or local government agency, and a selling permit issued by the possessor of a place of sale, the existence of which arising from legislation is a prerequisite for trading.

(21.01.99 entered into force 15.02.99 - RT I 1999, 10, 156; 27.03.2002 entered into force 01.06.2002 - RT I 2002, 35, 214)

##### § 4. Fundamental consumer rights

The fundamental consumer rights are the following:

- 1) to receive goods and services which are at least in compliance with the mandatory requirements;
- 2) to be protected from goods and services which are dangerous to their life, health or property, or to the environment, or the use or owning of which is prohibited;
- 3) to obtain necessary and correct information in order to make a conscious choice from among the offered goods and services;
- 4) to demand that their interests are taken into consideration and to be represented through consumers' federations and associations upon making decisions on issues regarding consumer policy;
- 5) to demand, pursuant to the procedure provided by law, state protection upon violation of their rights;

(05.06.2002 entered into force 01.07.2002 - RT I 2002, 53, 336)

6) (Repealed - 05.06.2002 entered into force 01.07.2002 - RT I 2002, 53, 336)

§ 5. (Repealed - 05.06.2002 entered into force 01.07.2002 - RT I 2002, 53, 336)

## Chapter II

### Safeguarding of Consumer Rights

#### § 6. Requirements for goods and services

(1) Goods and services shall be harmless to the health, life and property of consumers and to the environment if used for intended purposes, shall have the characteristics of use normally presumed by consumers, and shall be in compliance with all other mandatory requirements applicable to the given goods or services.

(2) Goods and services sold to consumers shall be provided with information in Estonian, including marking and instructions for use, according to the mandatory requirements.

(3) Goods or services which are technically complicated, require special operating skills or are potentially dangerous shall in addition to the provisions of subsection (2) of this section be provided with the corresponding cautions, and main information concerning the characteristics of use and composition in Estonian, and with internationally used or generally recognised symbols.

(3<sup>1</sup>) Special requirements for the labelling on the consumer packaging of alcoholic beverages shall be provided for in the Alcohol Act (RT I 2002, 3, 7; 63, 387).

(27.03.2002 entered into force 01.09.2002 - RT I 2002, 35, 214)

(4) Used goods and defective goods or services may be sold pursuant to the established procedure and on the condition that the consumer is previously notified of the corresponding characteristics of the goods or services, and that the goods or services are harmless to the life, health and property of the consumer and to the environment. As an exception, it is permitted to sell dangerous goods for processing or destruction to an undertaking holding corresponding activity licence.

(15.12.1999 entered into force 10.01.2000 - RT I 1999, 102, 907)

(5) Trade in counterfeit goods is not permitted even if an intermediary, seller or consumer is previously notified of the corresponding specific character of the goods.

(21.01.99 entered into force 15.02.99 - RT I 1999, 10, 156; 15.12.1999 entered into force 10.01.2000 - RT I 2000, 102, 907)

#### § 7. Obligations of sellers and service providers relating to consumer protection

Upon sale of goods or provision of services or upon offer of goods or services to consumers, sellers and service providers shall adhere to the general good ethics and practice of trade and are, *inter alia*, required to:

- 1) (Repealed);

- 2) provide necessary and correct information in Estonian concerning the characteristics, price, origin, conditions for use, etc. of the offered goods or services;
- 3) comply with the mandatory rules and requirements for trade, service and health protection and other mandatory rules and requirements;
- 4) (Repealed);
- 5) (Repealed);
- 6) (Repealed);
- 7) ensure the correctness of accounting and the accuracy of measurement;
- 8) (Repealed);
- 9) (Repealed);
- 10) (Repealed);
- 11) (Repealed);
- 12) define themselves as legal and/or natural persons in a manner clearly understandable to consumers;
- 12<sup>1</sup>) upon receipt of goods, verify the expiry dates of goods, the correspondence of labelling to the accompanying documents and the compliance of the accompanying documents with the established requirements;
- 13) keep the accompanying documents and sales documents of goods or services (also documents certifying quality) in the place of sale and submit these at the request of a competent person exercising supervision;
- 14) upon obtaining the corresponding information, immediately notify the competent supervisory agency, or if this is impossible, give notice through the media, of goods or services which upon intended use are dangerous to the health, life or property of consumers or to the environment;
- 15) (Repealed).

(05.06.2002 entered into force 01.07.2002 - RT I 2002, 53, 336)

#### § 8. Prohibitions and restrictions

(1) Sellers and service providers are prohibited to:

(05.06.2002 entered into force 01.07.2002 - RT I 2002, 53, 336)

- 1) restrict the consumer rights provided for in this Act;
- 2) illegally restrict or favour the sale of goods or services, influence consumers by misleading advertising, disparagement of goods or services of other sellers or service providers, prohibited use of a firm name, trade mark or other characteristics, or in any other manner which is contrary to the general good ethics and practice of trade;

(05.06.2002 entered into force 01.07.2002 - RT I 2002, 53, 336)

- 3) sell packaged goods without marking;
- 4) sell goods the expiry date of which indicated by the producer has expired;
- 5) accept for sale goods, the wholesale trade in which is a licensed area of activity, from an intermediary which does not hold a corresponding activity licence.

(21.01.99 entered into force 15.02.99 - RT I 1999, 10, 156)

(2) Prohibitions and restrictions concerning advertising, sale or production of tobacco products, spirit drinks, weapons, ammunition, narcotic and psychotropic substances, medicinal products and other goods and services which damage or may damage consumers shall be provided by a separate Act, or in the cases prescribed by law, by a regulation of the Government of the Republic.

(04.12.97 entered into force 03.01.98 - RT I 1997, 93, 1561)

(3) (Repealed - 21.01.99 entered into force 15.02.99 - RT I 1999, 10, 156)

### Chapter III

#### Organisation of Consumer Protection

##### § 9. Consumer associations and federations of consumers

(1) In order to protect their rights, consumers have the right to form consumer associations the procedure for the foundation and activities of which is provided for in an Act regulating non-profit associations of natural persons. Consumer associations may found federations of consumers and central federations of consumers.

(2) The authorised representative(s) of consumer associations and federations of consumers have the right to:

1) monitor the performance of duties of sellers or service providers, including price formation, together with competent officials or independently;

(05.06.2002 entered into force 01.07.2002 - RT I 2002, 53, 336)

2) prepare reports concerning detected violations and forward the reports to officials of a consumer protection authority or to competent authorities;

3) represent consumers in relations with sellers or service providers, in the Consumer Protection Board, courts and other agencies.

(05.06.2002 entered into force 01.07.2002 - RT I 2002, 53, 336)

##### § 10. Activity of rural municipality and city councils related to consumer protection

(1) Rural municipality and city councils may form units which engage in consumer protection.

(2) A rural municipality or city council shall authorise an official (officials) to engage in consumer protection; the authorised officials have the right to:

1) monitor compliance with this Act;

2) make verbal warnings or issue precepts provided for in § 15 of this Act;

3) (Repealed - 19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

##### § 11. State consumer protection

(1) The Government of the Republic organises state consumer protection through ministries and other government agencies.

(26.06.96 entered into force 26.07.96 - RT I 1996, 49, 953)

(2) The following are authorised to exercise state supervision related to consumer protection:

1) the Consumer Protection Board;

1<sup>1</sup>) (Repealed - 05.06.2001 entered into force 01.10.2001 - RT I 2001, 56, 332)

2) (Repealed - 27.03.2002 entered into force 01.06.2002 - RT I 2002, 35, 214)

3) the Agency of Medicines – with respect to supervision over the manufacture, distribution, wholesale trade, issue from pharmacies and advertising of medicinal products;

4) the Health Protection Inspectorate – with respect to supervision over compliance with the health protection requirements for the standards provided for in technical rules or made mandatory by legislation, and over documents equivalent to such standards;

5) the Veterinary and Food Board – with respect to supervision over compliance with the mandatory requirements for the quality and safety of food;

(25.02.1999 entered into force 01.01.2000 - RT I 1999, 30, 415; 16.05.2000 entered into force 05.06.2000 - RT I 2000, 40, 252)

5<sup>1</sup>) the Plant Production Inspectorate – with respect to supervision over compliance with the requirements established in the Feedingstuffs Act;

(23.01.2002 entered into force 01.07.2002 - RT I 2002, 18, 97)

6) the Police Board – with respect to prevention of circulation of counterfeit goods, and supervision over compliance with the requirements for trading, the rules for trading in markets and streets, and the rules for taxi service;

(21.01.99 entered into force 15.02.99 - RT I 1999, 10, 156)

7) county doctors – with respect to supervision over illegal medical treatment, use of medicinal products and advertising thereof, and treatment according to state licences;

8) other supervisory agencies pursuant to law.

(26.06.96 entered into force 26.07.96 - RT I 1996, 49, 953)

(3) In order to safeguard the consumer rights provided for in this Act, the Government of the Republic shall establish the general rules for shops, the general rules for catering, the general rules for trading in markets and streets, the services regulations and the rules for the labelling of products; the Government of the Republic may also establish requirements for the provision of information on and the disclosure of prices of certain goods or services and for the labelling of goods. On the basis of the general rules approved by the Government of the Republic, local governments have the right to establish the implementing procedure for trading in markets and streets based on local conditions. The Government of the Republic or a Minister authorised by the Government of the Republic may establish the methods for determination of the composition or properties of goods required upon labelling of certain goods.

(05.06.2002 entered into force 01.07.2002 - RT I 2002, 53, 336)

§ 12. Rights and obligations of Board engaged in state consumer protection

(1) The Consumer Protection Board has the right to:

1) make proposals to pass or amend legislation of general application related to consumer protection;

2) monitor compliance with this Act without any interference and without prior notice, and if necessary, make purchases for the purpose of monitoring compliance with law and take samplings free of charge by random selection;

(21.01.99 entered into force 15.02.99 - RT I 1999, 10, 156)

3) settle applications and complaints submitted to the Board concerning violations of consumer rights;

(05.06.2002 entered into force 01.07.2002 - RT I 2002, 53, 336)

3<sup>1</sup>) demand, in the name of the Republic of Estonia, by a court proceeding that a third party terminate activities in violation of consumer rights if the activities of the third party affect the common interests of an unspecified number of consumers;

(05.06.2002 entered into force 01.07.2002 - RT I 2002, 53, 336)

4) make verbal warnings or issue precepts provided for in § 15 of this Act;

5) impose administrative liability and request bringing of criminal charges against a person for violation of the Consumer Protection Act;

(19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

6) seal goods which are dangerous or without accompanying documents or sales documents, and request confiscation of such goods;

(19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

7) apply for the revocation of an activity licence or trade licence or deprivation of the right to trade in certain goods or services set out in the trade licence and receive a reasoned response regarding the result of the review of an application from an appropriate official;

(27.03.2002 entered into force 01.06.2002 - RT I 2002, 35, 214)

8) inform the public of the activities of sellers and service providers which damage consumers;

9) request relevant documents, materials and other necessary information from natural and legal persons;

10) allow representatives of consumer associations to participate in the resolution of issues related to consumer protection;

11) provide information related to consumer protection to consumers and consumer associations.

(2) For inspection, officials of the Consumer Protection Board have the right of free access to the offices, facilities and vehicles transporting goods of consumers or of opening means of transport.

(05.06.2002 entered into force 01.07.2002 - RT I 2002, 53, 336)

(3) The rights listed in clauses (1) 1), 2), 3), 3<sup>1</sup>), 10) and 11) of this section are at the same time the obligations of the Consumer Protection Board. Upon possessing information concerning goods or services which upon intended use are dangerous to the health, life or property of the consumers, or to the environment, the Consumer Protection Board is required to take all possible measures to prevent the sale of such goods or provision of such services and, if necessary, inform the public thereof through the media.

(05.06.2002 entered into force 01.07.2002 - RT I 2002, 53, 336)

(4) The rights listed in subsections (1) and (2) of this section and clauses 15 (1) 1) and 2) also apply to other agencies which exercise state supervision related to consumer protection pursuant to this Act or other Acts and to the officials of such agencies.

(26.06.96 entered into force 26.07.96 - RT I 1996, 49, 953; 19.06.2000 entered into force 01.01.2001 - RT I 2000, 59, 379)

(5) The rights listed in clauses (1) 1)-3) and 6)-11) and subsection (2) of this section extend to officials specified in subsection 10 (2) of this Act.

(27.03.2002 entered into force 01.06.2002 - RT I 2002, 35, 214)

#### § 13. Maintenance of business secrets

The competent officials of a consumer protection authority and representatives of consumer associations and federations of consumers are required to maintain business secrets which have become known to them in the course of performing duties related to consumer protection.

#### § 14. Consumer's right to protection

(1) In order to protect their rights, consumers have recourse to the city governments or rural municipality governments, the Consumer Protection Board or courts whether directly or through consumer associations, and participate in the hearing of their applications or complaints.

(26.06.96 entered into force 26.07.96 - RT I 1996, 49, 953)

(2) Unless otherwise provided by law, applications and complaints submitted by consumers shall be settled within one month.

#### Chapter III<sup>1</sup>

(27.03.2002 entered into force 01.06.2002 - RT I 2002, 35, 214)

#### Trading on Basis of Trade Licence

(27.03.2002 entered into force 01.06.2002 - RT I 2002, 35, 214)

#### § 14<sup>1</sup>. General principles

(1) In the cases prescribed by an Act or by legislation established by the Government of the Republic regulating trading, a person shall hold a trade licence for trading at a certain place of business.

(2) A trade licence must also be held if trading on the basis of a selling permit is organised on the market or in the street.

(3) A trade licence need not be held for trading in motor vehicles, on board watercraft or aircraft used for international carriage of passengers.

wishes to engage in peddling, the area where the trader may engage in peddling shall be indicated on the trade licence instead of the address of the place of business.

(4) A trade licence for trading at a public event shall be issued with the written consent of the organiser of the public event. Upon issue of a trade licence for trading in a mobile shop, if the places of sale are located in the territory of another local government, such places of sale shall be entered on the trade licence if the rural municipality or city government of the location of the places of sale has granted its written consent therefor.

(27.03.2002 entered into force 01.06.2002 - RT I 2002, 35, 214)

#### § 14<sup>6</sup>. Refusal to issue trade licence

(1) Issue of a trade licence shall be refused:

- 1) upon failure to submit an application in accordance with the requirements or upon failure to pay the state fee;
- 2) upon failure to grant written consent provided for in subsection 14<sup>5</sup> (4) of this Act if grant thereof is prescribed;
- 3) upon submission of false information;
- 4) if goods or services, the place of business or the conditions thereof, the form of sale or anything else related to the planned activity is clearly contrary to the provisions of legislation;
- 5) if operation at the place of business or during the time of trading indicated in the application and trading in goods or services indicated in the application may justifiably damage the interests of the persons residing in the immediate vicinity of the place of business;
- 6) if the previous trade licence of an applicant which was issued for trading at the same place of business is revoked on the bases provided for in subsection 14<sup>9</sup> (2) of this Act and less than six months has passed after the entry into force of the corresponding decision;
- 7) in other cases prescribed by legislation.

(2) A copy of an administrative act issued concerning a refusal to issue a trade licence shall be sent to the person who submitted the corresponding application not later than on the working day following the date of making the relevant decision.

(3) A refusal to issue a trade licence does not deprive the applicant of the right to apply for a trade licence again.

(27.03.2002 entered into force 01.06.2002 - RT I 2002, 35, 214)

#### § 14<sup>7</sup>. Validity of trade licence

(1) A trade licence shall be issued for an unspecified term.

(2) The provisions of subsection (1) of this section do not apply if:

- 1) a trade licence is issued for trading at a public event, in which case the term of the trade licence shall not exceed the duration of the public event;
- 2) a trade licence is issued for seasonal trading, in which case the term of the trade licence shall not exceed one season;
- 3) a trade licence is issued for trading on an area leased for a specified term, in which case the term of the trade licence shall be the same as the term of the commercial lease contract.

(27.03.2002 entered into force 01.06.2002 - RT I 2002, 35, 214)

#### § 14<sup>8</sup>. Amendment of trade licence

(1) On the basis of a request of the holder of a trade licence, the issuer of the trade licence shall amend the trade licence in connection with changes in the data entered on the trade licence. The above-mentioned does not apply to cases where the location of the place of business changes and, therefore, issue of a new trade licence shall be applied for. The issuer of a trade licence may refuse to satisfy, completely or in part, an application for amendment of the trade licence on the

bases provided by legislation. A trade licence shall be amended or a decision on refusal to amend a trade licence shall be made within ten working days after receipt of an application for amendment of the trade licence. A copy of an administrative act issued concerning refusal to amend a trade licence shall be sent to the holder of the trade licence not later than on the working day following the date of making the relevant decision. Refusal to amend a trade licence does not deprive the holder of the trade licence of the right to apply for amendment of the trade licence again.

(2) The issuer of a trade licence shall amend the trade licence if, arising from legislation or a court judgment or ruling which has entered into force, the bases for restriction of the scope of the trade licence exist. An amended trade licence shall be valid as of the due date indicated in the administrative act issued concerning the amendment of the trade licence. A copy of the administrative act issued concerning amendment of the trade licence and the amended trade licence shall be sent to the holder of the trade licence not later than on the working day following the date of making the relevant decision.

(3) No state fee is charged for amendment of a trade licence.

(27.03.2002 entered into force 01.06.2002 - RT I 2002, 35, 214)

§ 14<sup>9</sup>. Revocation of trade licence

(1) The issuer of a trade licence shall revoke the licence if:

- 1) so requested by the holder of the trade licence;
- 2) the basis for revocation of the trade licence arises from a court judgment or ruling which has entered into force.

(2) The issuer of a trade licence may revoke the licence if:

- 1) inaccurate information was submitted upon application for the trade licence;
- 2) tax laws are materially or repeatedly violated with regard to trading or organisation of trading at the given place of business;
- 3) the requirements for trading or the requirements for the organisation of trading are materially or repeatedly violated;
- 4) the goods or services which are traded may only be traded upon existence of a corresponding notation on the trade licence and the corresponding right has not been granted or has been revoked;
- 5) the holder of the trade licence has not operated at the place of business indicated on the trade licence for 45 or more consecutive days, except if the issuer of the trade licence has been informed of the temporary suspension of trading for more than 45 days in writing;
- 6) in other cases prescribed by legislation.

(3) Revocation of a trade licence on the bases provided for in clauses (2) 1)-3) of this section is not applied if, arising from the provisions of subsection 14<sup>10</sup> (1) of this Act, it is sufficient to revoke the right to trade in certain goods or services.

(4) Revocation of a trade licence enters into force on the due date indicated in the administrative act issued concerning the matter.

(5) A copy of an administrative act which revokes a trade licence shall be promptly sent to a person with regard to whose right the decision is made.

(27.03.2002 entered into force 01.06.2002 - RT I 2002, 35, 214)

§ 14<sup>10</sup>. Notation on trade licence which grants right to trade in certain goods or services or prohibits trading in certain goods or services



(1) Law may establish that trading in certain goods or services shall be permitted only if there is a corresponding notation on the trade licence and at the same time law may provide the bases for suspension or revocation of the corresponding right.

(2) Law may establish that a corresponding notation concerning prohibition on trading in certain goods or services shall be made on a trade licence.

(27.03.2002 entered into force 01.06.2002 - RT I 2002, 35, 214)

#### Chapter IV

#### Liability

(19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

§ 15. Precepts upon violation of Consumer Protection Act

(1) Upon violation of §§ 6-8 of this Act, officials of the Consumer Protection Board have the right to issue written mandatory precepts to sellers, service providers, producers or intermediators concerning the following:

1) termination of a violation and restoration of initial situation;

2) suspension of the sale of goods or services which are not in compliance with the mandatory requirements or concerning which there are no accompanying documents or sales documents;

3) public apologies to consumers.

(05.06.2002 entered into force 01.07.2002 - RT I 2002, 53, 336)

(2) (Repealed - 26.06.96 entered into force 26.07.96 - RT I 1996, 49, 953)

(3) Upon failure to comply with a precept specified in subsection (1) of this section, an official of the Consumer Protection Board may impose penalty payment pursuant to the procedure provided for in the Substitutive Enforcement and Penalty Payment Act.

(09.05.2001 entered into force 01.01.2002 - RT I 2001, 50, 283)

(4) The upper limit of penalty payment provided for in subsection (3) of this section is 10 000 kroons.

(09.05.2001 entered into force 01.01.2002 - RT I 2001, 50, 283)

§ 16. (Repealed - 19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

§ 17. (Repealed - 19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

§ 17<sup>1</sup>. (Repealed - 19.06.2000 entered into force 01.01.2001 - RT I 2000, 59, 379)

§ 18. (Repealed - 19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

§ 18<sup>1</sup>. (Repealed - 19.06.2000 entered into force 01.01.2001 - RT I 2000, 59, 379)

§ 18<sup>2</sup>. Trade in goods or services which are dangerous to health, life or property of consumers or to environment

(1) Trade in goods or services which have been declared dangerous to the health, life or property of consumers or to the environment on the basis of legislation is punishable by a fine of up to 300 fine units or by detention.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 50 000 kroons.

(19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

§ 18<sup>3</sup>. Failure to give notice or delayed giving notice of goods or services which are dangerous to health, life or property of consumers or to environment

Failure to give notice or delayed giving notice, by a seller or service provider, of goods or services which upon their intended use are dangerous to the health, life or property of consumers or to the environment is punishable by a fine of up to 200 fine units.

(3) The same act, if committed by a legal person, is punishable by a fine of up to 30 000 kroons.

(19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

§ 18<sup>4</sup>. Violation of consumer protection requirements for goods or services

(1) A seller or service provider who violates the requirements established for the safety, fitness for purpose, guarantee, expiry date, marking or instruction manuals of goods or services, the requirements for the provision of information concerning the characteristics of goods or services or disclosure of the prices of goods or services, or other mandatory requirements for goods or services or the handling of goods shall be punished by a fine of up to 200 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 40 000 kroons.  
(19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

§ 18<sup>5</sup>. Deception of consumers

(1) A seller or service provider who commits one of the following acts upon the sale of goods or services to a consumer:

1) inaccurate weighing, inaccurate measuring, or miscalculation;

2) failure to adhere to the approved rates or agreed or communicated prices, or

3) failure to provide or concealment of truthful information in Estonian concerning the characteristics, prices or origin of goods or services, shall be punished by a fine of up to 100 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 30 000 kroons.  
(19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

§ 18<sup>6</sup>. Failure to submit documents accompanying goods

(1) The lack of or failure to submit a required accompanying document or a document certifying the quality or origin of goods or the lack of or failure to submit a price calculation for goods or services in trading is punishable by a fine of up to 200 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 30 000 kroons.  
(19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

§ 18<sup>7</sup>. Violation of formal requirements for transactions in trading

(1) Violation of the requirement of non-cash settlement upon settlement with a supplier, failure to use a cash register upon settlement with a consumer, failure to issue a receipt for a purchase which has been paid for, or violation of other formal requirements for the recording of transactions is punishable by a fine of up to 100 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 30 000 kroons.  
(19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

§ 18<sup>8</sup>. Trading without sales document or on premises not intended for trading

(1) Trading without a sales document or on premises not intended for trading, or trading in goods or services on premises where trade in such goods or services is prohibited is punishable by a fine of up to 100 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 30 000 kroons.  
(19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

§ 18<sup>9</sup>. Trading in sales area without required marking

(1) Trading in a sales area without the required markings or by a seller who does not bear the required distinguishing marks is punishable by a fine of up to 50 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 10 000 kroons.  
(19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

§ 18<sup>10</sup>. Trade in counterfeit goods

(1) Trading in goods with markings identical or confusingly similar to a trade mark subject to legal protection without the consent of the proprietor of the trade mark is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 50 000 kroons.

(27.03.2002 entered into force 01.06.2002 - RT I 2002, 35, 214)

§ 14<sup>2</sup>. Place of business

(1) A place of business is a place of sale which may include:

- 1) production facilities, storage spaces and other premises;
- 2) places of sale located outdoors in the immediate vicinity of the enterprise in a separate area, for the seasonal expansion of the activities of the enterprise.

(2) Regardless of the number of places of sale, the following are deemed to be one place of business:

- 1) the places of business of the same trader at a specific public event;
- 2) a mobile shop (a motor vehicle for the retail sale of goods travelling on the commercial services route which is formed from places of sale located in the territory of one or several rural municipalities or cities);
- 3) the whole legally defined area where the same trader engages in peddling;
- 4) the whole legally defined area where a person organises trading on the basis of selling permits.

(27.03.2002 entered into force 01.06.2002 - RT I 2002, 35, 214)

§ 14<sup>3</sup>. Issuer of trade licence

(1) A rural municipality or city government of the place of business of a trader or a city administrative agency or another structural unit of the city government as authorised by the city government shall issue, amend or revoke a trade licence by its administrative act on the basis of and pursuant to the procedure provided by law.

(2) A rural municipality or city government of the location of a trader or a city administrative agency or another structural unit of the city government as authorised by the city government shall issue, amend or revoke a trade licence for trading in motor vehicles, on board watercraft or aircraft used to provide passengers services or in restaurant cars of passenger trains or in mobile shops by its administrative act on the basis of and pursuant to the procedure provided by law.

(3) For the purposes of this Act, an administrative act is an order of a rural municipality or city government. Upon grant of authority specified in subsections (1) and (2) of this section to an administrative agency or another structural unit of a city government, the city administrative agency or another structural unit of the city government has the right to issue orders.

(27.03.2002 entered into force 01.06.2002 - RT I 2002, 35, 214)

§ 14<sup>4</sup>. Documents submitted for issue of trade licence and duration of processing

(1) For the issue of a trade licence, a corresponding application and, in the cases prescribed by law, other documents shall be submitted. Before submission of an application, the applicant shall pay a state fee.

(2) An application for issue of a trade licence shall set out at least the following:

- 1) the name of the applicant;
- 2) the registry code of the applicant and the name of the corresponding register;
- 3) the address and details of the applicant;
- 4) the clearly expressed content of the application;
- 5) the description and name (if there is any) of the enterprise and the address of the place of business or the information specified in subsection 14<sup>5</sup> (3) of this section;
- 6) the desired time of trading (week days and time or the word "ööpäevaringse" [twenty-four hours a day]);
- 7) goods or services trading in which is desired or organisation of trading in which is desired;

8) the number of a decision of approval of an enterprise or part thereof within the meaning of the Food Act (RT I 1999, 30, 415; 2002, 13, 81; 79; 61, 375; 63, 387), the date of making the decision and the name of the agency which made the decision, if the enterprise must be approved;

9) a reference to the ownership of the place of business (whether the place is owned or leased, and the commercial lessee shall also set out the name of the commercial lessor and the term of the commercial lease contract);

10) the number of the permit for the use of a structure where the place of business is located, the date of issue of the permit for use and the purpose set out in the permit for use, which must be in accordance with the activity planned at the corresponding place of business, if the place of business is located in the structure;

11) the date of submission of the application, and signature;

12) the name, official title and details of the person who signed the application.

(3) An applicant shall be liable for the correctness of data submitted for the issue of a trade licence.

(4) A trade licence shall be issued or a decision on refusal to issue a trade licence shall be made within ten working days after receipt of an application for issue of the trade licence.

(27.03.2002 entered into force 01.06.2002 - RT I 2002, 35, 214)

#### § 14<sup>5</sup>. Issue of trade licence

(1) In order to decide the issue of a trade licence, more specific information concerning the written or oral information submitted upon application for the issue of a trade licence may be requested from an applicant and from state agencies or local government agencies, and the correctness of the submitted information may be verified, including at the place of business.

(2) The following shall be entered on a trade licence:

1) the word "*kauplemisluba*" [trade licence];

2) the name of the issuer of the trade licence;

3) the date of issue and the term of the trade licence or the word "*tähtajatult*" [for an unspecified term];

4) the number of the trade licence;

5) the name of the holder of the trade licence;

6) the registry code of the holder of the trade licence and the name of the corresponding register;

7) the address of the holder of the trade licence;

8) the description and name (if there is any) of the enterprise and the address of the place of business or the information specified in subsection (3) of this section;

9) the permitted time of trading;

10) goods or services trading in which is permitted or organisation of trading in which is permitted;

11) the name, official title and signature of the competent official of the issuer of the trade licence and the seal of the issuer;

12) other information in the cases prescribed by legislation.

(3) If a person wishes to trade at a public event, the name and location of the public event and the number of places of sale of the trader shall be indicated on the trade licence instead of the address of the place of business. If a person wishes to trade in a mobile shop, on board watercraft or aircraft used to provide passenger services or in the restaurant car of a passenger train, the mark identifying the said vehicle and, in the case of a mobile shop, the location of places of sale shall be indicated on the trade licence instead of the address of the place of business. If a person

(19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

#### § 18<sup>11</sup>. Proceedings

(1) The provisions of the General Part of the Penal Code (RT I 2001, 61, 364; 2002, 44, 284; 56, 350) and of the Code of Misdemeanour Procedure (RT I 2002, 50, 313) apply to the misdemeanours provided for in §§ 18<sup>2</sup>–18<sup>10</sup> of this Act.

(2) Extra-judicial proceedings concerning the misdemeanours provided for in §§ 18<sup>2</sup>–18<sup>10</sup> of this Act shall be conducted by:

- 1) the Consumer Protection Board;
- 2) rural municipality and city governments;
- 3) police prefectures;
- 4) the Agency of Medicines (in the case of medicinal products).

(3) A police prefecture or a court may, pursuant to § 83 of the Penal Code, apply confiscation of the direct object of commission of a misdemeanour provided for in § 18<sup>2</sup>.

(4) A police prefecture or a court shall confiscate the substance or object which was the direct object of commission of a misdemeanour provided for in § 18<sup>10</sup>.

(5) Confiscated counterfeit clothing and footwear from which unlawful markings have been removed may be transferred, with the written permission of the possessor of the rights, to state or local government health care or social welfare institutions. The procedure for the transfer of confiscated counterfeit clothing and footwear to state or local government health care or social welfare institutions shall be established by a regulation of the Minister of Finance.

(19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

#### § 19. Accrual of fines

(1) A fine imposed pursuant to this Act shall be paid into the state budget, except in the case specified in subsection (2) of this section.

(2) If a rural municipality or city government conducting extra-judicial proceedings imposes a cautionary fine or fine for a misdemeanour provided for in §§ 18<sup>2</sup>–18<sup>9</sup> of this Act, the cautionary fine or fine shall be transferred into the budget of the local government which made the corresponding decision.

(19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

#### Chapter IV<sup>1</sup>

(19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

#### Compensation for Damage and Prohibition on Trade in Certain Goods

(19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

§ 20. (Repealed - 05.06.2002 entered into force 01.07.2002 - RT I 2002, 53, 336)

#### § 20<sup>1</sup>. Prohibition on trade in certain goods

(1) If a misdemeanour report is prepared concerning a misdemeanour provided for in subsection 18<sup>10</sup> (2) of this Act and, in the course of the proceedings, it is established that the subject of the trade were counterfeit goods, the body conducting the extra-judicial proceedings may submit a reasoned request to the issuer of the trade licence to prohibit, until the entry into force of the decision made in the matter, the legal person holding the trade licence from trading in goods falling within the heading of the Estonian Nomenclature of Commodities (hereinafter ENC) which covers the counterfeit goods that were the subject of the trade. A copy of the misdemeanour report shall be annexed to the request.

(2) The issuer of a trade licence may revoke the trade licence of a legal person on the basis of a request specified in subsection (1) of this section and issue a new trade licence setting out a

prohibition on trade in goods falling within the heading of the ENC which covers the counterfeit goods that were the subject of trade.

(3) If proceedings in an administrative matter specified in subsection 18<sup>10</sup> (2) of this Act are terminated with respect to a legal person, the body conducting the proceedings shall send a copy of the decision on termination of the proceedings immediately to the issuer of the trade licence.

(4) In the case provided for in subsection (3) of this section, the trade licence with a prohibition shall be revoked and a trade licence without a prohibition shall be issued to the legal person.

(5) A legal person regarding whose punishment a decision has entered into force pursuant to subsection 18<sup>10</sup> (2) of this Act is prohibited from trading in goods falling within the heading of the ENC which covers the counterfeit goods which were the direct object of the misdemeanour. The prohibition applies, regardless of where the misdemeanour was committed, for three years as of the date of entry into force of the decision.

(6) The body conducting the proceedings shall send a copy of a decision specified in subsection (5) of this section immediately to the issuer of the trade licence.

(7) The issuer of a trade licence shall revoke the trade licence of a legal person on the basis provided for in subsection (5) of this section and shall issue a new trade licence with a term of up to three years, indicating a prohibition on trade in goods falling within the heading of the ENC which covers the counterfeit goods that were the direct object of the misdemeanour on the licence.

(8) If a legal person is punished pursuant to subsection 18<sup>10</sup> (2) of this Act for a second time and the corresponding decision has entered into force and information concerning the previous punishment pursuant to subsection 18<sup>10</sup> (2) has not been deleted from the punishment register in accordance with the Punishment Register Act (RT I 1997, 87, 1467; 1998, 111, 1830; 2001, 93, 565; 2002, 32, 189; 56, 350), the issuer of the trade licence may revoke the trade licence and refuse to issue a new trade licence to the legal person for up to three years as of the date of revocation of the trade licence.

(9) Damage caused by a prohibition on trade shall be compensated for on the bases and pursuant to the procedure provided by law.

(19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

## Chapter V

### Implementing Provisions

§ 21. Officials authorised to hear matters concerning violation of this Act

Until the State Consumer Protection Board is formed and the supervisory agencies the rights and obligations of which are equivalent to the Board are determined by the Government of the Republic, officials specified in §§ 189, 203, 205 - 207 and 209 of the Code of Administrative Offences may apply administrative liability for violation of this Act.

§ 22. Foundation of consumer associations

Until establishment of an Act regulating non-profit associations of natural persons, consumer associations shall be founded and shall operate pursuant to the Estonian SSR "Citizens Associations Act".

§ 23. Entry into force of Act

This Act enters into force on 1 January 1994, except the provisions of subsections 6 (2) and (3) of this Act which enter into force on 1 July 1994.

<sup>1</sup> RT = *Riigi Teataja* = the State Gazette