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GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH
Ministry of Law, Justice and Parliamentary Affairs
Legislative and Parliamentary Affairs Division
NOTIFICATION

Dated the 20th January, 2014
S.R.O. No. 08-Law/2014 — In exercise of the powers conferred by section 82 of the consumers' Right Protection Act, 2009 (Act No. 26 of 2009), the Government is pleased to publish the following English translation of the Act to be called the Authentic English Text of the Act, and it shall be effective from the date on which the Act comes into force under sub-section (2) of section 1 of the Act :

The Consumers' Right Protection Act, 2009
(Act No. 26 of 2009)
[6th April, 2009]

An Act to make provisions for the protection of the rights of the consumers, prevention of anti-consumer right practices and for matters connected therewith.

Whereas it is expedient and necessary to make provisions for the protection of the rights of the consumers, prevention of anti-consumer right practices and for matters connected therewith;

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It is hereby enacted as follows :—

Chapter I
Preliminary

1. Short title and commencement. — (1) This Act may be called the Consumers' Right Protection Act, 2009.

(2) It shall come into force at once.

2. Definitions. — In this Act, unless there is anything repugnant in the subject or context —

(1) "Directorate" means the Directorate of National Consumers' Right Protection established under section 18;

(2) "complaint" means any allegation made in writing by a complainant to the Director General against any seller for any anti-consumer right practice under this Act.

(3) "complainant" means the following person or persons who make any complaint under this Act, namely :—

(a) any consumer;

(b) one or more consumers having same interest;

(c) any consumer association registered under any Act;

(d) the National Consumers' Right Protection Council or any officer authorized to file any complaint on its behalf;

(e) the Government, or any Government officer authorized by the Government in this behalf; or

(f) the concerned wholesaler and retailer;

(4) "manufacturer" means a person who —

(a) makes or manufactures any goods or part thereof;

(b) does not make or manufacture any goods but lawfully assembles parts of goods made or manufactured by others and claims the goods so assembled as manufactured by him;

(c) lawfully puts or causes to be put his own trademark on any goods made or manufactured by any other manufacturer and claims such goods to be made or manufactured by him; or evsjvṭ`k ṭMṭRU, AwZwi³, Rvbyqvwí 29, 2014 1493

(d) where the goods are manufactured outside Bangladesh and the manufacturer of the goods does not have any branch office or business office in Bangladesh, imports and distributes such goods;

Explanation : Where the local manufacturer assembles any goods or parts thereof in any of its self-controlled or self-conducted branch office, such branch office shall not be deemed to be the manufacturer even though the parts are assembled at such branch office;

(5) “medicine” means allopathic, homeopathic, unani, ayurvedic or any other medicine used for preventing or curing of diseases of human beings, fishes and livestock;

(6) “imprisonment” means rigorous or simple imprisonment;

(7) “foodstuff” means any article of food including fruits and drinks for the livelihood, nutrition and protection of health for human, fishes and livestock;

(8) “laboratory” means any laboratory or organization, by whatever name it is called, established by or under any Act or recognized by the Government;

(9) “fake” means making or manufacturing of similar goods without authorization imitating the goods authorized for marketing whether the properties, ingredients, elements or quality of the goods authorized exist or not in such fake goods;

(10) “prescribed” means prescribed by rules and until such rules are made, prescribed by written order of the Director General;

(11) “goods” means any movable commercial commodities which the buyer buys or contracts to buy from any seller in exchange of money or price;

(12) “Council” means the National Consumers’ Right Protection Council established under section 5;

(13) “regulations” means regulations made under this Act;

(14) “Code of Criminal Procedure” means the Code of Criminal Procedure, 1898 (Act No. V of 1898);

(15) “rules” means rules made under this Act; 1494 evsjvṭ`k ṭMṭRU, AwZwi³, Rvbyqvwí 29, 2014

(16) “seller” means any manufacturer, maker and supplier of any goods and also includes wholesaler and retailer;

(17) “person” means any person, company, society, partnership firm, statutory or other organization and also includes representatives thereof;

(18) “adulteration” means adulteration defined in section 3(1) of the Pure Food Ordinance, 1959 (Ordinance No. LXVIII of 1959) and mentioned in section 25C of the Special Powers Act, 1974 (Act No. XIV of 1974) or any other law;

(19) “consumer” means any person, —

(a) who, without resale or commercial purpose, —

(i) buys any goods for a consideration which has been paid or promised to be paid;

(ii) buys any goods for a consideration which has been partly paid and partly promised; or

(iii) buys any goods for a consideration under any system of deferred payment or installment basis;

(b) who uses any goods bought under clause (a) with the consent of the buyer;

(c) who buys any goods and uses it commercially for the purpose of earning his livelihood by means of self-employment;

(d) who, —

(i) hires or in any other means avails of any service for a consideration which has been paid or promised to be paid; or

(ii) hires or in any other means avails of any service for a consideration which has been partly paid and partly promised; or

(iii) hires or in any other means avails of any service for a consideration under any system of deferred payment or installment basis; or

(e) who enjoys any service under clause (d), with the consent of

the person who hires or avails it; evsjvṭṭṭ k ṭMṭRU, AwZwi³, Rvbyqvwī 29, 2014 1495

(20) “anti-consumer right practice” means, —

(a) to sell or offer to sell any goods, medicine or service at a higher price than the fixed price under any Act or rules;

(b) to sell or offer to sell adulterated goods or medicine knowingly;

(c) to sell or offer to sell any goods containing any ingredient which is extremely injurious to human health and the mixing of which with any food item is prohibited under any Act or rules;

(d) to deceive consumers by untrue or false advertisement for the purpose of selling any goods or service;

(e) not to sell or deliver properly any goods or services promised to sell or deliver in consideration of money;

(f) to sell or deliver less quantity of goods than the weight offered to the consumers while delivering or selling any goods;

(g) to show more than the actual weight by the weight stone or any other weight measuring instrument used for measuring weight in selling or delivering goods in a commercial enterprise;

(h) to sell or deliver less quantity of goods than the promised amount while delivering or selling any goods;

(i) to show more than the actual length by the length measuring gauge or anything else used for measuring length in selling or delivering goods in a commercial enterprise;

(j) to make or manufacture any fake goods or medicine;

(k) to sell or offer to sell goods or medicine the date of which has expired; or

(l) to do an act which may endanger life or security of the consumer and which is prohibited by any Act or rules;

(21) “Director General” means the Director General of the Directorate of National Consumers’ Right Protection; and

(22) “service” means transport, telecommunication, water supply, drainage, fuel, gas, electricity, construction, residential hotel and restaurant and health services, which is made available to its users in exchange of price but does not include the services rendered free of cost. 1496 evsjvṭṭṭ k ṭMṭRU, AwZwi³, Rvbyqvwī 29, 2014

3. This Act to be deemed as additional. — — Without prejudicing any provision relating to the concerned matter of any other law for the time being in force, the provisions of this Act shall be applied to the matter in addition to such provision.

4. Exemption from this Act. — — The Government may, by notification in the official Gazette, exempt any service or area from the application of this Act for a

specific period of time.

Chapter II

Establishment of Council, etc.

5. Establishment of Council. ——— For carrying out the purposes of this Act, there shall be a Council to be called the National Consumers' Right Protection Council, which shall consist of the following members, namely :—

(1) the Minister in charge of the Ministry of Commerce, who shall also be its Chairman;

(2) the Secretary of the Ministry of Commerce, ex officio ;

(3) the Director General of the National Security Intelligence Department, ex officio;

(4) the Director General of the Bangladesh Standard and Testing Institution, ex officio;

(5) an officer from the Ministry of Industries, not below the rank of the Joint Secretary;

(6) an officer from the Ministry of Agriculture, not below the rank of the Joint Secretary;

(7) an officer from the Ministry of Fisheries and Livestock, not below the rank of the Joint Secretary;

(8) an officer from the Ministry of Food and Disaster Management, not below the rank of the Joint Secretary;

(9) an officer from the Ministry of Home, not below the rank of the Joint Secretary;

(10) an officer from the Energy and Mineral Resources Division, not below the rank of the Joint Secretary;

(11) an officer from the Ministry of Law, Justice and Parliamentary Affairs, not below the rank of the Joint Secretary; evsjv`k †M†RU, AwZwi³, Rvbyqvwí 29, 2014 1497

(12) the Chairperson of the National Women Organization, ex officio;

(13) an officer of the rank of the Additional Inspector General of Police;

(14) the President of the Federation of Bangladesh Chamber of Commerce and Industries, ex officio;

(15) the President of the Association of Pharmaceutical Industries, ex officio;

(16) the President of the Consumers Association of Bangladesh , ex officio;

(17) the President of the National Press Club, ex officio;

(18) the Director of the Directorate of Drug Administration , ex officio;

(19) three eminent citizens nominated by the Government;

(20) not less than four members including two women members, nominated by the Government, who are experienced in market economics, commerce, industries and public administration;

(21) one teacher representative nominated by the Government;

(22) one labour representative nominated by the Government;

(23) one farmer representative nominated by the Government; and

(24) the Director General, who shall also be its Secretary.

6. Tenure of membership. ——— (1) Subject to the provision of sub-section (2), the tenure of any nominated member of the Council shall be two years and six months from the date of his nomination.

(2) Notwithstanding the provision of sub-section (1), the nominating authority may at any time cancel any nomination made by it and may nominate any competent person afresh.

7. Meeting of the Council. — (1) Subject to the other provisions of this section, the Council may determine the procedure of its meeting.

(2) The meetings of the Council shall be held at such time and place as may be determined by the Chairman.

(3) At least one meeting of the Council shall be held in every 2 (two) months.

(4) The Chairman shall preside over all meetings of the Council. 1498 evsjvṯṯ k ṯMṯRU, AwZwi³, Rvbyqvwi 29, 2014

(5) In absence of the Chairman, the Secretary of the Ministry of Commerce shall preside over the meeting.

(6) To constitute a quorum at the meeting of the Council, not less than 10 (ten) members shall be present.

(7) The decision of a meeting of the Council shall be taken by the majority votes of members present in the meeting and in case of equality of votes, the person presiding shall have a casting vote.

(8) No act or proceeding of the Council shall be invalid and be called in question merely on the ground of the vacancy in, or defect in the constitution of, the Council.

8. Functions of the Council. ——— The functions of the Council shall be as follows :—

(a) to formulate policy on the protection of the rights of the consumers for the purposes of this Act, and to give directions to the Director General and the District Committee to implement the policy;

(b) to make necessary regulations for the purposes of this Act;

(c) to consider and give opinion on any matter referred by the Government regarding the protection of the rights of the consumers;

(d) to advise and cooperate with the Government in making necessary laws and administrative directions with a view to protecting and promoting the rights of the consumers;

(e) to undertake necessary educational and promotional campaign to create public awareness regarding the rights of the consumers;

(f) to take necessary steps to create public awareness regarding the usefulness of protecting the rights of the consumers and bad impact of anti-consumer right practices;

(g) to conduct research on the rights of the consumers;

(h) to observe and monitor the activities of the Directorate, the Director General and the District Committees; and

(i) to take any necessary step for performing the aforesaid

responsibilities and duties. evsjvṯṯ k ṯMṯRU, AwZwi³, Rvbyqvwi 29, 2014 1499

9. Fund of the Council. ——— (1) The Council shall have its own fund for performing its functions and money collected from the following sources shall be deposited to this fund, namely :—

(a) grants made by the Government;

(b) grants made by any foreign Government, institution or international organization with the approval of the Government;

(c) grants made by any local authority;

(d) profit derived from capital investment of the Council; and

(e) money collected from any other legal sources.

(2) The fund of the Council or any part thereof may be invested in any sector approved by the Government.

(3) The money collected in the fund shall be deposited in the name of the Council in any scheduled bank approved by it.

(4) The fund shall be maintained and its money shall be spent in such manner as may be prescribed by regulations.

10. Constitution of the District Consumers' Right Protection

Committee. ——— (1) For carrying out the purposes of this Act, in every district there shall be a District Committee to be called the District Consumers' Right Protection Committee which shall consist of the following members, namely :—

(a) the Deputy Commissioner, who shall be its Chairman, ex-officio;

(b) Chairman of the District Chamber of Commerce and Industries, ex-officio;

(c) one representative nominated by any organization regarding

consumers' right recognized by the Government;

(d) the Civil Surgeon, ex-officio;

(e) the Superintendent of Police, ex-officio;

(f) one representative nominated by the Mayor of any Municipality or City Corporation, as the case may be;

(g) four representatives nominated by the Government, who shall have experience in market economics, commerce, industries and public administration;

(h) one officer nominated by the Deputy Commissioner from his office, not below the rank of an Assistant Commissioner, who shall also be its Secretary. 1500 evsjv`k tM±RU, AwZwi³, Rvbyqwi 29, 2014

(2) The nominated members of the District Committee shall hold office for two years and six months from the date of their nomination :

Provided that the nominating authority may, at any time, cancel any nomination made by it and may nominate an eligible person afresh.

11. Duties and functions of the District Committees. ——— The duties and functions of a District Committee shall be as follows :—

(a) to comply with the directions of the Council, if any , regarding the protection of the rights of the consumers;

(b) to provide with necessary cooperation to the Council in performing its functions for the purposes of this Act.

(c) to arrange necessary promotional activities, meetings , seminars and workshops for creating public awareness regarding the protection of the rights of the consumers;

(d) to supervise and monitor the functions of the organizations, including the wholesale and retail business organizations, which manufacture and sell various goods for consumers;

(e) to perform any other functions entrusted to it by the Council; and

(f) to do any other necessary acts ancillary to the aforesaid functions.

12. Meetings of the District Committee. ——— (1) Subject to the other provisions of this section, the District Committee may determine the procedure of its meeting.

(2) The meetings of the District Committee shall be held at such time and place as may be determined by its Chairman :

Provided that at least one meeting of the District Committee shall be held in every month.

(3) The Chairman of the District Committee shall preside over all meetings of the Committee.

(4) To constitute a quorum at the meeting of the Committee , not less than 5

(five) members shall be present. evsjv`k tM±RU, AwZwi³, Rvbyqwi 29, 2014 1501

(5) No act or proceeding of the District Committee shall be invalid and be called in question merely on the ground of the vacancy in, or defect in the constitution of, the Committee.

13. Upazila Committee, Union Committee etc. — (1) For carrying out the purposes of this Act, the Directorate may, if necessary, constitute a Upazila Committee to be called the Upazila Consumers' Right Protection Committee in every Upazila, and a Union Committee to be called the Union Consumers' Right Protection Committee in every Union.

(2) Of every Upazila Committee and Union Committee under subsection (1) —

(a) the provisions relating to number of members, nomination of members, qualifications, removal and resignation; and

(b) responsibilities, functions and procedure of the meetings; shall be determined by regulations.

14. Fund of the District Committee, etc. ——— (1) Each District Committee, Upazila Committee and Union Committee shall have an individual fund.

(2) Maintenance of the fund of the District Committee, Upazila Committee and Union Committee, expenditure from the funds and other matters connected therewith shall be determined by regulations.

(3) The costs of cases, laboratory tests including other necessary expenses of the District Committee under this Act shall be met from the fund of District Committee, Upazila Committee or Union Committee, as the case may be, in the manner prescribed by regulations.

15. Budget. — The Council shall, by such date in each year as the Government may determine, submit to the Government for approval an annual budget, in such form as the Government may specify, for the next financial year showing the estimated sums which are likely to be required from the Government during that financial year for the Council including the District Committees, Upazila Committees and Union Committees.

16. Accounts and Audit. — (1) The Council shall properly maintain the accounts of its fund and prepare an annual statement of the accounts. 1502 evsjv`k †M‡RU, AwZwi³, Rvbyqvwi 29, 2014

(2) The Comptroller and Auditor General of Bangladesh, hereinafter referred to as the Auditor General, or any other person authorized by him in this behalf shall audit the accounts of the fund of the Council every year and submit one copy of his audit report to the Government and the Council.

(3) For conducting audit under sub-section (2), the Auditor General or any other person authorized by him in this behalf, shall have access to all records, documents and papers, cash or deposit kept in bank, security, stock and other properties of the Council and may examine any member of the Council, the Director General and any officer or employee of the Council.

17. Annual report. — The Council shall submit an annual report containing the details of its functions to the Government within June 30 of every year for the last one year ending on December 31 and the Government shall, as soon as possible, take steps to submit the report to the Parliament.

Chapter III

Directorate, Director General, etc.

18. Establishment of Directorate, etc. — (1) For carrying out the purposes of this Act, there shall be a Directorate to be called the Directorate of National Consumers' Right Protection.

(2) The Government shall, by notification in the official Gazette, establish the Directorate of National Consumers' Right Protection.

(3) The Directorate shall give assistance to the Council in performing all its functions and shall be responsible for the execution of the decisions of the Council.

19. Head office of the Directorate, etc. — (1) The Head Office of the Directorate shall be at Dhaka.

(2) The Government may, if it thinks necessary, establish a District Office of the Directorate in any district outside Dhaka.

20. Director General. — (1) There shall be a Director General of the Directorate. evsjv`k †M‡RU, AwZwi³, Rvbyqvwi 29, 2014 1503

(2) The Director General shall be appointed by the Government and the terms and conditions of his employment shall be determined by the Government.

(3) The Director General shall be a whole time officer of the Directorate and, in accordance with the provisions of this Act, shall perform such functions and duties and exercise such powers as may be directed by the Council.

(4) Any person may request the Director General through fax, e-mail or any other means for taking necessary steps to facilitate the functions of the Director General.

(5) If a vacancy occurs in the office of the Director General or if the Director General is unable to discharge the functions of his office on account of absence, illness or any other cause, a person to be appointed by the Government

21. Powers and functions of Director General. — (1) The Director General may, for the purposes of this Act, take all necessary actions as he deems expedient and necessary for the protection of the rights of the consumers, prevention of anti-consumer right practice, and disposal of the complaint against violation of the rights of the consumers.

(b) to take necessary steps for preventing any apprehended act likely to violate the rights of the consumers, determine preventive measures and take necessary actions thereupon.

(d) to monitor whether any fraud is committed in respect of weight or quantity in selling or supplying goods and take necessary actions;

(f) to monitor whether any goods or medicines are being adulterated and take necessary actions;

(h) to monitor whether any expired goods or medicines are being sold and take necessary actions;

(j) to monitor to take necessary actions through inspection whether any goods are being manufactured or processed in such a process as is injurious to human life or health and take necessary actions;

(I) to monitor whether consumers are being deceived by false advertisement for selling goods or service and take necessary actions;

(n) to monitor whether life or security of service receivers are being jeopardized by violating any prohibition imposed under any Act or

(3) The Director General shall by April 30 of each year, prepare a consolidated report for the previous 1 (one) year ending on December 31 on his own functions and the functions of the districts, if any, and shall submit it to the Council for its approval.

22. Appointment of officers and employees. — The Government may appoint such number of officers and employees as may be necessary for the efficient performance of the Directorate, and the terms and conditions of their service shall be prescribed by rules.

23. Power of investigation of the Director General or any other officer. — (1) The Director General shall have the same power for the investigation of an offence under this Act as an officer-in-charge of a police station.

(2) The Government may, by notification in the official Gazette, empower any officer subordinate to the Director General with the same power of an officer-in-charge of a police station for the investigation of an offence under this Act.

24. Power to issue warrant. — (1) If the Director General or any officer empowered by the Government in this behalf has reason to believe that —

(a) any person has committed an offence under this Act; or

(b) anything related to any offence under this Act, or any document, paper or any other thing necessary to prove such offence is kept in any place or in the possession of a person;

he may, after recording the reasons in writing, issue warrant to arrest such person or to search the place where such thing, document, paper or other things related to the offence is kept.

(2) Any person to whom the warrant issued under sub-section (1) is sent for execution, shall have the same power of an officer mentioned in section 23.

25. Power of seizure or arrest in open place, etc. — If any officer, while conducting any inquiry or investigation under this Act, has reason to believe that there are goods contrary to this Act in any open place or any vehicle, he may, recording reasons thereof in writing, seize such goods after search and arrest the accused related to such goods. 1506 evsjv`k tM±RU, AwZwi³, Rvbyqvwi 29, 2014

26. Procedure of search, etc. — If there is nothing contrary to this Act, the relevant provisions of the Code of Criminal Procedure shall be applied in relation to all investigations, warrants, searches, arrests and seizures conducting under this Act.

27. Order of temporary closure of any shop, commercial enterprise, etc. for any anti-consumer right practice. — (1) If it appears that any goods of anti-consumer right are being sold or manufactured or stored in any shop, commercial enterprise, factory, workshop or godown, the Director General or any officer of the Directorate empowered in this behalf may pass an order for temporary closure of such shop, commercial enterprise, factory, workshop or godown.

(2) In case of failure of complying with the order passed under sub-section (1), such shop, commercial enterprise, factory, workshop or godown may, as immediate step, be kept closed under lock and key on behalf of the Directorate.

(3) After the steps taken under sub-sections (1) and (2), the Directorate shall take the conclusive decision by conducting regular hearing, examination and investigation and on consideration of the rights of the consumers after ascertaining whether any anti-consumer right practice has been committed actually for the reason of violation of any provision of this Act or not.

(4) If any person or organization providing service does any anti-consumer right practice in violation of any provision of this Act, the Director General or any officer of the Directorate empowered in this behalf, may pass an order for temporary closure of the concerned business of such person or organization.

(5) In case of failure of complying with the order passed under sub-section (4), the business of providing such service may be closed on behalf of the Directorate.

(6) After temporary closure of any business of providing service under sub-sections (4) and (5), the Directorate shall take the conclusive decision by conducting regular hearing, examination and investigation and on consideration of the rights of the consumers after ascertaining whether any anti-consumer right practice has been committed actually for the reason of violation of any provision of this Act or not. evsjv`k tM±RU, AwZwi³, Rvbyqvwi 29, 2014 1507

28. Taking assistance from any law enforcing agency or any other authority. ——— The Director General or any officer empowered by him may request assistance of any law enforcing agency or any other public or statutory authority for exercising powers or performing of functions under this Act, and upon such request such agency or authority shall render such assistance.

29. Prohibition on manufacturing, selling etc. of goods injurious to human health. ——— If any goods are proved to be particularly harmful to human health, the Government, on recommendation of the Director General, may, by notification in the official Gazette, issue direction for stopping the production, import, marketing, sale, display for sale, distribution, transportation for commercial purpose or commercial use of those goods completely all over the country or in any specific area, or for regulating or conducting those activities on such terms and conditions as may be specified in the notification.

30. Power of entry etc. ——— (1) Subject to the provisions of this section the Director General or any person empowered, generally or specially, in this behalf shall have power to enter any building or place, at any reasonable time, with such assistance as he may deem necessary, for the following purposes, namely :—

(a) to perform any duty conferred upon him under this Act or rules;

(b) to inspect any activity conducted in such building or place in accordance with this Act or rules or any notice, order or direction issued thereunder;

(c) to examine and verify any record, register or document in relation to any goods or service, or any other important information related thereto;

(d) to conduct search in such building or place if he has reason to believe that any offence has been committed there in contravention of this Act or rules or any order or direction issued thereunder;

(e) to seize any goods, ingredient, record, register, document etc. which may be used as evidence of committing any offence punishable

under this Act or rules. 1508 evsjvṭ`k †MṭRU, AwZwi³, Rvbyqvwi 29, 2014

(2) Any person related to sale or production of any goods or service shall be bound to give all kinds of assistance to the person empowered in the discharge of his functions under this section.

31. Power to collect sample etc. ——— (1) The Director General or any officer empowered by him in this behalf, may, for the purpose of examination, collect any goods or any ingredient used in such goods from any shop, godown, factory, premise or place.

(2) Subject to the provisions of sub-section (3) or (4), as the case may be, the sample or the report of the laboratory of such sample or both mentioned in the above sub-section shall be admissible as evidence in the proceedings relevant to the sample collected under this section.

(3) Subject to the provisions of sub-section (4), the officer collecting sample under sub-section (1) shall —

(a) send notice to the possessor or agent of such place about his intention of collecting such sample in the manner prescribed by rules;

(b) collect sample in presence of such possessor or agent;

(c) put such sample in a container and seal the same putting thereon the signatures of his own and the possessor or his agent;

(d) after preparation of a report on such sample, put his own signature and also take the signature of the possessor or agent thereon;

(e) immediately send such container to the laboratory as designated by the Director General.

(4) Where any sample is collected under sub-section (1) and the collecting officer sends a notice under clause (a) of sub-section (3), and if the possessor or the agent intentionally remains absent at the time of collection of such sample or

being present refuses to sign on the sample or report, the collecting officer shall, in presence of two witnesses, confirm such sample by putting his own signature and affix it with seal and shall, by mentioning the absence or refusal, as the case may be, of the possessor or the agent, immediately send such sample to the laboratory as designated by the Director General for examination. evsjvṭ`k ṭMṭRU, AwZwi³, Rvbyqvwi 29, 2014 1509

32. Goods liable to be confiscated etc. ——— The goods, ingredients, equipments, machineries, elements, case, container, cover with label, which are related to an offence under this Act, shall be liable to confiscation.

33. Procedure for confiscation. ——— (1) In a departmental investigation under this Act, if it is proved that any goods are liable to confiscation under section 32, the investigation officer may, whether the offence is proved against any person or not, pass an order for confiscation of such goods.

(2) If anything liable to confiscation under section 32 is seized, but the accused related to such thing is not found, the Director General or any officer, empowered by him in this behalf, who shall be superior to the officer seized the thing, may confiscate it by order in writing.

(3) Notwithstanding anything contained in sub-section (1) and (2), before any order of confiscation is passed, a notice shall be served in the prescribed manner for giving opportunity to raise any objection against any such confiscation and the person objecting shall be given reasonable opportunity of being heard within the time mentioned in the notice which shall not be less than 15 (fifteen) days from the date of service of such notice.

(4) Any person aggrieved by any order passed under sub-section (2) may, within 30 (thirty) days of such order, prefer an appeal —

(a) to the Director General against any order passed by a n officer subordinate to the Director General; and

(b) to the Government against any order passed by the Director General.

(5) The judgment of the appellate authority mentioned in sub-section (4) shall be final, and no suit shall be filed against it in any court.

34. Disposal of perishable goods. ——— Any goods seized under this Act which are perishable, such as- fish, vegetables, etc. may, without preserving it, be used, transferred, destroyed or disposed of in the prescribed manner. 1510 evsjvṭ`k ṭMṭRU, AwZwi³, Rvbyqvwi 29, 2014

35. Disposal of things confiscated and seized. ——— As soon as a confiscation order of anything liable to confiscation under this Act is passed, the thing shall immediately be handed over to the Director General and Director General shall take steps for use, transfer or destruction or disposal of such thing in the prescribed manner.

36. Seizure and disposal of adulterated goods directly. ——— If in any inquiry, investigation or judicial proceeding, any goods prima facie appears to be adulterated and unfit for human consumption or injurious to human health and such allegation is admitted or not denied by the contesting party, such goods may, after seizure, directly be used, transferred, destroyed or disposed of in the prescribed manner.

Chapter IV

Offences, Punishment, etc.

37. Punishment for not using cover of goods etc. ——— If any person violates any obligation, imposed by any Act or rules, of selling any goods within cover and inscribing weight, amount, ingredients, instructions for use, maximum, retail; price, date of manufacture, date of packaging and date of expiry of that goods on the label, he shall be punished with imprisonment for a term not exceeding 1 (one) year, or with fine not exceeding Taka 50 (fifty) thousands, or with both.

38. Punishment for not showing price-list. ——— If any person violates any obligation, imposed by any Act or rules, of displaying the price-list of goods by affixing it at a conspicuous place of his shop or organization, he shall be punished with imprisonment for a term not exceeding 1 (one) year, or with fine

not exceeding Taka 50 (fifty) thousands, or with both.

39. Punishment for not preserving and displaying price-list of services. ——— If any person violates the obligation, imposed under any Act or rules, of preserving price-list of service of his shop or organization and displaying it by affixing at a relevant or conspicuous place, he shall be punished with imprisonment for a term not exceeding 1 (one) year or with fine not exceeding Taka 50 (fifty) thousands, or with both. evsjv`k †M‡RU, AwZwi³, Rvbyqvi 29, 2014 1511

40. Punishment for selling goods, medicine or service at higher price than fixed one. ——— If any person sells or offers to sell any goods, medicine or service at a price higher than the price fixed under any Act or rules, he shall be punished with imprisonment for a term not exceeding 1 (one) year, or with fine not exceeding Taka 50 (fifty) thousands, or with both.

41. Punishment for selling adulterated goods or medicine. ——— If any person knowingly sells or offers to sell any adulterated goods or medicine, he shall be punished with imprisonment for a term not exceeding 3 (three) years, or with fine not exceeding Taka 2 (two) lacs, or with both.

42. Punishment for mixing prohibited materials in foodstuff. ——— If any person mixes with foodstuff any ingredient which is injurious to human life or health and the mixing of which with foodstuff is prohibited by any Act or rules, he shall be punished with imprisonment for a term not exceeding 3 (three) years, or with fine not exceeding Taka 2 (two) lacs, or with both.

43. Punishment for manufacturing or processing goods in illegal process. ——— If any person manufactures or processes any goods in a process which is injurious to human life or health and prohibited under any Act or rules, he shall be punished with imprisonment for a term not exceeding 2 (two) years, or with fine not exceeding Taka 1 (one) lac, or with both.

44. Punishment for deceiving buyers by false advertisement. ——— If any person deceives any buyer by any false or untrue advertisement for the purpose of selling any goods or service, he shall be punished with imprisonment for a term not exceeding 1 (one) year, or with fine not exceeding Taka 2 (two) lacs, or with both.

45. Punishment for not selling or delivering properly any goods or service promised. ——— If any person does not sell or deliver properly any goods or service promised in consideration of money, he shall be punished with imprisonment for a term not exceeding 1 (one) year, or with fine not exceeding Taka 50 (fifty) thousands, or with both.

46. Punishment for deceiving in weight. ——— If any person sells or supplies any goods to consumer less than the offered weight, at the time of supplying or selling, he shall be punished with imprisonment for not exceeding 1 (one) year, or with fine not exceeding Taka 50 (fifty) thousands, or with both. 1512 evsjv`k †M‡RU, AwZwi³, Rvbyqvi 29, 2014

47. Punishment for deceiving in weight stone or weight measuring instrument. ——— If any weight stone or weight measuring instrument used for measuring weight for the purpose of selling or delivering goods in any shop or commercial organization of any person, shows more than the actual weight, he shall be punished with imprisonment for a term not exceeding 1 (one) year, or with fine not exceeding Taka 50 (fifty) thousands, or with both.

48. Punishment for deceiving in measurement. ——— If any person sells or delivers any goods to the consumer less than the offered measurement at the time of delivering or selling, he shall be punished with imprisonment for a term not exceeding 1 (one) year, or with fine not exceeding Taka 50 (fifty) thousands, or with both.

49. Punishment for deceiving in measuring gauge or anything used for measuring length. ——— If any fraud is committed in measuring gauge or anything used for measuring length in selling or delivering goods in any shop or commercial organization of any person, he shall be punished with imprisonment for a term not exceeding 1 (one) year, or with fine not exceeding Taka 50 (fifty)

thousands, or with both.

50. Punishment for making or manufacturing fake goods. ——— If any person makes or manufactures fake goods, he shall be punished with imprisonment for a term not exceeding 3 (three) years, or with fine not exceeding Taka 2 (two) lacs, or with both.

51. Punishment for selling any date expired goods or medicine. ——— If any person sells or offers to sell any date expired goods or medicine, he shall be punished with imprisonment for a term not exceeding 1 (one) year, or with fine not exceeding Taka 50 (fifty) thousands, or with both.

52. Punishment for doing any act detrimental to life or security of service receiver. ——— If any person, in violation of any prohibition imposed under any Act or rules, does any act which is detrimental to the life or security of any service receiver, he shall be punished with imprisonment for a term not exceeding 3 (three) years, or with fine not exceeding Taka 2 (two) lacs, or with both. evsjv`k tMURU, AwZwi³, Rvbyqwi 29, 2014 1513

53. Punishment for damaging money, health or life etc. of service receiver by negligence etc. ——— If any service provider, by negligence, irresponsibility or carelessness, damaging money, health or life of a service receiver, he shall be punished with imprisonment for a term not exceeding 3 (three) years, or with fine not exceeding Taka 2 (two) lacs, or with both.

54. Punishment for filing false or vexatious cases. ——— If any person, with a motive to harass any person, businessman or service provider or to defame him publicly or to damage his business reputation, files any false or vexatious case, he shall be punished with imprisonment for a term not exceeding 3 (three) years, or with fine not exceeding Taka 50 (fifty) thousands, or with both.

55. Punishment for reoccurring offence. ——— If any person convicted of any offence mentioned in this Act does the same offence again, he shall be punished with twice the maximum punishment provided for that offence.

56. Confiscation, etc. ——— If the court thinks fit, it may, in addition to the punishment provided in the foregoing sections of this Chapter, pass an order to forfeit the illegal goods of manufacturing ingredients, materials etc. related to the offence in favour of the State.

Chapter V

Trial etc.

57. Trial. ——— (1) Offences under this Act shall be tried by a Magistrate of the first class or a Metropolitan Magistrate.

(2) The limitation regarding the power of imposing fine by any Magistrate of the first class under the Code of Criminal Procedure, 1898 shall not restrict the power of any Magistrate of the first class to impose any amount of fine prescribed under this Act.

58. Summary Trial. ——— Without prejudice to the provisions of section 57, the Court shall, mutatis mutandis, follow the summary procedure prescribed in Chapter XXII of the Code of Criminal Procedure, 1898 where applicable in the trial of offences under this Act. 1514 evsjv`k tMURU, AwZwi³, Rvbyqwi 29, 2014

59. Bailability, cognizability and compoundability of offences. ——— All offences under this Act shall be bailable, cognizable and compoundable.

60. Complaint. ——— No complaint shall be accepted if such complaint is not made by any person to the Director General or any officer of the Directorate empowered in this behalf within 30 (thirty) days of arising the cause of action of any anti-consumer right practice under this Act.

61. Limitation. ——— Notwithstanding anything contained in the Limitation Act, 1908 (Act of IX of 1908), the Magistrate shall not take cognizance of any offence, if no charge sheet is submitted within 90 (ninety) days of complaint made under section 60.

62. Examination of defect of goods. ——— (1) In determining the truth of a complaint about any defect of any goods, if the Magistrate thinks that it is not

possible to determine the truth of the complaint without proper analysis or examination of that goods, he shall, —

(a) collect a sample of that goods from the complainant and attest that sample with seal in the prevailing process; and

(b) send that sample to any appropriate laboratory with necessary directions to examine the presence of the defect raised against, or any other defect of, the goods sealed under clause (a).

(2) The examination report about any goods, sent to any laboratory for examination under sub-section (1), shall be submitted to the Magistrate Court within 2 (two) months from the date of sending :

Provided that such time may be extended on the requirement of the laboratory.

(3) The Magistrate shall, before sending any sample of that goods to laboratory, make an order to the complainant to deposit the money or fees specified for the expenditure of necessary examination to verify the truth of the complaint made against any goods. evsjv`k †M‡RU, AwZwi³, Rvbyqvwí 29, 2014 1515

63. Power of Magistrates. — A Magistrate may, in a trial held under this Chapter, impose any punishment approved by this Act for the relevant offence upon the person convicted.

64. Prohibition on second trial. — If any person is convicted or acquitted in a trial conducted according to the provisions of this Act for an offence punishable under this Act, he shall not be tried again for the same offence under any other law.

65. Appeal. — Any party aggrieved by any judgment or order passed by the Magistrate, may prefer an appeal to the Sessions Judge having local jurisdiction within 60 (sixty) days of the judgment or order.

Chapter VI

Civil Proceedings and Remedies

66. Civil Remedies. — (1) In appropriate cases, nothing shall debar any affected consumer from filing a civil suit in a competent Civil Court for claiming civil remedies against a person on the ground that any criminal proceeding has been initiated against the person for any anti-consumer right practice or the person has been convicted of a criminal offence for such act.

(2) Under this Act “a competent Civil Court” shall mean the Court of Joint District Judge having local jurisdiction.

(3) If any consumer is affected by a seller for his anti-consumer right practice, and if such damage is assessable in consideration of money, the consumer may file a civil suit in any competent Civil Court claiming compensation not exceeding five times of the amount assessed for the damage.

(4) The Court may, after considering the plaint, defence, evidences and all other circumstances, allow any amount of compensation within the limit not exceeding five times of the actual amount assessed for the damage which the Court may think fit for the end of justice. 1516 evsjv`k †M‡RU, AwZwi³, Rvbyqvwí 29, 2014

(5) Notwithstanding anything contained in the Code of Civil procedure, 1908, the Contract Act, 1872 and the Civil Courts Act, 1887, the provisions of this section shall have effect.

67. Power of Civil Court. — The Civil Court may allow all or any of the following remedies, namely : —

(a) to order the defendant to replace the defective goods by appropriate goods;

(b) to order the defendant to take back the defective goods and pay back the price to the buyer;

(c) to order the defendant to give the complainant appropriate compensation not exceeding five times of the amount

assessed for the damage proved; and to pay cost of the suit.

68. Civil Appeal. — Notwithstanding anything contained in the Code of Civil Procedure, 1908 and the Civil Courts Act, 1887, an appeal may be preferred only to the High Court Division against the judgment and decree passed by a Court under section 67 within 90 (ninety) days of such judgment and decree.

Chapter VII

Miscellaneous

69. Power of District Magistrate under this Act. — (1) Any District Magistrate within the local limit of his jurisdiction shall have same powers and functions as the Director General has under this Act and such District Magistrate may exercise or discharge such power or functions without prior approval of the Director General.

(2) A District Magistrate may, for performing his functions on his behalf, delegate his powers to any subordinate Executive Magistrate under such conditions as may be determined by him.

(3) The District Magistrate or, as the case may be, the Executive Magistrate shall immediately inform the Director General, in writing, about any action taken under this section. evsjvṯ'k ṯMṯRU, AwZwi³, Rvbyqvwi 29, 2014 1517

70. Administrative actions to be taken by the Directorate. — (1) Notwithstanding any offence having been committed under Chapter IV of this Act, the Director General or any officer empowered by the Directorate may, if he thinks expedient to prevent any anti-consumer right practice or to take any action against any offence of anti-consumer right under this Act, take administrative actions of imposing only fine or cancellation of trade license or suspending commercial functions, permanently or temporarily, without imposing any punishment and taking any action to file a criminal case against the convicted person.

(2) No fine exceeding the maximum fine specified in this Act for relevant offence, shall be imposed in the case of administrative actions to be taken under sub-section (1).

(3) Imprisonment shall not be imposed for non-payment of fines imposed under administrative actions taken under sub-sections (1) and (2).

(4) Any fine imposed under this section shall be paid by the person convicted voluntarily within 5 (five) working days.

(5) If the fine imposed is not paid voluntarily by the convicted person under sub-section (4) the authority which has imposed fine may realize it by attachment and sale in accordance with the procedure prescribed in clause (a) of sub-section (1) of section 386 of the Code of Criminal Procedure and may also realize 25% extra amount of the fine imposed as cost.

71. Limitation on criminal proceeding. — (1) No criminal case shall directly be filed in the Court of a Magistrate of the first class or a Metropolitan Magistrate against any person on accusation of any anti-consumer right practice under this Act.

(2) A consumer or a complainant may make a complaint to the Director General or any officer empowered by him or a District Magistrate or any Executive Magistrate empowered by the District Magistrate. 1518 evsjvṯ'k ṯMṯRU, AwZwi³, Rvbyqvwi 29, 2014

72. Special provisions on medicine. — (1) Although the Director General has the power and responsibility to discover any adulteration or faking of medicine by investigation, no judicial proceeding against adulterated or fake medicine shall be initiated or no case shall be filed in the Magistrate Court under this Act.

(2) For offences specified in sub-section (1), the cases shall be filed under section 25C of the Special Powers Act, 1974 (Act No. XI V of 1974).

73. Inspection of private health care service. — (1) The Director General shall have the power to inspect and discover defects in private health care service.

(2) The Director General shall not take any remedial measures on the defects discovered in private health care services under sub-section (1), but he may only inform the matter to the Secretary, Ministry of Health and the Director General, Department of Health.

74. Informing superior officer about arrest or seizure. — If any person is arrested or any goods are seized under this Act, the arresting or seizing officer shall immediately inform the matter to his superior officer by a report in writing and send a copy thereof to the Director General.

75. Method to be followed for offences under any other law. —

Notwithstanding anything contained in any other law for the time being in force, if any offence under this Act (e.g. adulteration, faking of goods etc.) liable to a higher punishment as a special offence under any special law, there shall be no legal bar to try that offence under this Act considering such offence as a special offence of anti-consumer right practice :
Provided that in consideration of the nature and gravity of the respective offence, if the Directorate is of opinion that the offence should be tried and adjudicated in the respective Special Tribunal, the Directorate shall, for effective trial of such offence, take necessary steps to file a case on its behalf in such Special Tribunal instead of filing case in a Magistrate Court. evsjvꞤ k ꞤMꞤRU, AwZwi³, Rvbyqvwi 29, 2014 1519

76. Complaint and complainant's share in fine. — (1) Any person, who is generally a consumer or likely to be a consumer, may make a written complaint to the Director General or any person empowered by the Director General against any anti-consumer right practice under this Act.

(2) The authority, upon receiving a written complaint under sub-section (1), shall immediately investigate or inquire into such complaint.

(3) If such complaint is proved to be true after investigation or inquiry, the Director General or any officer empowered by him may, in his administrative action, impose fine upon the convicted person.

(4) If the fine imposed under sub-section (3) is realized, 25% of such realized fine shall immediately be paid to the complainant mentioned in sub-section (1) :

Provided that if the complainant is an officer or an employee of the Directorate, he shall not be entitled to receive such 25% realized fine mentioned in this sub-section.

(5) If any regular criminal case is filed in a Court or Special Tribunal under this section and if the accused is sentenced to fine in the regular case upon conviction and the fine is realized, the 25% of the realized fine shall be paid to the complainant mentioned in sub-section (1) :

Provided that if the complainant is an officer or an employee of the Directorate, he shall not be entitled to receive the 25% realized fine mentioned in this sub-section.

(6) For the purposes of this section, any person may, by examining the matter of adulteration or faking of goods in a public or private laboratory at his own initiative, make a complaint with the result of such examination.

77. Acts done in good faith. — If any person is affected or likely to be affected by any act done in good faith under this Act or any rules, for that reason no suit, prosecution or other legal proceedings shall lie against the Government, the Council, any member of the Council, the Directorate or any officer or employee of the Directorate. 1520 evsjvꞤ k ꞤMꞤRU, AwZwi³, Rvbyqvwi 29, 2014

78. Exemption. — (1) No punitive measures shall be taken against any seller by accusing him of any offence under this Act, if he has no

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