

CONSUMER PROTECTION COUNCIL ACT

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CONSUMER PROTECTION COUNCIL ACT

An Act to provide for the establishment of the Consumer Protection Council and for matters connected therewith.

[1992 No. 66.]

[23rd November, 1992]

[Commencement.]

PART I

Establishment of Consumer Protection Council, etc.

1. Establishment and composition of the Consumer Protection Council, etc.

(1) There is hereby established a council to be known as the Consumer Protection Council (in this Act referred to as "the Council") which shall be a body corporate with perpetual succession and a common seal and with power to sue and be sued in its corporate name.

(2) The Council shall consist of-

(a) a chairman to be appointed by the President on the recommendation of the Minister;

(b) one person to represent each of the States of the Federation on the recommendation of the Governor of the State; and

(c) five persons to represent the following Federal Ministries that is-

(i) Commerce;

(ii) Industry;

(iii) Science and Technology;

(iv) Health; and

(v) Petroleum Resources.

(3) The chairman and members of the Council, other than ex-officio members, shall each hold office for a period of three years and shall be eligible for re-appointment for one further term only.

(4) A member of the Council, other than an ex-officio member, may resign his appointment by a letter under his hand addressed to the President.

(5) Notwithstanding the provision of subsection (3) of this section, the President may at any time, whether or not pursuant to subsection (4) of this section, remove any member of the Council from office if he is of the opinion that it is not in the national interest or in the interest of the Council for such member to continue in office and shall cause such member to be notified to that effect.

(6) Where the Council is of the opinion that the continued presence on the Council of any member is not in the national interest or the interest of the Council, it may recommend to the President through the Minister that the member concerned be removed from office.

(7) The provisions of the Schedule to this Act shall have effect with respect to the proceedings of the Council and the other matters therein mentioned.

[Schedule.]

2. Functions of the Council

The Council shall-

(a) provide speedy redress to consumers' complaints through negotiation, mediation and conciliation;

(b) seek ways and means of removing or eliminating from the market hazardous products and causing offenders to replace such products with safer and more appropriate alternatives;

(c) publish, from time to time, the list of products the consumption and sale of which have been banned, withdrawn, severally restricted or not approved by the Federal Government or foreign governments;

(d) cause an offending company, firm, trade, association or individual to protect, compensate, and provide relief and safeguards to injured consumers or communities from adverse effects of technologies that are inherently harmful, injurious, violent or highly hazardous;

(e) organise and undertake campaigns and other forms of activities as will lead to increased public consumer awareness;

(f) encourage trade, industry and professional associations to develop and enforce in their various fields quality standards designed to safeguard the interest of consumers;

(g) issue guidelines to manufacturers, importers, dealers and wholesalers in relation to their obligation under this Act;

- (h) encourage the formation of voluntary consumer groups or associations for consumers, well being;
- (i) ensure that consumers' interests receive due consideration at appropriate forums and provide redress for obnoxious practices or the unscrupulous exploitation of consumers by companies, firms, trade associations or individuals;
- (j) encourage the adoption of appropriate measures to ensure that products are safe for either intended or normally safe use; and
- (k) perform such other functions as may be imposed on the Council pursuant to this Act.

3. Additional powers

In the exercise of its functions under this Act, the Council shall have power to-

- (a) apply to court to prevent the circulation of any product which constitutes an imminent public hazard;
- (b) compel a manufacturer to certify that all safety standards are met in their products;
- (c) cause, as it deems necessary, quality tests to be conducted on a consumer product;
- (d) demand production of labels showing date and place of manufacture of a commodity as well as certification of compliance;
- (e) compel manufacturers, dealers and service companies, where appropriate, to give public notice of any health hazards inherent in their products;
- (f) ban the sale, distribution, advertisement of products which do not comply with safety or health regulations.

PART II

State Committee, duty, etc.

4. Establishment of State Committees, membership, etc.

(1) There shall be established to assist the Council in each State of the Federation, a State Committee which shall, subject to the general supervision of the Council, receive, investigate and act on complaints from consumers.

(2) The State Committee shall consist of the following persons-

(a) three members to be nominated by the Governor of that State, one of whom shall be the chairman of the State Committee and the remaining two persons to represent other diverse interests; and

(b) two other members to be appointed by the Minister, one of whom shall be the professional officer in charge of the Ministry of Commerce in the State who shall act as the Secretary of the State Committee.

(3) There shall be appointed by the Minister an officer to be Secretary to the State Committee and the Minister may appoint such other staff as he thinks may be necessary, from time to time, including on secondment or transfer from any public service in Nigeria.

(4) The Minister shall have power to remove from office any member of the State Committee.

5. Duty of State Committee

The State Committee shall, subject to the control of the Council-

- (a) receive complaints and enquiries into the causes and circumstances of injury, loss or damage suffered or caused by a company, firm, trade, association or individual;
- (b) negotiate with the parties concerned and endeavour to bring about a settlement; and
- (c) where appropriate, recommend to the Council the payment of compensation by the offending person to the injured consumer.

6. Complaint

- (1) A consumer or community that has suffered a loss, injury or damage as a result of the use or impact of any goods, product or service may make a complaint in writing to or seek redress through a State Committee.
- (2) Where a consumer, or a person having an interest in a matter is an illiterate or is subject to any physical disability and thereby unable to write, the clerk or other official working with the State Committee shall cause such consumer or person's statement to be written at no fee or payment of any kind from such consumer or person.

7. Power to require executive of association, etc., to inquire into complaint

Where a complaint is made against any person, the State Committee may require the executive or officials of the company, firm, trade, business, association or professional body in which the person complained against is a member, to enquire into the complaint and report back to the State Committee within a specified period and on the receipt of the report, the State Committee may take such action as it may deem reasonable and just in the circumstance.

8. Redress

Whereupon an investigation by the Council or State Committee of a complaint by a consumer it is proved that-

- (a) the consumer's right has been violated; or
 - (b) that a wrong has been committed by way of trade, provision of services, supply of information or advertisement, thereby causing injury or loss to the consumer,
- the consumer shall, in addition to the redress which the State Committee, subject to the approval of the Council, may impose, have a right of civil action for compensation or restitution in any competent court.

9. Unforeseen hazard and duty to inform public

- (1) It shall be the duty of the manufacturer or distributor of a product, on becoming aware after such a product has been placed on the market, of an unforeseen hazard arising from the use of such product, to notify immediately the general public of such risk or danger and cause to be withdrawn from the market such product.
- (2) Any person who violates the provision of subsection (1) of this section is guilty of an offence and liable on conviction to a fine of N50,000 or imprisonment for a term of five years or to both such fine and imprisonment.

10. Power to obtain satisfactory written assurance

- (1) Where it appears to the Council or the State Committee that a person carrying on a business has in the course of that business persisted in a course of conduct which is detrimental to the interest of consumers, the Council or the State Committee shall use its best endeavour to obtain from him a satisfactory written assurance that he will refrain from a continuation of that course of conduct.

(2) If in the circumstances specified in subsections (1) of this Act-

(a) the Council or the State Committee is unable to obtain from the person in question such an assurance as is mentioned in subsection (1) of this section; or

(b) that person has given such assurance and it appears to the Council or the State Committee that he has failed to observe it,

the Council or the State Committee shall notify the Attorney-General of the Federation who shall cause proceedings to be commenced against the offending person for violation of the provisions of this Act.

(3) Where in any proceedings before a court, the court finds that the person against whom proceedings are brought has in the course of his business carried on or persisted in such course of conduct as is mentioned in subsection (1) of this section, and that unless an order is made against the person he is likely to continue that course of conduct, the court may make an order against him to restrain him from continuing that course of conduct.

11. Issuing wrong advertisement

Any person who issues or aids in issuing any wrong advertisement about a consumer item, is guilty of an offence and liable on conviction to a fine of ₦50,000 or to imprisonment for a term of five years or to both such fine and imprisonment.

12. Contravention of enactment protecting consumer

Any person who, in contravention of any enactment whatsoever for the protection of the consumer-

(a) sells or offers for sale any unsafe or hazardous goods; or

(c) provides any service or proffers any information or advertisement thereby causing injury or loss to a consumer,

is guilty of an offence under this Act and liable on conviction to a fine of ₦50,000 or to imprisonment for a term of five years or to both such fine and imprisonment.

13. Compensation order

(1) A court by or before which a person is convicted of an offence may, in addition to dealing with such person in any other way, make an order (in this Act referred to as "compensation order") requiring the person to pay compensation for any personal injury, loss or damage resulting from that offence of such amount as it may deem fit or as assessed by a competent professional authority.

(2) In determining whether to make a compensation order against any person, and in determining the amount to be paid by any person under such an order, the Court shall have regard to the means of the respondent in so far as they appear or are known to the Court.

14. Power of the Council to establish laboratories, etc.

In the discharge of its functions under this Act, the Council may seek collaboration with government agencies or other professional bodies in establishing laboratories or in joint use of testing facilities, common procedures or in ensuring or enforcing standards of consumer goods or in assessing the quantum of loss or damage.

15. Designation of inspecting officer

(1) The Council may designate as an inspector, any person (whether or not a member of the public service of the Federation) who possesses such qualifications and fulfils such requirements, if any, as may be prescribed and shall furnish to every such person so designated a certificate of designation.

(2) An inspecting officer may, in the course of his duty, at any reasonable time and on production

of his certificate of designation if so required-

- (a) enter (if need be by force) any premises for the purposes of conducting an investigation;
- (b) examine or take samples or specimens of any goods or product;
- (c) open and examine, whilst on the premises, any container or package which he reasonably believes may help him in his investigation;
- (d) examine any book, document or other records found on the premises which he reasonably believes may contain any information relevant to the enforcement of this Act or the regulations made thereunder and make copies thereof or extracts therefrom;
- (e) seize and detain for such time as may be necessary for the purposes of this Act, any article or goods by means of or in relation to which he reasonably believes any provision of this Act or the regulations has been contravened.

(3) The owner or person in charge of any premises entered into by an inspecting officer pursuant to this section and every person found therein, shall give all reasonable assistance to the inspecting officer and shall make available to the inspecting officer all such information as the inspecting officer may reasonably require for the purposes of this Act.

(4) Any article or good seized under this Act shall be kept or stored in such a place as the inspecting officer may direct and shall be returned to the owner or the person from whom it was seized if the article or good upon analysis or examination is found not to have contravened the provisions of this Act.

16. Application of Attorney-General

The Attorney-General of the Federation may, at the request of the Council, apply to a court for an order commanding any person, partnership, company, trade association or agent, to comply with the provisions of this Act or any order of the Council made in pursuance thereof.

17. Mileage allowance

A witness summoned before the Council or a State Committee shall be paid such fees and mileage allowance as are normally paid to witnesses summoned by a court.

18. Disobedience to summons

Any person who, without sufficient cause, neglects or refuses to attend and testify before the Council or the State Committee or to answer any lawful enquiry, or to produce any document as may be required of him is guilty of an offence and liable on conviction to a fine of not less than N 1 0,000 or imprisonment for a term of five years or to both such fine and imprisonment.

19. Making of false entry, etc.

Any person who wilfully makes or causes to be made any false entry or statement in any report required to be made under this Act, or who wilfully makes or causes to be made any false entry in any account, record, or memorandum kept by any person, partnership, company or trade association, is guilty of an offence and liable on conviction to a fine of N 10,000 or imprisonment for a term of three years or to both such fine and imprisonment.

20. Liability of advertising medium

A publisher or any advertiser shall not be liable under this section of this Act by reason of the dissemination by him of any false advertisement, unless he refuses at the request of the Council to furnish the Council with the name and address of the manufacturer, packer, distributor, seller, or advertising agency requiring him to disseminate or cause such advertisement to be made.

21. Violation of order of Council

Any person who violates any order of the Council or a State Committee is guilty of an offence and liable on conviction to a fine of N 10,000 or imprisonment for a term of three years.

PART III

Appointment of Director-General and other staff

22. Director-General and other staff

(1) There shall be appointed by the President, a Director-General for the Council who shall possess such relevant academic qualifications and practical experience as are appropriate for the functions of the Director-General under this Act.

(2) The Director-General shall be the chief executive of the Council and shall be responsible to the Council for the execution of the policies of the Council and the day-to-day running of the affairs of the Council.

(3) The Director-General shall hold office on such terms and conditions as to emoluments and conditions of service as may be specified in his letter of appointment, and on such other conditions as may, from time to time, be approved by the Federal Government generally in respect of public officers.

(4) Subject to the provisions of this Act, the Council may appoint other employees to assist the Director-General in the exercise of his functions.

(5) The remuneration and terms of office of other employees of the Council shall be determined by the Council in accordance with salaries approved, from time to time, by the Council and in accordance with the terms and conditions approved by the Federal Government for public officers.

23. Pension

(1) Service in the Council shall be pensionable service under the Pensions Act and accordingly, employees of the Council shall, in respect of their services therein, be entitled to such pensions, gratuities and other retirement benefits as are prescribed thereunder.

[Cap. P4.]

(2) Notwithstanding the provisions of subsection (1) of this section, nothing contained in this Act shall prevent the appointment of a person to any office on terms which preclude the grant of a pension and gratuity in respect of that office.

(3) Subject to subsection (2) of this section, the Pensions Act shall, in its application by virtue of this section to any office, have effect as if the office were in the public service of the Federation within the meaning of the Constitution of the Federal Republic of Nigeria.

[Cap. P4. Cap. C23.]

24. Staff regulations

(1) The Council may, subject to the provisions of this Act, make staff regulations relating generally to the conditions of service of the staff of the Council and without prejudice to the generality of the foregoing, such regulations may provide for-

(a) the appointment, promotion, termination, dismissal and disciplinary control of staff of the Council; and

(b) appeals by such staff against dismissal or other disciplinary measures,

and until such regulations are made, any instrument relating to the conditions of service of the officers in the public service of the Federation shall be applicable, with such modifications as may be necessary to the staff of the Council.

(2) Staff regulations made under subsection (1) of this section, shall not have effect until approved by the Minister and when so approved the same shall not be published in the Gazette but the Council shall cause them to be brought to the notice of all affected persons in such manner as it may, from time to time, determine.

PART IV

Financial provisions

25. Financial provisions

(1) The Council shall establish and maintain a fund which shall consist of-

(a) such sums as may, from time to time, be provided by the Federal Government for the running of the expenses of the Council;

(b) such other sums as may accrue to the Council either in the execution of its function under this Act or in respect of any property vested in the Council or otherwise however.

(2) The Council may, from time to time, apply the proceeds of the fund established pursuant to this section-

(a) to the cost of administration of the Council;

(b) for reimbursing members of the Council or of any committee set up by the Council of such expenses as may be expressly authorised by the Council in accordance with such rates as may be approved, from time to time, by the Federal Government;

(c) to the payment of salaries or other remuneration or allowances and pensions payable to the employees of the Council;

(d) for the maintenance of any property acquired or vested in the Council;

(e) for and in connection with all or any of the functions of the Council under this Act.

(3) The Council shall, not later than 30 June in each year, submit to the Minister for approval its estimate of income and expenditure during the next succeeding year.

26. Power to accept gifts

(1) The Council may, with the approval of the Minister, accept gifts of land, money or other property upon such terms and conditions if any, as may be specified by the person or organisation making the gift.

(2) The Council shall not accept any gift if the conditions attached by the person or organisation making the gift are incompatible with the functions of the Council.

27. Borrowing power

(1) The Council may, with the consent of the Minister or in accordance with the general guidelines approved by the President, borrow, by way of loan or overdraft from any source, any money required by the Council for meeting its obligations and discharging its functions under this Act.

(2) The Council may invest any surplus funds of the Council in such securities as may be approved by the President.

28. Accounts and audit

The Council shall keep proper account and proper records in relation thereto and shall cause such account to be audited annually by a qualified auditor appointed from the list and in accordance with the guidelines supplied by the Auditor-General for the Federation.

29. Annual reports

The Council shall prepare and submit to the President through the Minister, not later than June in each year, a report in such form as he may direct on the activities of the Council during the immediately preceding year and shall include in such report, a copy of the audited accounts of the Council for that year and the Auditor-General's report thereon.

PART V

Miscellaneous

30. Power of the Minister to give directives to the Council

The Minister may give to the Council directives of a general nature with regard to the exercise by the Council of its functions under this Act, and it shall be the duty of the Council to comply with such directions.

31. Regulations

The Council shall, with the approval of the Minister, have power to make regulations as may in its opinion be necessary or expedient for giving full effect to the provisions of this Act and for the administration thereof.

32. Interpretation

In this Act, unless the context otherwise require-

"chairman" means the chairman of the Council;

"consumer" means an individual who purchases, uses, maintains or disposes of products or services;

"Council" means the Consumer Protection Council established under section 1 of this Act;

"member" means any member of the Council including the chairman;

"Minister" means the Minister charged with responsibility for matters relating to commerce and "Ministry" shall be construed accordingly.

33. Short title

The Act may be cited as the Consumer Protection Council Act.

SCHEDULE

[Section 1 (7).]

Proceedings of the Council

1. (1) Subject to this Act and to section 27 of the Interpretation Act, the Council may make standing orders regulating the proceedings of the Council or of any committee thereof.

[Cap. 123.]

(2) The quorum of the Council shall be the chairman and ten other members, and the quorum of any committee of the Council shall be determined by the Council.

2. (1) The Council shall meet not less than four times in each year and subject thereto, the Council shall meet whenever it is summoned by the chairman; and if the chairman is required to do so by notice given to him by not less than nine other members, he shall summon a meeting of the Council to be held within fourteen days from the date on which the notice is given.

(2) At any meeting of the Council the chairman shall preside; but if he is absent, the members present at the meeting shall appoint one of their members to preside at that meeting.

(3) Where the Council desires to obtain the advice of any person on a particular matter, the Council may co-opt him as a member for such period as it thinks fit, but a person who is a member by virtue of this sub-paragraph shall not be entitled to vote at any meeting of the Council and shall not count towards the quorum.

(4) Notwithstanding anything in the foregoing provisions of this paragraph, the first meeting of the Council shall be summoned by the Minister.

3. (1) The Council may appoint one or more committees to carry out on behalf of the Council such of its functions as the Council may determine.

(2) A committee appointed under this paragraph shall consist of such number of persons (not necessarily all members of the Council) as may be determined by the Council; and a person other than a member of the Council shall hold office on the committee in accordance with the terms of his appointment.

(3) A decision of a committee of the Council shall be of no effect until it is confirmed by the Council.

4. (1) The fixing of the seal of the Council shall be authenticated by the signature of the chairman and some of the other members authorised generally or specially to act for that purpose by the Council.

(2) Any contract or instrument which if made or executed by a person not being a body corporate will not be required to be under seal, may be made or executed on behalf of the Council by the Director-General or any person generally or specially authorised to act for that purpose by the Council.

5. Members of the Council other than ex-officio members shall be paid out of money at the disposal of the Council, such remuneration, fees or allowance in accordance with such scales as may be approved, from time to time, by the Minister.

6. The validity of any proceedings of the Council or of a committee thereof shall not be affected by any vacancy in the membership of the Council or of a committee, or by reason that a person not entitled to do so took part in the proceedings.

7. Any member of the Council and any person holding office on a committee of the Council, who has a personal interest in any contract or arrangement entered into or proposed to be considered by the Council or a committee thereof shall forthwith disclose his interest to the Council or committee and shall not vote on any question relating to the contract or arrangement.

CONSUMER PROTECTION COUNCIL ACT

SUBSIDIARY LEGISLATION

No Subsidiary Legislation