



JOURNAL OF LAWS

OF THE REPUBLIC OF POLAND

Warsaw, 24 June 2014

Item 827

ACT

dated 30 May 2014.

on Consumer Rights^{1,2}

Chapter 1

General provisions

Article 1. This Act shall govern the rights vesting in consumers, including, without limitation:

- 1) the obligations of a trader entering into a contract with a consumer;
- 2) the rules and the procedure to be followed when entering into distance contracts and off-premises contracts with consumers;
- 3) the rules and the procedure to be followed when the consumer exercises the right vesting in him to withdraw from a distance contract or an off-premises contract;
- 4) the rules and the procedure to be followed when entering into a distance contract for financial services with a consumer;

Article 2. The terms used in this Act shall mean:

- 1) distance contract – a contract concluded with a consumer within the organised distance contracting system without the simultaneous physical presence of the parties, with exclusive use of one or more means of distance communication up to and including the moment the contract is concluded.
- 2) off-premises contract – a contract with a consumer concluded:
 - a) in the simultaneous physical presence of the parties in any place other than a trader's business premises,
 - b) as a result of an offer being accepted which is made by the consumer in the same circumstances as referred to in point a,

¹ This act implements, within its regulatory scope, Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on Consumer Rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council (Official Journal of The European Union, L 304 of 22.11.2011, p. 64), Directive 1999/44/EC of the European Parliament and of the Council of 25 May 1999 on certain aspects of the sale of consumer goods and associated guarantees (Official Journal of The European Union, L171 of 07.07.1999, as amended) and Directive 2002/65/EC of the European Parliament and of the Council of 23 September 2002 concerning the distance marketing of consumer financial services and amending Council Directive 90/619/EEC and Directives 97/7/EC and 98/27/EC (Official Journal of The European Union, L 271 of 09.10.2002, p. 16), recently amended by Directive 2007/64/EC of the European Parliament and the Council of 13th November 2007 (Official Journal of The European Union, L 319 of 05.12.2007, p.1).

² This act shall amend the following: the Act of 23 April 1964 on the Civil Code, the Act of 20 May 1971 on the Code of Petty Offences, the Act of 22 May 2003 on Insurance Mediation, the Act of 22 May 2003 on Compulsory Insurance, the Insurance Guarantee Fund [UFG] and the Polish Motor Insurers' Bureau [PBUK], the Telecommunications Act of 16 July 2004, , the Act of 23 August 2007 on Counteracting Unfair Commercial Practices, the Act of 4 February 2011 on International Private Law, the Act of 12 May 2011 on Consumer Credit, and the Act of 8 March 2013 on Plant Protection Agents, and shall repeal the following: the Act of 2 March 2000 on Protection of Certain Consumer Rights and the Liability for Damage caused by a Dangerous Product, and the Act of 27 July 2002 on Specific Terms and Conditions of Consumer Sale and amendments to the Civil Code.

- c) at the trader's business premises or by means of distance communication immediately after personal and individual contact was made with the consumer in any place other than the trader's business premises, in the simultaneous physical presence of the parties,
 - d) during an excursion organised by the trader with the aim or effect of promotion or conclusion of contracts with consumers;
- 3) business premises:
- a) a place of business constituting either real estate or a part thereof, where the trader conducts business on a permanent basis,
 - b) any movable place of business, where the trader conducts business customarily or on a permanent basis;
- 4) durable medium – material or a device giving the consumer or the trader the possibility to store information addressed in person to them in a way accessible for future reference for a period of time adequate for the purposes of the information and which allows the unchanged reproduction of the information stored;
- 5) digital content – data produced and supplied in digital form;
- 6) public auction – a means of contract conclusion in which bids are submitted to an auction organiser within a transparent competitive bidding system by consumers who either participate or are given the possibility to participate in person in that procedure, and where the successful bidder is bound to conclude a contract.

Article 3. 1. The provisions hereof shall not be applicable to contracts:

- 1) regarding social services, social housing, childcare, support of families and persons permanently or temporarily in need, including long-term care;
- 2) related to gambling;
- 3) concluded with a trader who makes frequent and regular rounds during which foodstuffs, beverages and other goods intended for everyday household consumption are delivered to a consumer's place of residence, stay or their place of work;
- 4) related to passenger transport, save as provided for in Article 10 and Article 17;
- 5) concluded via automatic vending machines or automated points of sale;
- 6) concluded with a provider of services referred to in Article 2 subparagraph 27 point (a) of the Telecommunications Law of 16 July 2004 (Journal of Laws of 2014, items 243 and 827) through a public payphone for their use or concluded for the use of one single connection by telephone, Internet or fax established by a consumer;
- 7) related to health services provided by healthcare professionals for patients in order to evaluate, maintain or improve their health, including prescribing, dispensing, and making available of medicinal products and medical devices, regardless of whether they are offered via healthcare facilities;
- 8) related to tourist events, as specified in the Act of 29 August 1997 on Tourist Services (Journal of Laws of 2014, item 196);
- 9) referred to in Article 1 paragraph 1 of the Act of 16 September 2011 on Timeshare (Journal of Laws No. 230, item 1370);
- 10) concluded off the business premises, where the consumer has an obligation to pay an amount of up to fifty zlotys.

2. The provisions hereof shall not be applicable to sales made as part of enforcement proceedings or insolvency proceedings connected with liquidation of insolvent estate.

Article 4. 1. The provisions hereof shall not be applicable to contracts which relate to the creation, acquisition and transfer of ownership title to real property or other real property rights, as well as to rental of accommodation for residential purposes, save as stated in the provisions of Article 2, which shall be applicable unless separate provisions provide otherwise.

2. The provisions hereof shall not be applicable to financial services contracts, including without limitation: banking activities, consumer credit facilities, insurance activities, contracts concerning participation in an open investment fund, specialised open investment fund, closed investment fund, specialised closed investment fund, and a mixed investment fund, and payment services - except distance financial services contracts, to which the provisions of chapters 1 and 5 shall be applicable.

Article 5. 1. Provision of a service which was not requested by a consumer, referred to in Article 9 point 6 of the Act of 23 August 2007 on Counteracting Unfair Commercial Practices (Journal of Laws No. 171, item 1206 and of 2014, item 827) shall be performed at the risk of the trader and shall not impose any obligations whatsoever on the consumer.

2. The consumer's lack of response to an unrequested service shall not constitute consent to the conclusion of a contract.

Article 6. Provisions concerning contracts creating an obligation to transfer the ownership title shall be applicable to any contract whereby the trader is required to transfer the ownership title and to perform a service.

Article 7. Consumers shall not waive the rights bestowed upon them herein. Provisions which are less favourable for a consumer than the provisions hereof shall be void and the provisions hereof shall apply in place of such provisions.

Chapter 2

The trader's obligations in contracts other than off-premises contracts or distance contracts

Article 8. The trader is required to provide the consumer, in a clear and comprehensible manner, no later than the moment the consumer expresses their will to be bound by a contract, with the following information, if that information is not already apparent from the context:

- 1) the main characteristics of the contract performance, including the goods and services to be provided, and the means of communication with the consumer;
- 2) the trader's identity, including without limitation information about the business name, the authority which registered the business and the registration number of that business, the address of the trader's seat, and its telephone number;
- 3) the total price or remuneration for the goods or services, tax included, or where the nature of the goods or services does not reasonably allow calculation of the price or remuneration in advance – the manner in which the price or remuneration is to be calculated, as well as delivery or postal charges or any other charges, where those charges cannot be determined, the fact that such charges may be payable; in cases of an indefinite term contract, or a contract which includes subscription, the trader is obliged to state the total price or remuneration, covering all the payments for the accounting period, as well as all the costs the consumer is required to bear;
- 4) the manner and time limit for contract performance by the trader as well as the complaint review procedure applied by the trader;
- 5) the trader's liability for the quality of the performance as provided for in the provisions of law;
- 6) the after-sales services and the guarantee;
- 7) the duration of the contract, or, in the case of an indefinite term contract or where the contract is to be automatically renewed, the manner and grounds for serving notice of termination of the contract;
- 8) the functionality, including applicable technical protection measures, of digital content;
- 9) any relevant interoperability of digital content with computer hardware and software.

Article 9. The provisions of Article 8 shall not be applicable to day-to-day transactions of low value performed immediately at the time of their conclusion.

Article 10. 1. The trader is required, no later than the moment the consumer expresses their will to be bound by a contract, to obtain explicit consent of the consumer to any additional payment which exceeds the agreed remuneration for the trader's core contractual obligations.

2. Where the trader fails to obtain explicit consent of the consumer but the trader assumes that consent is given due to application of default scenarios, which the consumer has to rebuff so as to avoid the additional payment, the consumer is entitled to reimbursement for the additional payment made.

Article 11. Without prejudice, as referred to in Article 2 point 27 (a) of the Telecommunications Law of 16 July 2004, to the service provider's right to charge fees for telephone calls, if the trader specifies a phone number for contact concerning contract-related issues, the consumer shall not be charged for dialling that number a rate higher than the rate for making a regular telephone call, stated on the price list of the service provider of the consumer's choice.

Chapter 3

A trader's obligations in off-premises contracts or distance contracts

Article 12. 1. A trader is required to provide the consumer, in a clear and comprehensible way, no later than the moment the consumer expresses their will to be bound by a distance contract or an off-premises contract, with the following information:

- 1) the main characteristics of the contract performance, including the goods and services to be provided, and the means of communication with the consumer;

- 2) the trader's identity, including without limitation information about the business name, the authority which registered the business and the registration number of that business;
- 3) the trader's address, e-mail address, and telephone and fax numbers, if available, which the consumer can use to quickly and effectively contact the trader;
- 4) the address for consumer complaints, if different from the address referred to in point 3;
- 5) the total price or remuneration for the goods or services, tax included, or where the nature of the goods or services does not reasonably allow calculation of the price or remuneration in advance – the manner in which the price or remuneration is to be calculated, as well as freight, delivery or postal charges or any other charges, where those charges cannot be determined, the fact that such charges may be payable; in cases of an indefinite term contract, or a contract which includes subscription, the trader is obliged to state the total price or remuneration, covering all the payments for the accounting period, and where the contract provides for a fixed rate – also about the total monthly payments;
- 6) the costs of using a means of distance communication for the purposes of concluding a contract, if such costs exceed the standard fees for using the means of communication;
- 7) the method and the time limit for payment;
- 8) the manner and time limit for contract performance by the trader as well as the complaint review procedure applied by the trader;
- 9) the manner and the time limit for exercising the right to withdraw from a contract pursuant to Article 27, as well as about the model withdrawal form attached as appendix no. 2 hereto;
- 10) the costs incurred by the consumer for return of goods in the case of withdrawal from the contract; in relation to distance contracts – the costs of returning goods, where the nature of the goods makes them impossible to send back via the standard postal service;
- 11) the consumer's obligation to pay reasonable costs incurred by the trader pursuant to Article 35, where the consumer withdraws from the contract after a request is made pursuant to Article 15 paragraph 3 and Article 21 paragraph 2;
- 12) the lack of the right to withdraw from a contract pursuant to Article 38 or of circumstances in which the consumer loses the withdrawal right;
- 13) the trader's obligation to deliver goods free of defects;
- 14) the guarantee and its content and about after-sales services and the manner in which they are provided;
- 15) the code of best practice referred to in Article 2 point 5 of the Act of 23 August 2007 on Counteracting Unfair Commercial Practices and the manner of becoming familiar with this code;
- 16) the duration of the contract, or in the case of an indefinite term contract or where the contract is to be automatically renewed, about the manner and grounds for serving notice of termination of the contract;
- 17) the minimum duration of the consumer's obligations arising under the contract;
- 18) the amount and the manner of providing a deposit or issuing other financial guarantees which the consumer is required to provide upon the trader's request;
- 19) the functionality, including applicable technical protection measures, of digital content;
- 20) any relevant interoperability of digital content with computer hardware and software of which the trader is aware or should be aware;
- 21) the possibility of having recourse to an out-of-court complaint and redress mechanism and the methods for having access to it.

2. If a contract is concluded on behalf of another trader, information on that trader's identity, as specified in paragraph 1 subparagraphs 2 to 4, should be provided.

3. In cases of public auctions, the information referred to in paragraph 1 subparagraphs 2 to 4 can be substituted with information about the auction organiser.

Article 13. The information referred to in Article 12 paragraph 1 subparagraphs 9 to 11 can be provided by means of the model instructions on withdrawal, attached as appendix no. 1 hereto. A trader who serves a consumer with instructions complying with the model instructions attached as appendix no. 1 hereto fulfils the information requirements stipulated in Article 12 paragraph 1 points 9 to 11.

Article 14. 1. In the case of off-premises contracts, the trader is required to provide the consumer with the information referred to in Article 12 in paper form; or if the consumer agrees, recorded on any other durable medium, in a clear manner and in simple language.

2. In cases of distance contracts, the trader is required to provide the information referred to in Article 12 in a manner appropriate for the used means of distance communication, in a clear manner and in simple language.

Article 15. 1. The trader is required to release to the consumer the document constituting an off-premises contract or confirmation of conclusion of such a contract in paper form, or if the consumer agrees, recorded on any other durable medium.

2. The same method shall be applied where the trader gives the consumer confirmation of receipt of consent for delivery of digital content in circumstances resulting in the loss of the right to withdraw from a contract.

3. Where the consumer explicitly requests that the provision of a service or the supply of water, gas, or electricity – where these supplies are not restricted by volume or of a set quantity, or heat, be commenced before the time limit for withdrawal from an off-premises contract expires, the trader shall request that the consumer submit an explicit statement making that request, recorded on a durable medium.

Article 16. 1. Where an off-premises contract is concluded in which the amount of contractual remuneration is less than six hundred zlotys, the consumer has requested that the trader perform a maintenance or repair service, and where both the trader and the consumer perform their obligations immediately, the trader is required to:

- 1) provide the consumer with the information referred to in Article 12 paragraph 1 subparagraphs 2 and 3, as well as any information concerning remuneration and the way it is to be calculated;
- 2) present a total cost estimate in paper form, or if the consumer agrees, recorded on any other durable medium;
- 3) provide the information referred to in Article 12 paragraph 1 subparagraphs 1, 9 and 12, with the stipulation that where the consumer agrees, such information does not have to be recorded on paper or on some other durable medium.

2. The contract document or confirmation of conclusion of the contract, which are to be released by the trader to the consumer pursuant to Article 15 paragraph 1, shall contain the data specified in Article 12.

Article 17. 1. Where a distance contract concluded via means of electronic communication imposes on a consumer a payment obligation, the trader is required to provide the consumer, clearly and explicitly, with the information referred to in Article 12 paragraph 1 subparagraphs 1, 5, 16 and 17 immediately before the consumer places the order.

2. The trader shall ensure that, at the moment the order is placed, the consumer confirms explicitly that the consumer is aware of the fact that placing the order entails a payment obligation.

3. If ordering requires pressing a button or using a similar device, they shall be clearly labelled with the words: “order with payment obligation” or with any other clear and synonymous expression.

4. Where the trader fails to satisfy the requirements laid down in paragraphs 2 or 3, the contract is not concluded.

Article 18. Electronic commerce websites shall provide, explicitly, clear and intelligible information about restrictions concerning delivery and about the accepted payment methods not later than during the initial phase of placing an order.

Article 19. Where technical characteristics of the used means of distance communication restrict the size of a data package or the time for submission thereof, the trader is required to provide the consumer with information concerning at least the core features of the trader’s performance, information identifying the trader, the total price or remuneration, the right to withdraw from the contract, and the duration of the contract, before the contract is concluded; in the case of an indefinite term contract, information must also be provided about the manner and grounds for serving notice of termination of the contract. The trader is also required to provide the consumer with other information, as referred to in Article 12 paragraph 1, pursuant to Article 14 paragraph 2.

Article 20. 1. Where the trader contacts the consumer by telephone with the aim of concluding a distance contract, the trader is required to inform the consumer about this aim and provide information identifying the trader, as well as information identifying the person on behalf of whom the trader is calling.

2. Where the trader offers conclusion of a contract to the consumer via the telephone, the trader is required to confirm the content of the contract in question on paper or any other durable medium. The consumer’s statement of conclusion of the contract is effective if it is recorded on paper or any other durable medium, once confirmation is received from the trader.

Article 21. 1. The trader is required to provide the consumer with confirmation that a distance contract has been concluded on a durable medium within a reasonable time after the conclusion, and not later than at the moment of delivery of goods or before the service has commenced. The confirmation shall comprise:

- 1) the information referred to in Article 12 paragraph 1, unless the trader provided the consumer with the information recorded on a durable medium before the contract was concluded;
- 2) information that the consumer has given consent to delivery of digital content in circumstances resulting in the loss of the right to withdraw from a contract.

2. Where the consumer explicitly requests that the provision of a service or the supply of water, gas, electricity – where these supplies are not restricted by volume or of a set quantity, or heat, be commenced before the time limit for withdrawal from a contract expires, the trader shall request that the consumer submit an explicit statement making that request.

Article 22. The information referred to in Article 12 paragraph 1 constitutes an integral part of a distance contract or an off-premises contract and shall only be amended upon explicit mutual understanding between the parties.

Article 23. Where a trader fails to satisfy the information requirements concerning additional payments or other costs referred to in Article 12 paragraph 1 subparagraph 5, or goods return costs referred to in Article 12 paragraph 1 point 10, a consumer shall not bear these payments or costs.

Article 24. The burden of proof that the information requirements laid down in Article 12 have been complied with rests with the trader.

Article 25. The provisions of Article 10 and Article 11 shall be applicable to off-premises contracts and to distance contracts.

Article 26. In cases of any discrepancies between the provisions of Articles 12 to 23 and the provisions of the Act of 4 March 2010 on Providing Services within the Territory of the Republic of Poland (Journal of Laws No. 47, item 278³, as amended) and the Act of 18 July 2002 on Providing Services by Electronic Means (Journal of Laws of 2013, item 1422) the provisions hereof shall apply.

Chapter 4

The right to withdraw from a contract

Article 27. A consumer who concludes a distance contract or an off-premises contract may withdraw from the contract within 14 days without giving any reason and at no further cost, with the exception of the costs referred to in Article 33, Article 34 paragraph 2 and Article 35.

Article 28. The time limit for withdrawal from a contract starts:

- 1) with respect to contracts under which the trader is required to hand over and transfer ownership title to the goods – from the moment a consumer or a third party, other than a forwarder, designated by the consumer comes into possession of the goods, and in the case of a contract which:
 - a) concerns numerous goods which are delivered separately, in lots or pieces – from the moment of the taking of possession of the last goods, lot, or piece;
 - b) consists in a regular delivery of goods for a definite period of time - from the moment of the taking of possession of the first of the goods;
- 2) for other types of contracts – from the moment the contract is concluded.

Article 29. 1. Where the consumer is not informed by the trader about the right to withdraw from the contract, that right shall expire 12 months from the expiry of the time limit specified in Article 27.

2. Where the consumer is informed by the trader about the right to withdraw from the contract before the expiry of the time limit specified in paragraph 1, the withdrawal time limit shall expire 14 days from the moment the consumer is informed of that right.

Article 30. 1. The consumer may withdraw from a contract by serving the trader notice of withdrawal. The notice can be submitted using the model withdrawal form attached as appendix no. 2 hereto.

2. The time limit shall be considered observed if the notice is sent before the time limit ends.

³ Amendments to the above-mentioned act were published in the Journal of Laws of 2011, No. 122, item 654, No. 277, item 1367 and No. 228, 1368.

3. Where the trader provides the option of serving notice of withdrawal from the contract electronically, the consumer shall also be entitled to withdraw from the contract by:

- 1) using the model withdrawal form attached as appendix no. 2 hereto;
- 2) submitting a notice via the trader's website.

4. The trader is required to promptly send to the consumer a confirmation of receipt of the notice of withdrawal, served in the manner specified in paragraph 3, on a durable medium.

Article 31. 1. In cases of withdrawal from a distance contract or from an off-premises contract, the contract shall be deemed not to have been concluded.

2. Where a consumer serves notice of withdrawal from the contract before the trader accepts the consumer's offer, the offer shall cease to be binding.

Article 32. 1. The trader is required to promptly reimburse the consumer for all the costs incurred by the latter, including the costs of delivery, within no more than 14 days from the day of receipt of the consumer's notice of withdrawal from the contract.

2. The trader shall reimburse the costs using the method of payment the consumer used, unless the consumer explicitly gives consent to another method of reimbursement and which does not generate any costs for the consumer.

3. Where a trader does not offer to collect the goods by itself from a consumer, the trader may withhold the repayment of the consumer's costs until the goods have been returned or the consumer has provided confirmation that the goods have been sent back, whichever event occurs first.

Article 33. Where the consumer has chosen a delivery option other than the most economical default delivery standard offered by the trader, the latter is not required to reimburse the consumer for the additionally incurred costs.

Article 34. 1. The consumer is required to promptly return the goods to the trader or to any person authorised by the trader to receive the goods immediately but no more than 14 days from the day on which the consumer withdrew from the contract, unless the trader has offered to collect the goods itself. The time limit shall be considered observed if the goods are sent back before the time limit expires.

2. The consumer shall only bear the direct costs of return of goods, unless the trader has agreed to bear them or has failed to inform the consumer that those costs have to be borne.

3. Where an off-premises contract was concluded and goods were delivered to the consumer to the place which constituted the consumer's place of residence at the time the contract was concluded, the trader is required to collect the goods at its own expense, if, owing to the nature of the goods, they cannot be sent back by standard postal delivery.

4. The consumer is liable for any decrease in value of the goods resulting from use of the goods in a manner exceeding the reasonable use necessary to ascertain the nature, features and functions of the goods, unless a trader failed to inform the consumer about the right to withdraw from the contract, pursuant to the requirements of Article 12 paragraph 1 subparagraph 9.

Article 35. 1. Where the consumer exercises the right to withdraw from the contract after having made a request pursuant to Article 15 paragraph 3 and Article 21 paragraph 2, the consumer is required to pay for the services provided up to the moment of withdrawal from the contract.

2. The payment shall be calculated proportionately to the performance provided, having regard for the price or remuneration agreed upon in the contract. If the price or the remuneration are excessive, the market value of the performance shall be the basis for calculation of that amount.

Article 36. A consumer shall not bear the costs of:

- 1) the provision of services or the supply of water, gas and electricity – where these supplies are not restricted by volume or of a set quantity, or heat, in whole or in part, for the period up until the date of withdrawal from the contract, if:
 - a) the trader fails to notify the consumer about the right to withdraw from the contract and the consequences of exercising that right, pursuant to Article 12 paragraph 1 subparagraph 9, or
 - b) the consumer does not request the provision of services before expiry of the time limit for withdrawal from the contract, pursuant to Article 15, paragraph 3 and Article 21 paragraph 2;
- 2) the delivery of digital content which is not recorded on a physical medium, if:
 - a) the consumer does not consent to the provision of services before expiry of the time limit for withdrawal from the

contract, or

b) the consumer is not notified about the loss of entitlement to withdraw from the contract at the moment that consent is given, or

c) the trader does not deliver confirmation pursuant to Article 15 paragraph 1 and Article 21 paragraph 1.

Article 37. 1. At the time of the consumer's withdrawal from a distance contract or from an off-premises contract, all the additional related contracts concluded by the consumer shall expire, if such contracts constitute the grounds for the performance by the trader or by a third party under their agreement with the trader. The consumer shall not bear the costs connected with expiry of those contracts, save for the costs referred to in Article 33, Article 34 paragraph 2 and Article 35.

2. If an additional contract with a third party was concluded, the trader shall notify that party about the consumer's withdrawal from the contract.

Article 38. The consumer shall not be entitled to withdraw from an off-premises contract or from a distance contract, in relation to contracts:

- 1) for the provision of services where the trader has fully performed the service with the consumer's explicit consent, and the consumer was informed before the commencement of the service that they would lose the right to withdraw from the contract upon the completion of the service by the trader;
- 2) which include a price or remuneration which depends on financial market fluctuations which are beyond the trader's control and which may occur before the time limit for withdrawal from the contract expires;
- 3) where the performance consists of a non-prefabricated product, custom-made for a consumer or intended to satisfy a consumer's individual needs;
- 4) where the performance consists of goods prone to rapid decomposition or which expire rapidly;
- 5) where the performance consists of goods delivered in closed packaging bearing a seal, which cannot be sent back after the packaging has been opened because of healthcare concerns or for hygienic reasons, if the packaging was opened after delivery;
- 6) where the performance consists of goods which, owing to their nature, become inseparably connected to other products after delivery;
- 7) where the performance consists of alcoholic drinks, the price of which was agreed upon at the moment the contract of sale was concluded, the delivery of which cannot be effected until 30 days have expired, and the value of which depends on financial market fluctuations which are beyond the trader's control;
- 8) where the consumer explicitly requests that the trader come to perform urgent repair or maintenance work; if the trader provides additional services other than the ones requested by the consumer or delivers goods other than spare parts essential for the performance of the requested repair or maintenance work, the consumer shall be entitled to withdraw from the contract in relation to those additional goods and/or services;
- 9) where the performance consists of audio or video recordings or computer programmes delivered in closed packaging bearing a seal, if the packaging was opened after delivery;
- 10) for the delivery of daily newspapers, periodicals or magazines, except for a subscription contract;
- 11) concluded by means of a public auction;
- 12) for accommodation services other than for residential purposes, transportation of goods, car rental, gastronomic services, leisure services, or entertainment, sport or cultural events, if the contract specifies a day or a period of provision of the service;
- 13) for the delivery of digital content which is not recorded on a physical medium, where the provision of the service commences upon the consumer's explicit consent before the time limit for withdrawal from the contract expires and after the consumer is notified by the trader of the loss of the right to withdraw from the contract.

Chapter 5

Distance contracts for financial services

Article 39. 1. The trader is required to inform the consumer, in a clear and comprehensible way, no later than the moment the consumer expresses the will to be bound by a contract, indicating the intention to conclude the contract, in a way suitable for the means of distance communication used, of:

- 1) the trader's first name and surname (name), the address of the place of residence (seat), the authority which registered the trader's business, and the trader's business registration number, and, where the business activity performed requires a permit, the particulars concerning the authority which issued the permit;

- 2) the first name and surname (name), and the address of the place of residence (seat) in the Republic of Poland of the trader's representative (if any);
- 3) the first name and surname (name) and address of the place of residence (seat) of any entity other than the trader providing distance financial services, including operators of means of distance communication, as well as the capacity in which that entity acts in relation to the consumer and the trader;
- 4) the key characteristics of the performance and the goods and services to be provided;
- 5) the price and/or remuneration, including all the components, including charges and taxes, and, where the price or remuneration cannot be calculated in advance, the price or remuneration calculation basis enabling the consumer to verify them;
- 6) the risk inherent in a financial service, if such a risk follows from unique features or the nature of the activities to be performed, or where the price or remuneration depend exclusively on financial market price fluctuations;
- 7) the rules of price or remuneration payment;
- 8) the costs, time limit, and the manner in which the service is provided;
- 9) the right and the manner of withdrawal from the contract, as laid down in Article 40 paragraphs 1 and 2, or of the lack of that right, as well as the price or remuneration the consumer is required to pay in the situation described in Article 40 paragraph 4;
- 10) additional costs incurred by the consumer arising from the use of means of distance communication, if any;
- 11) the length of time the offer or information about the price and/or remuneration are binding;
- 12) the minimum term of a contract for periodical or permanent performance;
- 13) the place and the manner of filing a complaint;
- 14) the possibility of alternative forms of dispute resolution arising under the contract;
- 15) the right to serve notice of termination of a contract as referred to in Article 42 and the consequences of such termination, including contractual penalties;
- 16) the existence of a guarantee fund or any other guarantee systems, if any;
- 17) the language used in consumer-trader relations;
- 18) the governing law applicable to consumer-trader relations before the conclusion of a distance contract, as well as of the governing law regulating the conclusion and performance of a contract;
- 19) the court competent for settling disputes arising in connection with performance of the contract;
- 20) the request that the consumer file a declaration of submission to enforcement, which shall constitute the basis for a bank to issue a bank enforcement order pursuant to the provisions of the Banking Act of 29 August 1997 (Journal of Laws of 2012, item 1376, as amended⁴)

2. The provisions of paragraph 1 points 6-8 and points 10-20 shall not be applicable where the consumer receives information in the form of vocal telephone messages and has given explicit consent thereto. The trader is required to include in the message information on the consumer's right to demand the information referred to in the aforementioned provisions and on the manner in which such information may be obtained.

3. The trader is obliged to provide the consumer with the information referred to in paragraph 1, recorded on paper or on any other durable medium accessible for the consumer, before the contract is concluded; and where the contract is concluded at the consumer's request via a means of distance communication by which that information cannot be provided, the trader is obliged to provide that information promptly upon the contract being concluded.

4. During the term of a contract the consumer shall be entitled to demand confirmation of the content of the contract in writing. The consumer also has the right to request a change of the means of distance communication, unless the contract does not provide for the use of such a means of communication or the means are not suited to the nature of the service provided.

5. The obligation stipulated in paragraph 1 shall not apply to one-off services provided via means of distance communication, where a natural or a legal person issues an invoice for such services and that person makes available, as an element of their business enterprise, one or more means of distance communication available for the consumer and the trader, except for the information referred to in paragraph 1 point 1.

6. The obligation stipulated in paragraph 1 shall not apply to individual actions (in detailed contracts) following from

⁴ Amendments to the consolidated text were published in the Journal of Laws of 2012, items 1385 and 1529 and of 2013, items 777, 1036, 1289 and 1567 and of 2014, item 586.

the contract (framework contract).

7. Where individual activities of the same nature are performed between the same parties, where such activities do not follow from a previously concluded contract (framework contract), the obligation stipulated in paragraph 1 shall only apply to the first of the activities. Where no activity of the same nature is performed between the same parties within a year from the date of the first activity, the provisions of paragraph 1 shall apply to the first activity performed after that period.

8. The obligation stipulated in paragraph 1 shall be deemed observed if the trader provides the consumer with information in compliance with the model information form, as referred to, as the case may be, in Article 14 and/or Article 19 of the Consumer Credit Act of 12th May 2011 (Journal of Laws No. 126, item 715, as amended⁵).

Article 40. 1. A consumer who concludes a distance contract for financial services may withdraw from the contract without giving any reason, by submitting notice in writing, within no more than 14 days from conclusion of the contract or from the day of confirmation of the information specified in Article 39 paragraph 3, if this date is later. The time limit shall be deemed observed if the notice is sent within that time limit. The consumer shall not bear any withdrawal-related expenses, with the exception of the costs referred to in paragraph 4.

2. In the case of insurance contracts, the time limit for the consumer to withdraw from a contract shall be 30 days from the day the consumer is informed about the conclusion of the contract – or from the day of confirmation of the information referred to in Article 39 paragraph 3, if this date is later. The time limit shall be deemed observed if the notice is sent within that time limit.

3. In the case of withdrawal from a contract, the contract shall be deemed not to have been concluded, and the consumer shall be released from any obligations. Anything the parties have furnished shall be returned unaltered, except where a change was necessary in the ordinary course of business, within 30 days:

- 1) from withdrawal from the contract in the case of the consumer's performance; or
- 2) from receipt of notice of withdrawal from the contract in the case of the trader's performance.

4. Where the provision of services has been commenced with the consumer's consent before the expiry of the time limits laid down in paragraphs 1 and 2, the trader may request the payment of the price or remuneration for the service actually provided.

5. The trader shall not request the payment referred to in paragraph 4, if it has commenced performance without the consumer's consent, and has also not stated, pursuant to Article 39 paragraph 1 point 9, the amount of the price or remuneration the consumer is required to pay in the circumstances defined in paragraph 4.

6. The consumer does not enjoy the right to withdraw from contracts:

- 1) which are fully performed upon the consumer's request before the expiry of the time limits referred to in paragraphs 1 and 2.
- 2) concerning money market instruments, negotiable securities, participation entitlements in collective investment institutions, or sales of securities with a repurchase obligation, as well as financial operations with a set price, exchange rate, interest rate or index, in particular purchase of currencies, securities, gold or other precious metals, commodities or rights, including price difference accounted contracts, options and derivatives, concluded for a set date or for a set period of time, in market circulation;
- 3) of insurance concerning travel, luggage, and the like, if concluded for a period shorter than 30 days.

7. If a contract includes an attachment which constitutes another distance contract related to services provided by a trader or an entity other than the trader on the basis of an agreement between that entity and the trader, the withdrawal from the distance contract for financial services shall be also effective towards the subsequent contract.

Article 41. Where the trader fails to observe the obligations stipulated in Article 39 paragraphs 1 to 3, the consumer has the right to withdraw from a contract at any given time without covering the trader's receivables.

Article 42. Where a contract is concluded for an indefinite period of time, both parties are entitled to terminate without giving any reason by giving a month's notice, unless the parties have stipulated a shorter notice period.

Article 43. 1. The provisions of this chapter shall not apply to services consisting in collection and depositing of funds

⁵Amendments to the abovementioned act were published in the Journal of Laws of 2011 No. 165, item. 984 and No. 201, item 1181, of 2012 item 1193, of 2013 item 1567 and of 2014 item 827.

designated for payment to open pension scheme members or for members of an employee pension fund once they reach retirement age within the meaning of the Act of 28 August 1997 on the Organisation and Operation of Pension Funds (Journal of Laws of 2013 items 989, 1289 and 1717) and the provisions of the Act of 20 April 2004 on Employee Pension Schemes (Journal of Laws of 2014, item 710).

2. The provisions of this chapter shall not apply to withdrawal from a consumer credit contract concluded as a distance contract or an off-premises contract.

3. The provisions of Article 39 paragraph 1 subparagraphs 1 to 4, 12 to 15, 17 and 19 shall not apply to payment services referred to in Article 3 paragraph 1 of the Act of 19 August 2011 on Payment Services (Journal of Laws No. 199, item 1175, as amended⁶);

Chapter 6

Amending provisions

Article 44. The Act of 23 April 1964 on the Civil Code (Journal of Laws of 2014, item 121) is hereby amended as follows:

1) Article 22¹ shall henceforth read as follows:

“Article 22¹. A consumer shall be deemed to be any natural person who performs acts in law with a trader which are not directly connected with that person’s business or professional activity.”;

2) in Book Three, Title III before Article 384, Article 383¹ shall be added, which shall read as follows:

“Article 383¹. The trader may not request that the consumer pay a fee for use of a specified method of payment which exceeds the costs incurred by the trader in relation to the same method of payment.”;

3) after Article 454, Article 454¹ shall be added, which shall read as follows:

“Article 454¹. “If a trader is required to send goods to a consumer to a designated place, that place shall be deemed the place of performance. Any contrary stipulation shall be null and void.”;

4) after Article 492, Article 492¹ shall be added, which shall read as follows:

“Article 492¹. If a party which has an obligation to perform states that they will perform, the other party may withdraw from the contract without setting an additional time limit, including before the stipulated date of performance occurs.”;

5) Article 494 shall henceforth read as follows:

“Article 494. §1. A party that withdraws from a reciprocal contract shall be required to return to the other party everything received from that party under the contract, and the other party is required to accept the same. The withdrawing party may request not only the return of whatever was provided, but also redress of damages resulting from failure to perform an obligation according to generally applicable rules.

§ 2. The performance is to be returned to the consumer promptly.”;

6) “Article 535¹ shall be repealed;

7) after Article 543, Article 543¹ shall be added, which shall read as follows:

“Article 543¹. § 1. If the purchaser is a consumer, the vendor is required to release the goods to the purchaser promptly, and not later than thirty days from the day of conclusion of the contract, unless the contract provides otherwise.

§ 2. In cases of defaults on the part of a vendor, a purchaser may set an additional time limit for the release of goods, the expiry of which to no avail shall entitle the purchaser to withdraw from the contract. The provisions of Article 492, Article 492¹ and Article 494 shall apply.”

8) Article 546 shall henceforth read as follows:

“Article 546. §1. The vendor is required to give the purchaser all the necessary explanations concerning legal and factual relationships concerning goods prior to conclusion of a contract.

§ 2. The vendor is required to release all the documentation in their possession which relates to the goods. Where

⁶ Amendments to the abovementioned act were published in Journal of Laws of 2011 No. 291, item 1707, of 2012, items 1166 and of 2013, and items 1036 and 1271.

documentation of this kind also concerns other goods, the vendor is required to submit a certified excerpt from the documentation. Furthermore, the vendor is required to enclose a manual and to provide the necessary explanations regarding how the goods are used, where required for the proper use of the goods as intended.”;

9) after Article 546, Article 546¹ shall be added, which shall read as follows:

“Article 546¹. § 1. If the purchaser is a consumer, the vendor is required to provide the purchaser with clear and intelligible information, which is not misleading, in Polish, to the extent sufficient for full and proper use of the sold goods. In particular, the vendor shall state: the type of goods, the producer or importer, safety symbol and compliance symbol required under separate provisions, marketing authorisation within the Republic of Poland, and energy consumption and other information on the goods, as stipulated in separate provisions (as appropriate for the nature of the goods).

§ 2. Where goods are sold in a unit package or as a set, the information described in § 1 shall be located on the sold goods or be inseparably affixed to them. In other cases, a vendor is required to place a notice (which may be limited to information as to the type of goods, their main function, and the name of the producer or the importer) at the point of sale.

§ 3. The vendor is required to guarantee the appropriate technical and organisational conditions at the point of sale, which facilitate the selection of and testing of the quality of goods being sold their completeness, and the functioning of their core mechanisms and sub-assemblies.

§ 4. The vendor is required to explain individual contractual provisions upon the purchaser’s request.

§ 5. The vendor is required to release to the purchaser the sold goods together with all the equipment associated with them, as well as the operating and maintenance instructions and other documents in Polish as required by separate provisions.”;

10) In Article 548, § 3 shall be added, which shall read as follows:

“§ 3. Where the sold goods are to be sent to a purchaser who is also a consumer, the risk of accidental loss or damage to the goods shall be assumed by the purchaser upon taking delivery of the goods. The goods shall be deemed delivered upon release by the vendor to the carrier, where the choice of carrier by the purchaser was beyond the vendor’s control. Provisions which are less favourable for the purchaser are invalid.”;

11) Article 555 shall henceforth read as follows:

“Article 555. Provisions concerning sale of goods shall apply accordingly to the sale of electricity, rights and water.”;

12) Article 556 shall henceforth read as follows:

“Article 556. The vendor shall be liable towards the purchaser if the sold goods have any physical or legal defects (implied warranty).”;

13) after Article 556, Articles 546¹ to 556³ shall be added, which shall read as follows:

“Article 556¹. § 1. A physical defect exists where the goods sold do not comply with the contract. The sold goods shall be deemed non-compliant with the contract in particular when:

- 1) they lack features required of goods of that nature in view of the purpose stipulated in the contract or which follows from the circumstances or from the intended use;
- 2) they lack features presented by a vendor to a purchaser as being inherent in the goods, including by presenting a sample or a specimen;
- 3) the goods are not fit for the purpose of which a purchaser informed a vendor they would be used when concluding the contract, and the vendor failed to raise any objection as to use of the goods in this way;
- 4) the goods were incomplete when released to a purchaser.

§ 2. Where a purchaser is a consumer, public assurances made by a manufacturer or a representative of the manufacturer, a person who places the product on the market in connection with their business activity, and a person who presents themselves as the producer by placing their name, trademark or other distinctive marking on the sold goods, shall be treated in a way equal to an assurance made by the vendor.

§ 3. Sold goods are also physically defective where they are not correctly assembled or activated, if such activities were performed by the vendor or by a third party for whom the vendor is responsible, or by the purchaser following the instruction manual received from the vendor.

Article 556². Where a purchaser is a consumer and a physical defect is found within a year from the release of the sold goods, it shall be assumed that the defect or its cause existed at the time of the transfer of risk to the

purchaser.

Article 556³. The vendor shall be liable towards the purchaser if the sold goods are the property of a third party or if the goods are encumbered with a third-party right, as well as when a restriction of use or disposal of the goods follows from a decision or judgement of a competent authority; in the case of a sale of title the vendor is also responsible for the existence of the title (legal defect).”;

14) in Article 557:

a) § 2 shall henceforth read as follows:

“§ 2. Where the object of sale is goods specified only as to their kind or goods to be created in future, a vendor shall not bear liability under an implied warranty, where the purchaser was aware of the defect at the time of the release of the goods. This provision shall not apply where the purchaser is a consumer.”;

b) § 3 shall be added, which shall read as follows:

“§ 3. The vendor shall not be liable towards a purchaser who is a consumer for the fact that the sold goods do not contain the features stated in the public assurances referred to in Article 556¹ § 2, if the vendor had no knowledge about the assurances or, using reasonable judgement, could not have had such knowledge, or where such assurances could not have influenced the purchaser’s decision to conclude the sale contract, or where the substance thereof was corrected before conclusion of the sales contract.”;

15) In Article 558 § 1 shall henceforth read as follows:

“§ 1. The parties may extend, restrict or disclaim liability under an implied warranty. If the purchaser is a consumer, the restriction or disclaimer of liability under an implied warranty may only be allowed in cases stipulated in special provisions.”;

16) Articles 559 to 561 shall henceforth read as follows:

“Article 559. The vendor shall be liable under the implied warranty for physical defects which existed at the time of transfer of risk to the purchaser or which resulted from causes inherent in the goods sold at the same time.

Article 560. §1. If there is a defect in sold goods, the purchaser may give notice of a reduction in the price or of withdrawal from the contract, unless the vendor replaces the defective goods with defect-free goods or remedies the defect promptly and without excessive inconvenience to the purchaser. This limitation shall not apply if the goods have already been replaced or repaired by the vendor or if the vendor has not complied with the obligation either to replace the goods with defect-free goods or to remedy the defect.

§ 2. Where a purchaser is a consumer, the purchaser may request replacement of defective goods with defect-free goods instead of remedy of the defect as proposed by the vendor, or remedy of the defect instead of replacement, unless making the goods compliant with the contract in the manner selected by the buyer is impossible or would require excessive costs when compared to the manner suggested by the vendor. Assessment of excessive costs takes into account the value of the defect-free goods, the nature and significance of the noted defect, and the inconvenience which might befall the purchaser if a different solution is applied.

§ 3. The proportion of the reduced price to the contractual price should correspond to the proportion of the value of the defective goods to the defect-free goods.

§ 4. The purchaser shall not withdraw from a contract where the defect is insignificant.

Article 561. §1. If sold goods are defective, the purchaser may request that the goods be replaced with defect-free goods or that the defect be remedied.

§ 2. The vendor is required to replace defective goods with defect-free goods or remedy the defect within a reasonable time without causing excessive inconvenience to the purchaser.

§ 3. The vendor may refuse to accommodate the purchaser’s request where making the goods compliant with the contract in the manner selected by the purchaser is impossible or would require excessive costs when compared to the alternative manner of making the goods compliant with the contract. If the purchaser is a trader, the vendor may refuse to replace a defective good with defect-free goods or to remedy a defect also where the costs of meeting this obligation would exceed the value of the sold goods.”;

17) After Article 561, Articles 546¹ to 556³ shall be added, which shall read as follows:

“Article 561¹. § 1. If the defective goods have been assembled, the purchaser may request from a vendor that the goods be disassembled and re-assembled upon replacement of the defective goods with defect-free goods or upon the defect being remedied. If the vendor does not perform this obligation the purchaser shall have the right to perform those actions at the vendor’s expense and risk.

§ 2. The vendor may refuse to perform the disassembly-reassembly procedure where such activities would exceed the price of the sold goods.

§ 3. Where the purchaser is a consumer, the purchaser may request that the vendor perform the disassembly-reassembly procedure; however, they have an obligation to cover the portion of the related costs which exceed the price of the sold goods, or they may request that the vendor pay a portion of the costs of the disassembly-reassembly procedure up to the price of the sold goods.

Article 561². § 1. A purchaser who exercises the implied warranty rights is required to deliver the defective goods to the place specified in the contract of sale at the vendor's expense, or – if no such place is specified in the contract, to the place where the goods was released to the purchaser.

§ 2. Where the nature of the goods or the manner of its assembly makes delivery excessively cumbersome for the purchaser, the purchaser is required to make the goods available for the vendor at its current location.

§ 3. The provisions of § 1 and 2 shall be applicable to the return of goods upon withdrawal from the contract and in the case of replacement with defect-free goods.

Article 561³. Subject to Article 561¹ § 2 and 3, the costs of replacement or repair of goods shall be borne by the vendor, including in particular the costs of disassembly and delivery of the goods, labour and materials as well as the costs of reassembly and reactivation.

Article 561⁴. The vendor is required to accept defective goods from the purchaser where the goods are replaced with defect-free goods or in the case of withdrawal from the contract.

Article 561⁵. If a purchaser who is a consumer requests replacement of goods or remedy of a defect, or gives notice of a reduction in the price, stating the amount by which the price is to be reduced, and the vendor fails to make known its standpoint with regard to the request within fourteen days, the request is acknowledged to be reasonable.”;

18) Article 563 and Article 564 shall henceforth read as follows:

“Article 563. §1. In the case of sales between traders, the purchaser shall lose the implied warranty rights if it fails to inspect the goods at the time and in the manner specific to goods of that nature and fails to promptly notify the vendor about the defect, and where the defect is discovered at a later time – fails to notify the vendor promptly upon the defect being determined.

§ 2. The time limit shall be considered observed if the notification of the defect is sent before the time limit expires.

Article 564. In circumstances provided for in Article 563, the rights under the implied warranty for physical defects in goods shall not be lost even if the purchaser fails to observe the time limits for inspecting the goods or for notifying the vendor about the defect, where the vendor was aware of the defect or assured the purchaser that there were no defects.”;

19) Articles 566 to 568 shall henceforth read as follows:

“Article 566. §1. If due to a physical defect in a sold goods the purchaser gives notice of withdrawal from the contract or of reduction of the price, the purchaser may demand that any damage suffered as a result of the contract being concluded without the purchaser knowing of the defect be remedied, even if the damage is due to circumstances for which the vendor is not liable, and, in particular, may demand reimbursement for the contract conclusion costs, the costs of collecting, transporting, storing and insuring the goods, and reimbursement of outlays made to the extent to which it does not derive any benefits from those outlays. This shall be without prejudice to provisions on the obligation to redress damage according to generally applicable rules.

§ 2. The provision of § 1 shall apply, as the case may be, where defect-free goods are delivered in place of defective goods, or where the defect is remedied by the vendor.

Article 567. §1. If the vendor is in delay with the collection of the goods, the purchaser may send back the goods at the expense and risk of the vendor.

§ 2. In the case of sales between traders the purchaser is entitled, and where the vendor's interest so requires, is required, to sell the goods with due diligence, if there is a risk of deterioration of the goods. The purchaser shall, as far as reasonably possible, notify the vendor of the intent to sell the goods, and in any case promptly after the sale has been effected. The purchaser may also send the goods back to the vendor at the latter's expense and risk.

Article 568. §1. The vendor is liable under the implied warranty if a physical defect is noted within two years, and for defects in real estate – within five years of the day on which the goods are released to the purchaser. Where the purchaser is a consumer and the subject of sale is a used movable, the vendor's liability may be limited to a period not shorter than a year from the day on which the goods were released to the purchaser.

§ 2. A claim for remedy of a defect or for replacement of defective goods with defect-free goods expires under the statute of limitations one year from the day on which the defect is determined. Where the purchaser is a consumer, the period after which claims become time-barred shall not end before the term specified in § 1 ends.

§ 3. The purchaser may give notice of a reduction in the price or withdrawal from the contract due to a defect in sold goods upon observing the time limits referred to in § 2. Where the purchaser requests that the goods be replaced with defect-free goods or the defect be remedied, the time limit for giving notice of a reduction in the price or withdrawal from the contract shall commence as of the moment the time limit for replacement of the goods or for remedy of a defect expires to no avail.

§ 4. Where one of the warranty claims is pursued in a court of law or before an arbitration tribunal, the time limit for exercising other related rights enjoyed by a purchaser in this regard shall be suspended until the proceedings have been concluded by way of a legally binding judgement.

§ 5. The provision of § 4 shall apply *mutatis mutandis* to conciliation proceedings, whereas the time limit for exercising other warranty rights enjoyed by the purchaser shall begin on the day of the court's rejection of the agreement reached before an intermediary or on the day of the conclusion of the conciliation proceedings to no avail.

§ 6. The expiry of the time limit for determining a defect shall not exclude the exercise of the warranty rights, where the defect was deceitfully concealed by the vendor.”;

20) after Article 568, Article 568¹ shall be added, which shall read as follows:

“Article 568¹. Where the use-by date specified by the vendor or producer for goods expires two years from the day on which the goods are released to the purchaser, the vendor shall be liable for the warranty for physical defects in the goods determined before that time limit expires. The provision of 568 § 6 shall be applicable.”;

21) Articles 570 to 572 shall be repealed;

22) Article 572¹ shall be repealed;

23) Article 574 shall henceforth read as follows:

“Article 574. §1. If, due to a physical defect in sold goods, the purchaser has given notice of withdrawal from the contract or of reduction in the price, the purchaser may demand that any damage suffered by the purchaser as a result of the contract being concluded without the purchaser knowing of the defect be remedied, even if the damage is due to circumstances for which the vendor is not liable, and in particular may demand reimbursement of the contract conclusion costs and the costs of collecting, transporting, storing and insuring the goods as well as reimbursement for outlays made to the extent to which it does not derive any benefits from those outlays and was not reimbursed by a third party. They may also demand the reimbursement of litigation costs. This shall be without prejudice to regulations on the obligation to redress damage according to generally applicable rules.

§ 2. The provision of § 1 shall apply *mutatis mutandis* where defect-free goods are delivered in place of defective goods.”;

24) Article 576 shall henceforth read as follows:

"Article 576. The provisions of Article 568 § 2 to 5 shall apply to the exercise of warranty rights for legal defects in sold goods, with the stipulation that the time limit referred to in 568 § 2 shall run from the day on which a purchaser learns of the defect. Where the purchaser learns of the defect only as a result of a court action brought by a third party, the time limit shall run from the day on which the ruling issued in the dispute with the third party becomes legally binding.”;

25) after Article 576, section II¹ shall be added, which shall read as follows:

“Section II¹

The vendor's claim for defectiveness of sold goods

Article 576¹. § 1. If goods lack features which are required in view of their designated use or according to public assurances as provided for in Article 556¹ § 2, or were released in incomplete condition, a vendor who has incurred costs related to a consumer exercising its rights under the implied warranty for physical defects may request remedy of the damage from the previous vendors whose actions or omissions caused the defect in the goods.

§ 2. The liability stipulated in § 1 shall be also borne by a previous vendor who failed to notify the purchaser about a defect in goods despite having knowledge thereof, or drew up an assembly or an activation instruction manual enclosed with the sold goods, where the defect resulted from the consumer's assembly or activation of the goods in accordance with the instruction manual received.

§ 3. The compensation referred to in § 1 includes the reimbursement of costs required to exercise the consumer's rights, including in particular in connection with the replacement of defective sold goods or the remedy of a defect in the sold goods, their disassembly, transportation and reassembly, as well as the amount by which the price of the goods is reduced, and lost benefits.

Article 576². § 1. The vendor's claim shall expire under the statute of limitations after six months. The period under the statute of limitations shall run from the day on which the costs are borne by the vendor as a result of the consumer's exercise of the warranty rights, however no later than the day on which the vendor should perform its duties towards the consumer.

§ 2. If a court dismisses a claim for redress of damage, finding that the defendant is not liable for a defect in the goods, the period under the statute of limitations for all of the other vendors shall not end before six months pass from the day on which the judgement dismissing the claim becomes legally binding.

Article 576³. The provisions hereof shall be without prejudice to other provisions on the obligation to redress damage.

Article 576⁴. The liability provided for herein shall not be excluded or limited.”;

26) In the third book, title XI, the title of Section III shall henceforth read as follows:

“Section III
Sale Warranty”;

27) Article 577 shall henceforth read as follows:

“Article 577. §1. A warranty is given upon the submission of a warranty statement, which lays down the warrantor's duties and the purchaser's rights, where the sold goods lack the features stipulated in the statement. The warranty statement may be submitted in an advertisement.

§ 2. The warrantor's obligations may include in particular refund of the paid price, the repair or replacement of the goods, or the provision of other services.

§ 3. If a warranty is given for the quality of sold goods, in case of doubt the warrantor shall be deemed to be required to remedy the physical defect or to deliver defect-free goods, if those defects appear during the period stated in the warranty statement.

§ 4. The warranty period shall be two years from the day on which the goods are released to the purchaser, unless a different time period is provided for.”;

28) after Article 577, Articles 577¹ to 577³ shall be added, which shall read as follows:

“Article 577¹. § 1. The warrantor shall draw up the warranty statement in a clear and intelligible manner, and if the type of information allows – in a universally intelligible graphic form. If the goods are to be placed on the market in the Republic of Poland, the statement shall be drawn up in Polish. The Polish language requirement shall not apply to proper names, trademarks, trade names, product origin labels, and customarily used scientific and technical terminology.

§ 2. A warranty statement shall contain the basic information necessary to exercise the warranty rights, in particular the name and the address of the warrantor or their representative in the Republic of Poland, duration and the territorial scope of the warranty, the rights enjoyed if goods are found to be defective, as well as confirmation that the warranty does not exclude, limit or suspend the purchaser's entitlements provided for in regulations on guarantees for defects in sold goods.

§ 3. Failure to comply with the requirements stipulated in § 1 and 2 shall be without prejudice to the validity of the warranty statement and shall not revoke the entitlements provided for within it.

Article 577². The warrantee may request that the warrantor hand over a warranty statement on paper or other durable medium (warranty document).

Article 577³. Together with a sold goods, the vendor shall release a warranty document to the purchaser and shall check that the labelling on the goods matches the information contained in the document and inspect the condition of seals and other security features placed on the goods.”;

29) Article 579 shall henceforth read as follows:

“Article 579. §1. The purchaser may exercise rights under the implied warranty for physical defects irrespective of the rights under the warranty.

§ 2. Exercising rights under a warranty shall not affect a vendor’s liability under the implied warranty.

§ 3. However, if the purchaser exercises rights under the warranty, the time limit for exercising the rights under the implied warranty shall be suspended as of the day on which the vendor is notified about the defect. The time limit shall continue from the day on which the warrantor refuses to perform obligations provided for in the warranty, or from the date on which the period for the performance thereof expires to no avail.”;

30) Article 580 § 2 shall henceforth read as follows:

“§ 2. The warrantor is obliged to perform its obligations within the time limit stipulated in the warranty statement; and where this time limit is not specified promptly but no more than fourteen days from the day on which the goods are delivered by the warrantee. The warrantor shall also deliver the goods to the purchaser at the place specified in § 1 at the warrantor’s expense.”;

31) Article 605¹ shall be repealed;

32) Article 627¹ shall be repealed;

33) after Article 636, Article 636¹ shall be added, which shall read as follows:

“Article 636¹. If the consumer orders a piece of work which constitutes a movable, the provisions of Article 5431, Article 5461 and Article 548 shall be applicable.”;

34) Article 637 shall be repealed;

35) Article 638 shall henceforth read as follows:

“Article 638. §1. The provisions of the implied sale warranty shall apply accordingly to liability for a defective piece of work. The liability of a party taking an order shall be excluded if the defect in the piece of work is inherent in the material supplied by the ordering party.

§ 2. If the ordering party is issued a warranty for the piece of work, provisions on sale warranty shall apply accordingly.”

36) The current wording of Article 770 shall be designated as § 1, and § 2 shall be added thereto, which shall read as follows:

“§ 2. The provision of § 1 shall not apply where the purchaser is a consumer.”,

37) Article 770¹ shall be repealed;

Article 45. The Act of 20 May 1971 on the Code of Petty Offences (Journal of Laws of 2013, 482, as amended⁷) shall be amended as follows:

1) Article 138a shall be repealed;

2) After Article 139a, Article 139b shall be added, which shall read as follows:

“Article 139b. Anybody who, acting in connection with their business activity, when concluding a contract with a consumer, fails to satisfy information requirements or fails to hand over the document provided for in the Act on Consumer Rights of 30 May 2014 (Journal of Laws item 827) shall be subject to a fine.”.

Article 46. In the Act of 22 May 2003 on Insurance Activity (Journal of Laws No. 124, item 1154, as amended⁸), Article 4a, paragraph 3 shall henceforth read as follows:

“3. The Act of 30 May 2014 on Consumer Rights (Journal of Laws item 827) shall apply accordingly to information concerning the insurance intermediary, whereas that information should be promptly disclosed to the insuree or to the customer, pursuant to paragraph 1.”.

Article 47. The Act of 22 May 2003 on Compulsory Insurance, the Insurance Guarantee Fund and the Polish Motor Insurers’ Bureau (Journal of Laws of 2013, item 392) shall be amended as follows:

⁷ Amendments to the uniform text of the abovementioned act were published in the Journal of Laws of 2013 items 829, 1247, 1446 and 1567 and of 2014 items 498 and 659.

⁸ Amendments to the abovementioned act were published in the Journal of Laws of 2004 No. 96, item 959, of 2005 No. 48, item 447, No. 167, item 1396 and No. 183, item 1538, of 2006 No. 157, item 1119, of 2009, No. 18, item 97 and No. 42, item 341 as well as of 2014, item 768.

- 1) Article 29, paragraph 1, subparagraph 10 shall henceforth read as follows:

“10) not later than on the day of the policy holder’s withdrawal from the contract according to the procedure provided for in Article 40 of the Act of 30 May 2014 on Consumer Rights (Journal of Laws item 827).”;
- 2) Article 33, subparagraph 8 shall henceforth read as follows:

“8) as at the day of the policy holder’s withdrawal from the contract according to the procedure provided for in Article 40 of the Act of 30 May 2014 on Consumer Rights;”;
- 3) Article 41, paragraph 1, subparagraph 5 shall henceforth read as follows:

“5) of the policy holder’s withdrawal from the contract according to the procedure provided for in Article 40 of the Act of 30 May 2014 on Consumer Rights, subject to the stipulation that the policy holder is required to pay the insurance premium for the insurance coverage period;”;
- 4) Article 47, paragraph 6, subparagraph 2 shall henceforth read as follows:

“2) of the policy holder’s withdrawal from the contract according to the procedure provided for in Article 40 of the Act of 30 May 2014 on Consumer Rights;”;
- 5) Article 49, subparagraph 6 shall henceforth read as follows:

“6) as at the day of the policy holder’s withdrawal from the contract according to the procedure provided for in Article 40 of the Act of 30 May 2014 on Consumer Rights;”;
- 6) Article 56, paragraph 1, subparagraph 4 shall henceforth read as follows:

“4) of the policy holder’s withdrawal from the contract according to the procedure provided for in Article 40 of the Act of 30 May 2014 on Consumer Rights, subject to the stipulation that the policy holder shall be obliged to pay the insurance premium for the insurance coverage period;”;
- 7) Article 63, paragraph 5, subparagraph 2 shall henceforth read as follows:

“2) of the policy holder’s withdrawal from the contract according to the procedure provided for in Article 40 of the Act of 30 May 2014 on Consumer Rights;”;
- 8) in Article 65, subparagraph 5 shall henceforth read as follows:

“5) as at the day of the policy holder’s withdrawal from the contract according to the procedure provided for in Article 40 of the Act of 30 May 2014 on Consumer Rights;”;
- 9) Article 76, paragraph 1, subparagraph 3 shall henceforth read as follows:

of the policy holder’s withdrawal from the contract according to the procedure provided for in Article 40 of the Act of 30 May 2014 on Consumer Rights, subject to the stipulation that the policy holder shall be obliged to pay the insurance premium for the insurance coverage period.”.

Article 48. Article 172 paragraph 1 of the Telecommunications Act of 16 July 2004 (Journal of Laws of 2014, item 243)

 - a) shall henceforth read as follows:

“1. The use of telecommunications terminal devices and automatic calling machines for direct marketing purposes shall be forbidden, except where the subscriber or the end-user have given prior consent.”;
 - b) paragraph 3 shall be added, which shall read as follows:

“3. The means referred to in paragraph 1 for direct marketing purposes must not be used at the consumer’s expense.”.

Article 49. The Act of 23 August 2007 on Counteracting Unfair Commercial Practices (Journal of Laws No. 171, item 1206) is hereby amended as follows:

 - 1) Article 4, paragraph 2 shall henceforth read as follows:

“2. Unfair commercial practice shall be understood in particular as a misleading commercial practice or an aggressive commercial practice, as well as use of a code of good practice that is not legally compliant. These practices shall not be assessed in reference to the premises specified in paragraph 1.”;
 - 2) Article 9, paragraph 6 shall henceforth read as follows:

“6) A request for an immediate or a deferred payment for goods or for the return or storage of goods which were delivered by the trader but were not ordered by the consumer;”.

Article 50. The Act of 8 March 2013 on Plant Protection Agents (Journal of Laws item 455 and of 2014 item 822) is hereby amended as follows:

1) The introduction to the list in Article 25 paragraph 3 subparagraph 5 shall henceforth read as follows:

“In cases of offers to conclude distance contracts within the meaning of the Act of 30 May 2014 on Consumer Rights (Journal of Laws item 827), concerning the sale of plant protection agents, shall state in the sale offer for that agent that plant protection agents may only be purchased by persons:”;

2) Article 76 paragraph 1 subparagraph 5 point (d) shall read as follows:

“d) In cases of offers to conclude distance contracts within the meaning of the Act of 30 May 2014 on Consumer Rights, concerning the sale of plant protection agents, shall not include the information specified in Article 25 paragraph 3 point 5 in the sale offer of that agent, or”.

Chapter 7

Transitional and final provisions

Article 51. The provisions of law hitherto in effect shall apply to contracts concluded prior to the day this act comes into force.

Article 52. The following shall cease to be effective:

- 1) The Act of 2 March 2000 on the Protection of Certain Consumer Rights and on the Liability for Damage caused by a Dangerous Product (Journal of Laws of 2012, item 1225);
- 2) The Act of 27 July 2002 on Specific Terms and Conditions of Consumer Sale and amendments to the Civil Code (Journal of Laws No. 141, item 1176, as amended⁹)

Article 53. In the Act of 4 February 2011 on International Private Law (Journal of Laws No. 80, item 432), Article 30, paragraph 1, subparagraph 2 shall be repealed.

Article 54. In the Act of 12th May 2011 on Consumer Credit (Journal of Laws No. 126, item 715, as amended¹⁰), Article 58, paragraph 2 shall be repealed.

Article 55. The Act shall enter into force 6 months from its publication.

President of the Republic of Poland: *B. Komorowski*

⁹ Amendments to the abovementioned Act were published in the Journal of Laws of 2004, No. 96, item 959, of 2009, No. 115, item 960 and of 2011 No. 34, item 169 and No. 80, item 432.

¹⁰ Amendments to the abovementioned act were published in the Journal of Laws of 2011 No. 165, item 984 and No. 201, item 1181, of 2012 item 1193 and of 2013 item 1567.

INFORMATION CONCERNING THE EXERCISE OF THE RIGHT OF WITHDRAWAL

MODEL INSTRUCTIONS ON WITHDRAWAL

Right of withdrawal

You have the right to withdraw from this contract within 14 days without giving any reason.

The withdrawal period will expire after 14 days from the day [1].

To exercise the right of withdrawal, you must inform us [2] of your decision to withdraw from this contract by an unequivocal statement (e.g. a letter sent by post, fax or e-mail).

You may use the attached model withdrawal form, but it is not obligatory. [3]

To meet the withdrawal deadline, it is sufficient for you to send your communication concerning your exercise of the right of withdrawal before the withdrawal period has expired.

Effects of withdrawal

If you withdraw from this contract, we shall reimburse to you all payments received from you, including the costs of delivery (with the exception of the supplementary costs resulting from your choice of a type of delivery other than the least expensive type of standard delivery offered by us), without undue delay and in any event not later than 14 days from the day on which we are informed about your decision to withdraw from this contract. We will carry out such reimbursement using the same means of payment as you used for the initial transaction, unless you have expressly agreed otherwise; in any event, you will not incur any fees as a result of such reimbursement. [4]

[5]

[6]

Instructions for completion:

[1] Insert one of the following texts between inverted commas:

in the case of a service contract or a contract for the supply of water, gas or electricity, where they are not put up for sale in a limited volume or set quantity, of district heating or of digital content which is not supplied on a tangible medium: ‘of the conclusion of the contract.’;

in the case of a sales contract: ‘on which you acquire, or a third party other than the carrier and indicated by you acquires, physical possession of the goods.’;

in the case of a contract relating to multiple goods ordered by the consumer in one order and delivered separately: ‘on which you acquire, or a third party other than the carrier and indicated by you acquires, physical possession of the last good.’;

in the case of a contract relating to delivery of a good consisting of multiple lots or pieces: ‘on which you acquire, or a third party other than the carrier and indicated by you acquires, physical possession of the last lot or piece.’;

in the case of a contract for regular delivery of goods during a defined period of time: ‘on which you acquire, or a third party other than the carrier and indicated by you acquires, physical possession of the first good.’.

[2] Insert your name, geographical address and, where available, your telephone number, fax number and e-mail address.

[3] If you give the option to the consumer to electronically fill in and submit information about his withdrawal from the contract on your website, insert the following: ‘You can also electronically fill in and submit the model withdrawal form or any other unequivocal statement on our website [insert Internet address]. If you use this option, we will communicate to you an acknowledgement of receipt of such a withdrawal on a durable medium (e.g. by e-mail) without delay.’.

[4] In the case of sales contracts in which you have not offered to collect the goods, in the event of withdrawal insert the following: ‘We may withhold reimbursement until we have received the goods back or you have supplied evidence of having sent back the goods, whichever is the earliest.’

[5] If the consumer has received goods in connection with the contract:

(a) insert:

— ‘We will collect the goods.’; or,

— ‘You shall send back the goods or hand them over to us or ... [insert the name and geographical address, where applicable, of the person authorised by you to receive the goods], without undue delay and in any event not later than 14 days from the day on which you communicate your withdrawal from this contract to us. The deadline is met if you send back the goods before the period of 14 days has expired.’

(b) insert:

— ‘We will bear the cost of returning the goods.’,

— ‘You will have to bear the direct cost of returning the goods.’,

— If, in a distance contract, you do not offer to bear the cost of returning the goods and the goods, by their nature, cannot normally be returned by post: ‘You will have to bear the direct cost of returning the goods, ... PLN [insert the amount].’; or if the cost of returning the goods cannot reasonably be calculated in advance: ‘You will have to bear the direct cost of returning the goods. The cost is estimated at a maximum of approximately ... PLN [insert the amount].’; or

— If, in an off-premises contract, the goods, by their nature, cannot normally be returned by post and have been delivered to the consumer’s home at the time of the conclusion of the contract: ‘We will collect the goods at our own expense.’; and,

(c) insert ‘You are only liable for any diminished value of the goods resulting from the handling other than what is necessary to establish the nature, characteristics and functioning of the goods.’

[6] In the case of a contract for the provision of services or the supply of water, gas or electricity, where they are not put up for sale in a limited volume or set quantity, or of district heating, insert the following: ‘If you requested to begin the performance of services or the supply of water/gas/electricity/district heating [delete where inapplicable] during the withdrawal period, you shall pay us an amount which is in proportion to what has been provided until you have communicated to us your withdrawal from this contract, in comparison with the full coverage of the contract.’

Appendix No. 2

MODEL WITHDRAWAL FORM

(complete and return this form only if you wish to withdraw from the contract)

- To [here the trader's name, geographical address and, where available, his fax number and e-mail address are to be inserted by the trader]:
- I/We (*) hereby give notice that I/We (*) withdraw from my/our (*) contract of sale of the following goods (*)/for the provision of the following service (*),
- Ordered on (*)/received on (*),
- Name of consumer(s),
- Address of consumer(s),
- Signature of consumer(s) (only if this form is notified on paper),
- Date

(*) Delete as appropriate