

Author: **Sejm of the Republic of Poland**

Title: **on specific terms and conditions of consumer sale and amendments to the Civil Code**

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ACT
on specific terms and conditions of consumer sale and amendments to the Civil Code

Chapter 1
Consumer sale

Article 1.

1. This Act shall be applied to the sale, effected as part of business activities carried out by an enterprise, of a movable to a natural person, who purchases this movable for a purpose other than carrying out professional work or business (consumer good)
2. This Act shall not apply to the sale of electrical energy, gas and water unless they are sold in a limited amount or in a specified volume.
- 3 This Act shall not apply to the enforcement sale and to sale associated with bankruptcy proceedings or any other legal proceedings.
4. The following provisions shall not apply to the consumer sale: Article 556-581 of the Civil Code Act of 23 April 1964 (Dz.U. No. 16, item 93; of 1971: No. 27, item 252; of 1976: No. 19, item 122; of 1982: No. 11, item 81, No. 19, item 147 and No. 30, item 210; of 1984: No. 45, item 242; of 1985: No. 22, item 99; of 1989: No. 3, item 11; of 1990: No. 34, item 198, No. 55, item 321 and No. 79, item 464; of 1991: No. 107, item 464 and No. 115, item 496; of 1993: No. 17, item 78; of 1994: No. 27, item 96, No. 85, item 388 and No. 105, item 509; of 1995: No. 83, item 417; of 1996: No. 114, item 542, No. 139, item 646 and No. 149, item 703; of 1997: No. 43, item 272, No. 115, item 741, No. 117, item 751 and No. 157, item 1040; of 1998: No. 106, item 668 and No. 117, item 758; of 1999: No. 52, item 532; of 2000: No. 22, item 271, No. 74, item 855 and 857, No. 88, item 983 and No. 114, item 1191; of 2001: No. 11, item 91, No. 71, item 733, No. 130, item 1450 and No. 145, item 1638 and of 2002: No. 113, item 984).

Article 2.

1. The seller is obliged to inform the buyer about the price of the consumer good offered for sale and its unit price (price per unit of measurement), unless both prices are equal. In case of the sale of consumer good in bulk only the quotation of the unit price is required. The same system of price quoting should apply to advertisements.
2. In the case of hire-purchase sale, pre-payment sale, sale to order, sale by pattern or sale on approval and sale for the price higher than two thousand zlotys (PLN 2,000), the seller is obliged to confirm in writing all the relevant provisions of the sale agreement.
3. In other cases the seller shall, at the buyer's request, issue a written confirmation of the conclusion of the agreement, including the seller's mark bearing his address, date of sale and specification of the consumer good together with its amount and price.

Article 3.

1. The seller selling his products in the Republic of Poland shall provide clear, understandable, not misleading information in Polish, necessary for proper and full use of the consumer good sold. In particular, the following information shall be provided: name of the product, description of the manufacturer or importer and country of origin of the product, safety label and kite mark required by separate provisions, information whether the product is approved for general sale in the Republic of Poland, as well as, according to the type of the product, specification of energy consumption and other data mentioned in separate provisions.
2. Information referred to in paragraph 1, shall either be located on the consumer good or permanently attached thereto if the product is sold in unit packaging or in sets. Otherwise the seller shall be obliged to place this information in the sale outlet, in which case the information may be limited to the name of the product and its main functional feature, as well as the indication of the manufacturer or importer and the product's country of origin.
3. The seller shall ensure that in the place of sale of the product there are appropriate technical and organisational conditions for convenient selection of the consumer good and for checking its quality, completeness as well as the functioning of major mechanisms and basic components.
4. At the buyer's request the seller shall explain the meaning of each provision of the agreement.
5. Upon handing over the consumer good to the buyer, the seller shall give out any and all elements of the equipment of the consumer good, as well as operating manuals, maintenance manuals and any other documents, written in Polish, required by separate provisions.

Article 4.

1. The seller shall be held liable to the buyer if, at the time of handing over the consumer good, the good is found to be inconsistent with the agreement. In the event that the inconsistency is discovered within six months of handing over the good, the inconsistency is deemed to have existed at the time of handing over.
2. In the case that the features of the consumer good are agreed individually, it shall be assumed that the good is consistent with the agreement if it complies with the description provided by the seller or it has features of the sample shown to the buyer or features of the pattern and if the good is suitable for the purpose specified by the buyer at the conclusion of the agreement, unless the seller raised any objections to such an application of the product.
3. In cases not provided for by paragraph 2, the consumer good is deemed to be consistent with the agreement if it is suitable for the purpose for which products of this kind are usually used and if its features correspond to features typical for this kind of products. The same assumption is made if the good fulfils the expectations towards the product of this kind, based on assurance of the seller, Manufacturer or his representative, made in public. The assurances given on the labelling of the product or in an advertisement, referring to the features of the product, including the length of time during which the product should preserve the features, are particularly taken into account.
4. Assurances of the manufacturer are treated as equal to assurances given by the person launching the consumer good on the national market as a part of his business activity, and equal to assurances given by the person claiming to be the manufacturer by placing his name, trademark or any other distinctive sign on the product.

Article 5.

The seller shall not be bound by the assurances referred to in Article 4 if he proves that he did not have any knowledge of such assurances, or that he could not reasonably have had such knowledge, or that these assurances could not influence the buyer's decision to conclude the agreement, or that the content of the assurances is rectified before the conclusion of the agreement.

Article 6.

The consumer good shall be deemed inconsistent with the agreement also in the case of an incorrect installation or activation, if the good is installed or activated under the sales agreement by the seller or a person for whom he is responsible or by the buyer according to the instructions manual received at the time of purchase.

Article 7.

The seller shall not be held liable for any inconsistencies of the consumer good with the agreement if the buyer has knowledge of such an inconsistency or reasonably he should have knowledge thereof. The same applies to any inconsistency arising from a defect of the material supplied by the buyer.

Article 8.

1. Where the consumer good is inconsistent with the agreement, the buyer may require to have the good restored to the condition stipulated by the agreement, free of charge, i.e. to have it repaired or replaced by a new item, unless the repair or replacement are not feasible or entail excessive expenses. While estimating what constitutes excessive expenses the following factors shall be taken into account: the value of the good consistent with the agreement, the degree of discovered inconsistency, as well as any inconvenience the buyer would be forced to suffer if his claim was to be satisfied by other means.
2. The fact that both a repair or replacement of the good is free of charge, as provided for in paragraph 1, shall be construed to mean the obligation of the seller also to compensate any costs borne by the buyer, particularly the costs of disassembly, delivery, labour, materials, as well as costs of another installation and activation.
3. If the seller who receives a demand from the buyer, as specified in paragraph 1, fails to reply to such a demand within 14 days, the demand shall be deemed justified.
4. If for the reasons specified in paragraph 1, the buyer cannot demand to have the good repaired or replaced, or if the seller is unable to satisfy such a claim in due time or should the repair or replacement expose the buyer to any inconvenience, he is entitled to require an appropriate price reduction or the termination of the agreement. The agreement cannot be terminated if the inconsistency of the consumer good with the agreement is irrelevant. While determining the due repair or replacement time, the type of good and the purpose of purchase shall be taken into account.

Article 9.

1. The buyer shall forfeit the rights stipulated by Article 8 unless within a period of two months of discovering the consumer good's inconsistency with the agreement he notifies the

seller thereof. This condition shall be duly fulfilled if the notice is sent before the end of the two-month period.

2. The competent minister for economy, in consultation with the competent minister for agriculture, after considering the opinion of the President of the Office for Competition and Consumer Protection of, shall issue an ordinance determining shorter periods of notice for food products, taking into account the perishability of such commodities.

Article 10.

1. The seller shall be held liable for any inconsistency of the consumer good with the agreement only if such an inconsistency is discovered within two years of handing over of the good to the buyer. The term runs again if the good is replaced. In case of a second hand sale, the parties may agree on a shorter time, however not shorter than one year.

2. The buyer's claims stipulated by Article 8 shall become barred by prescription after one year from the buyer's discovery of the inconsistency of the consumer good with the agreement. The prescription may not lapse before the expiry of the period specified in paragraph 1. The right to terminate the agreement shall expire within the same time.

3. If the seller is notified of the inconsistency of the consumer good with the agreement, the period of prescription is interrupted. The prescription shall not run while the good is being repaired or replaced or while the parties negotiate, however for not longer than the three months, to settle the matter amicably.

4. The expiry of the above mentioned periods shall not jeopardise the performance of rights arising from the inconsistency of the consumer good with the agreement, if at the time of concluding the agreement the seller has the knowledge of the inconsistency and fails to advise the buyer of that fact.

Article 11.

Any rights regulated hereby may not be excluded or restricted by an agreement concluded before the seller is notified of the inconsistency of the consumer good with the agreement. In particular, exclusion or restriction of the rights may not be effected by means of the buyer's statement that he has the knowledge of the inconsistency of the consumer good with the agreement, or by opting to apply a foreign law.

Article 12.

1. Where the claims concerning the inconsistency of the consumer good with the agreement have been satisfied, the seller may pursue a claim for compensation from any of the former sellers if, as a result of those sellers' activities or negligence, the good is inconsistent with the consumer sale agreement. In case of indemnity liability the provisions of the Civil Code on the results of failing to carry out obligations shall apply.

2. Recourse claim, stipulated in paragraph 1, shall prescribe after six months. It becomes due and payable upon satisfying the buyer, however not later than on the day the seller is obliged to do so.

Article 13.

1. The warranty is offered to the buyer, without additional fee, in the form of a statement by the warrantor in the warranty document or advertisement applicable to the consumer good. This statement determines the warrantor's duties and obligations and the buyer's rights in the

case the features of the good sold fail to correspond to the features described in the statement. However, a statement that fails to specify the warrantor's duties and obligations shall not be treated as a warranty.

2. The seller giving the warranty shall hand out a warranty document to the buyer together with the consumer good. The seller shall also check that the marks on the consumer good are consistent with the data in the warranty document and that the seals and other safety labels placed on the good are in proper condition.

3. The warranty statement should be formulated according to the requirements specified in Article 3, paragraph 1, sentence one. However, an infringement of these requirements shall be without prejudice to the warranty's validity and shall not deprive the buyer of any rights arising thereunder.

4. The warranty document shall contain basic data necessary to pursue a claim under the warranty, particularly the name and address of the warrantor or his representative in the Republic of Poland, the length and territory of the warranty. Moreover, it shall contain a statement that the warranty on the consumer good sold does not exclude, limit or suspend the buyer's rights arising from the inconsistency of the good with the agreement.

Chapter 2

Amendments to the provisions in force and the final provision.

Article 14.

The Act of 23rd April 1964 - the Civil Code (Dz.U. No. 16, item 93; of 1971: No. 27, item 252; of 1976: No. 19, item 122; of 1982: No. 11, item 81, No. 19, item 147 and No. 30, item 210; of 1984: No. 45, item 242; of 1985: No. 22, item 99; of 1989: No. 3, item 11; of 1990: No. 34, item 198, No. 55, item 321 and No. 79, item 464; of 1991: No. 107, item 464 and No. 115, item 496; of 1993: No. 17, item 78; of 1994: No. 27, item 96, No. 85, item 388 and No. 105, item 509; of 1995: No. 83, item 417; of 1996: No. 114, item 542, No. 139, item 646 and No. 149, item 703; of 1997: No. 43, item 272, No. 115, item 741, No. 117, item 751 and No. 157, item 1040; of 1998: No. 106, item 668 and No. 117, item 758; of 1999: No. 52, item 532; of 2000: No. 22, item 271, No. 74, item 855 and 857, No. 88, item 983 and No. 114, item 1191; of 2001: No. 11, item 91, No. 71, item 733, No. 130, item 1450 and No. 145, item 1638 and of 2002: No. 113, item 984,) shall be amended as follows:

1) The following Article 535{1} shall be added after Article 535: "Article 535{1}. The provisions of this section shall apply to consumer sale within the scope it is not regulated by separate provisions."

2) Article 555{1} shall be deleted;

3) The following Article 605{1} shall be added after Article 605:

"Article 605{1}. If the contract of delivery is concluded within the scope of activity of the supplying enterprise, and the receiver is a natural person purchasing goods for the purpose not connected with his/her economic or professional activity, provisions on consumer sale shall apply to said contract."

4) The following Article 627{1} shall be added after Article 627:

"Article 627{1}. The provisions on consumer sale shall apply respectively to the contract concluded between the enterprise accepting the order, within the scope of activity thereof, and the natural person ordering the specific task being a movable for the purpose not connected.

5) The following Article 770{1} shall be added after Article 770:

"Article 770{1}. The provisions on consumer sale shall apply to the contract of sale of a movable concluded between the commission agent and a natural person purchasing said movable for the purpose not connected with his/her economic or professional activity."

Article 15.

This act shall enter into force on the 1 January 2003