

CONSUMER PROTECTION (FAIR TRADING) ACT

(CHAPTER 52A)

An Act to protect consumers against unfair practices and to give consumers additional rights in respect of goods that do not conform to contract, and for matters connected therewith.

[1st March 2004]

PART I PRELIMINARY

Short title

1. This Act may be cited as the Consumer Protection (Fair Trading) Act.

Interpretation

2. —(1) In this Act, unless the context otherwise requires —

"Chairman" means the Chairman of the Injunction Proposals Review Panel appointed under section 10;

"consumer" means an individual who, otherwise than exclusively in the course of business —

(a) receives or has the right to receive goods or services from a supplier; or

(b) has a legal obligation to pay a supplier for goods or services that have been or are to be supplied to another individual;

"consumer transaction" means —

(a) the supply of goods or services by a supplier to a consumer as a result of a purchase, lease, gift, contest or other arrangement; or

(b) an agreement between a supplier and a consumer, as a result of a purchase, lease, gift, contest or other arrangement, in which the supplier is to supply goods or services to the consumer or to another consumer specified in the agreement,

but does not include any transaction specified in the First Schedule;

"financial product" includes any arrangement, transaction or contract regulated, or supplied by any person regulated, under —

(a) any written law administered by the Monetary Authority of Singapore;

(b) the Commodity Trading Act (Cap. 48A); or

(c) such other written law as the Minister may by order prescribe;

"financial services" includes any services regulated, or supplied by any person regulated, under —

(a) any written law administered by the Monetary Authority of Singapore;

(b) the Commodity Trading Act (Cap. 48A); or

(c) such other written law as the Minister may by order prescribe;

"flat" means a horizontal stratum of any building or part thereof, whether the stratum or part is on one or more levels or is partially or wholly below the surface of the ground;

"goods" means —

(a) any personal property, whether tangible or intangible, and includes —

(i) chattels that are attached or intended to be attached to real property on or after delivery; and

(ii) financial products and credit, including credit extended solely on the security of land;

(b) any residential property; or

(c) a voucher;

"hire-purchase agreement" has the same meaning as in the Hire-Purchase Act (Cap. 125);

"material fact" means any information that a supplier knows or ought reasonably to know would affect the decision of a consumer to enter into a consumer transaction;

"motor vehicle" has the same meaning as in section 2 of the Road Traffic Act (Cap. 276);

"motor vehicle dealer" means a supplier of motor vehicles;

"motor vehicle sale contract" means a contract between a consumer and a motor vehicle dealer for the sale of a motor vehicle to the consumer;

"Panel" means the Injunction Proposals Review Panel appointed under section 10;

"residential property" means any house, flat or other premises which is permitted to be used pursuant to any written law as a dwelling-house and any such house, flat or other premises which is in the course of being constructed;

"services" includes —

(a) a service offered or provided that involves the addition to or maintenance, repair or alteration of goods or any residential property;

(b) a membership in any club or organisation if the club or organisation is a business formed to make a profit for its owners;

(c) the right to use time share accommodation under a time share contract; and

(d) financial services;

"Small Claims Tribunal" means a Small Claims Tribunal constituted under section 4 of the Subordinate Courts Act (Cap. 321);

"specified body" means any person or body appointed under section 8(10);

"specified dispute resolution scheme" means, in respect of disputes arising in relation to any consumer transaction, any dispute resolution scheme specified for the purposes of section 7(10) by regulations made under section 20(2)(k) in respect of disputes arising in relation to a class of consumer transactions to which that consumer transaction belongs;

"supplier" means a person who, in the course of the person's business —

(a) provides goods or services to consumers;

(b) manufactures, assembles or produces goods;

(c) promotes the use or purchase of goods or services; or

(d) receives or is entitled to receive money or other consideration as a result of the provision of goods or services to consumers,

and includes any employee or agent of the person, and the word "supply", with its grammatical variations and cognate expressions, shall have corresponding meanings;

"time share accommodation" means any living accommodation, in Singapore or elsewhere, used or intended to be used (wholly or partly) for leisure purposes by a class of persons all of whom have rights to use, or participate in arrangements under which they may use, that accommodation or accommodation within a pool of accommodation to which that accommodation belongs;

"time share contract" means a contract which confers or purports to confer on an individual time share rights that are exercisable during a period of not less than 3 years;

"time share related contract" means a contract to assist a consumer to dispose of his time share rights conferred under a time share contract;

"time share rights" means rights to use time share accommodation for a specified or ascertainable period, but does not include rights under a contract of employment or an insurance policy;

"unfair practice" means an unfair practice within the meaning of section 4;

"voucher" means any document that purports to give the holder of the document the right to obtain goods or a service or the right to obtain goods or a service at a discounted or reduced price.

(2) An individual who holds himself out as acting exclusively in the course of business shall be treated as acting exclusively in the course of business for the purpose of the definition of “consumer” in subsection (1).

(3) For the purposes of the definitions of “financial product” and “financial services” in subsection (1), a reference to a person regulated under a written law shall include a person exempted from being licensed, approved or regulated under that written law.

PART II UNFAIR PRACTICES

[15/2008]

Application of Part

3. This Part shall not apply unless —

- (a) the supplier or consumer is resident in Singapore; or
- (b) the offer or acceptance relating to the consumer transaction is made in or is sent from Singapore.

Meaning of unfair practice

4. It is an unfair practice for a supplier, in relation to a consumer transaction —

- (a) to do or say anything, or omit to do or say anything, if as a result a consumer might reasonably be deceived or misled;
- (b) to make a false claim;
- (c) to take advantage of a consumer if the supplier knows or ought reasonably to know that the consumer —
 - (i) is not in a position to protect his own interests; or
 - (ii) is not reasonably able to understand the character, nature, language or effect of the transaction or any matter related to the transaction; or
- (d) without limiting the generality of paragraphs (a), (b) and (c), to do anything specified in the Second Schedule.

Circumstances surrounding unfair practice

5. —(1) An unfair practice may occur before, during or after a consumer transaction.

(2) An unfair practice may consist of a single act or omission.

(3) In determining whether or not a person has engaged in an unfair practice —

(a) the reasonableness of the actions of that person in those circumstances is to be considered; and

(b) an act or omission by an employee or agent of a person is deemed also to be an act or omission of the person if the act or omission occurred in the course of —

- (i) the employee’s employment with the person; or
- (ii) the agent exercising the powers or performing the duties on behalf of the person within the scope of the agent’s actual or apparent authority.

Consumer’s right to sue for unfair practice

6. —(1) A consumer who has entered a consumer transaction involving an unfair practice may commence an action in a court of competent jurisdiction against the supplier.

(2) The right to commence an action under subsection (1) shall not apply where —

- (a) the amount of the claim exceeds the prescribed limit; or
- (b) there is no claim for money, and the remedy or relief sought in the action is in respect of a subject-matter the value of which exceeds the prescribed limit.

(3) For the purposes of subsection (2)(a), where the amount claimed consists of a balance not exceeding the prescribed limit after set-off of any amount claimed or recoverable by the supplier from the consumer, being a set-off admitted by the consumer in the particulars of his claim, the amount of the claim shall not be taken to exceed the prescribed limit.

(4) For the purposes of subsection (2)(b), where the subject-matter in an action is a residential property, its value shall be —

(a) the annual value of the immovable property appearing in the Valuation List prepared under section 10 of the Property Tax Act (Cap. 254);

(b) the annual rent, or 12 times the monthly rent, payable by the tenant in respect of the immovable property (if this value is lower than the value in paragraph (a)); or

(c) if the annual value, annual rent or monthly rent cannot be ascertained, one-tenth of the last transacted price.

(5) Where the amount of a claim in an action under subsection (1) exceeds the prescribed limit, the consumer may abandon the excess and thereafter —

(a) the amount of the claim shall be deemed to be within the prescribed limit;

(b) the consumer shall not recover in that action an amount exceeding the prescribed limit; and

(c) an order of the court in relation to that action shall be in full discharge of all demands in respect of that cause of action.

(6) The prescribed limit referred to in this section shall be \$30,000 or such other amount as the Minister may, by order in the *Gazette*, prescribe.

[15/2008]

(7) Any party to an action in a court under subsection (1) may, at any time, apply to that court to stay the proceedings so far as the proceedings relate to an unfair practice in respect of which an application has been made under section 9 against the same supplier.

[15/2008]

(8) The court to which an application under subsection (7) has been made may, if the court is satisfied that the determination in respect of the application under section 9 will be material to the action under subsection (1), make an order, upon such terms as the court thinks fit, staying the proceedings so far as the proceedings relate to that unfair practice.

[15/2008]

(9) Where no party to the proceedings has taken any further step in the proceedings for a period of 2 or more years after an order staying the proceedings has been made, the court may, on its own motion, make an order discontinuing the proceedings without prejudice to the right of any of the parties to apply for the discontinued proceedings to be reinstated.

[15/2008]

Jurisdiction and powers of courts

7. —(1) Notwithstanding section 5(1) of the Small Claims Tribunals Act (Cap. 308), a Small Claims Tribunal shall have jurisdiction to hear and determine —

(a) any action under section 6(1) insofar as the action relates to an unfair practice involving a relevant contract;

(b) any action under section 8(6), (7) or (8) insofar as the action relates to an undertaking in respect of an unfair practice involving a relevant contract;

(c) any action under any regulations made under section 11 insofar as the action relates to a relevant contract, a time share contract or a time share related contract;

(d) any action under any provisions specified under section 20(2)(j), insofar as the action relates to a relevant contract; or

(e) any action insofar as it relates to a deposit paid in relation to or in contemplation of a motor vehicle sale contract.

[15/2008]

(2) In subsection (1), “relevant contract” means a contract referred to in section 5(1)(a) (contract for the sale of goods or the provision of services) or (c) (contract for the lease of residential premises that does not exceed 2 years) of the Small Claims Tribunals Act (Cap. 308), and does not include a hire-purchase agreement or sale of immovable property.

[15/2008]

(2A) For the avoidance of doubt, subsections (2) to (5) of section 5 of the Small Claims Tribunals Act shall apply, with the necessary modifications, to a Small Claims Tribunal exercising the jurisdiction conferred by subsection (1).

[15/2008]

(3) For the purposes of determining whether an action under section 6(1) exceeds the District Court limit or the Magistrate's Court limit within the meaning of the Subordinate Courts Act (Cap. 321), such an action shall be deemed to be a claim founded on contract.

(4) Without prejudice to any other powers of the court to grant relief, a court (other than a Small Claims Tribunal) may in any proceedings where the court finds that a supplier has engaged in an unfair practice —

(a) order restitution of any money, property or other consideration given or furnished by the consumer;

(b) award the consumer damages in the amount of any loss or damage suffered by the consumer as a result of the unfair practice;

(c) make an order of specific performance against the supplier;

(d) make an order directing the supplier to repair goods or provide parts for goods; or

(e) make an order varying the contract between the supplier and the consumer.

(5) For the avoidance of doubt, in an action under section 6(1) before a Small Claims Tribunal, the Tribunal may make orders pursuant to the provisions of the Small Claims Tribunals Act.

(6) Notwithstanding subsections (4) and (5), the court shall not grant any relief in respect of any goods or services intended for business use in an action under section 6(1).

(7) For the purposes of subsection (6), the court may apportion the use of goods and services between business use and non-business use as the court considers just and equitable in the circumstances of the case (notwithstanding that the goods or services are indivisible) and grant relief only in respect of the portion of goods and services so attributed with non-business use.

(8) For the purposes of subsections (6) and (7) and section 17, goods or services intended for business use shall include —

(a) goods or services (as the case may be) that the consumer intends to re-sell in the course of his business; and

(b) goods that the consumer intends to use up or transform, in the course of his business, in a process of production or manufacturing or in repairing or treating other goods or fixtures, and "business use" and "non-business use" shall be construed accordingly.

(9) Where the court finds that an unfair practice has occurred, the court shall, in making an order in an action under section 6(1), have regard to whether or not the consumer made a reasonable effort to —

(a) minimise any loss or damage resulting from the unfair practice; and

(b) resolve the dispute with the supplier before commencing the action.

(10) For the purposes of subsection (9)(b), if any specified dispute resolution scheme was available to the consumer in respect of the dispute, the court shall consider whether the consumer had sought to resolve the dispute through such a scheme.

[15/2008]

Voluntary compliance agreement

8. —(1) Where there are reasonable grounds for believing that a supplier has engaged, is engaging or is likely to engage in an unfair practice, a specified body may invite the supplier to enter into a voluntary compliance agreement.

(2) The voluntary compliance agreement shall —

(a) be in writing; and

- (b) include an undertaking that the supplier will not engage in the unfair practice.
- (3) Subject to subsection (5), the specified body may (with the agreement of the supplier) include in a voluntary compliance agreement all or any of the following undertakings by the supplier:
- (a) to compensate any consumer who has suffered loss or damage as a result of an unfair practice;
 - (b) to reimburse any specified body for any costs or expenses incurred by it;
 - (c) to publicise the voluntary compliance agreement, in such manner or upon such terms as specified in the undertakings.
- (4) Subject to subsection (5), the specified body may (after entering into a voluntary compliance agreement and with the agreement of the supplier) —
- (a) vary the terms of any undertaking included in the voluntary compliance agreement; or
 - (b) include, in the voluntary compliance agreement, additional undertakings referred to in subsection (3).
- (5) No undertaking referred to in subsection (3)(a) shall be included in a voluntary compliance agreement or varied after its inclusion, except at the request of the consumer to whom the undertaking relates.
- (6) Where a supplier fails to comply with any undertaking referred to in subsection (3)(a), the consumer may recover the compensation specified in the undertaking as a civil debt due to the consumer.
- (7) Where a supplier fails to comply with any undertaking referred to in subsection (3)(b), the specified body may recover the reimbursement specified in the undertaking as a civil debt due to the specified body.
- (8) Where a supplier fails to comply with any undertaking referred to in subsection (3)(c), the specified body may publicise the voluntary compliance agreement in accordance with the undertaking and recover the costs and expenses so incurred from the supplier as a civil debt due to the specified body.
- (9) Unless otherwise provided in the voluntary compliance agreement, recovery of compensation or reimbursement (as the case may be) under a voluntary compliance agreement or under subsection (6), (7) or (8) shall bar all further actions to recover any loss, damage, costs or expenses to which the undertaking so enforced relates.
- (10) The Minister may, by notification in the Gazette, appoint any person or body as a specified body for the purposes of this ActPart.

Declaration or injunction

9. —(1) Where a supplier has engaged, is engaging or is likely to engage in an unfair practice, the District Court or High Court may, on the application of a specified body —
- (a) make a declaration that the practice engaged in or about to be engaged in by the supplier is an unfair practice;
 - (b) grant an injunction restraining the supplier from engaging in the unfair practice; and
 - (c) if the Court grants relief under paragraph (a) or (b), make a further order requiring the supplier to advertise to the public in a manner that will ensure prompt and reasonable communication to consumers, on any terms or conditions the Court considers reasonable and just, particulars of any declaration or injunction granted against the supplier under paragraph (a) or (b).
- (2) Where an application is made to the District Court or High Court for the grant of a declaration or an injunction under subsection (1), the power of the Court to grant the declaration or injunction may be exercised —
- (a) if the Court is satisfied that the supplier has engaged in the unfair practice, whether or not it appears to the Court that the supplier intends to engage again, or to continue to engage, in the unfair practice; or

(b) if it appears to the Court that, in the event that a declaration or an injunction is not granted, it is likely that the supplier will engage in the unfair practice, whether or not the supplier has previously engaged in the unfair practice and whether or not there is any likelihood of irreparable harm to any consumer or class of consumers if the supplier engages in the unfair practice.

(3) Where an application is made to the District Court or High Court for an injunction under subsection (1), the Court may (pending determination of the application) grant an interim injunction restraining the supplier from engaging in the unfair practice, if the Court is of the opinion that it is desirable to do so —

(a) whether or not it appears to the Court that the supplier intends to engage again, or to continue to engage, in the unfair practice; or

(b) whether or not the supplier has previously engaged in the unfair practice and whether or not there is any likelihood of irreparable harm to any consumer or class of consumers if the supplier engages in the unfair practice.

(4) A specified body shall not, except with the endorsement of the Panel under section 10(5)(b), make an application for a declaration or an injunction under subsection (1).

(5) In any legal proceedings, a certificate purporting to be under the hand of the Chairman stating that the Panel has, pursuant to section 10(5)(b), endorsed a proposal by a specified body to make an application for a declaration or an injunction against a supplier under this section shall be admissible as prima facie evidence of those facts.

(6) If a practice of the supplier has been declared or permanently enjoined by the District Court or High Court as being an unfair practice under this section, the order shall be, in any other civil proceedings involving the supplier except an appeal from the order, conclusive proof that the practice in question is an unfair practice.

(7) Where a specified body makes an application to the District Court or High Court for the grant of a declaration or an injunction under subsection (1) or for an interim injunction under subsection (3), the Court may order the specified body to furnish security for costs in any amount that the Court considers proper.

Injunction Proposals Review Panel

10. —(1) The Minister may, by notification in the Gazette, appoint an Injunction Proposals Review Panel consisting of —

(a) a Chairman;

(b) a Deputy Chairman who shall be a public officer or an officer of any statutory board; and

(c) at least one other member.

(2) The members of the Panel shall hold office for such period as may be determined by the Minister and shall, on ceasing to be a member, be eligible for reappointment.

(3) The Minister may, at any time, revoke the appointment of any member of the Panel without assigning any reason.

(4) A member of the Panel may resign his office at any time by giving notice in writing to the Minister.

(5) The Panel shall have the power to do anything necessary, incidental or conducive for the purpose of discharging its functions under this Act Part and, in particular, may —

(a) consider any proposal by a specified body to apply for a declaration or an injunction against a supplier under section 9 referred to the Panel by the Chairman; and

(b) if the Panel is satisfied that it is in the public interest, endorse the proposal referred to in paragraph (a).

(6) The constitution and the proceedings of the Panel shall be governed by the provisions in the Third Schedule.

(7) No act or thing done by or under the authority of the Panel shall be invalid in consequence of any defect that is subsequently discovered in the appointment or qualification of the members or any of them.

(8) Subject to subsection (9), except insofar as may be necessary for the purposes of giving effect to any decision of the Panel, confidentiality shall be maintained in all proceedings conducted by the Panel.

(9) The Chairman shall, as soon as practicable after the end of each calendar year, submit to the Minister an annual report on the activities of the Panel.

(10) No action or proceedings shall lie against the Panel or any member thereof for any act or thing done under this Act Part unless it is proved to the court that the act or thing was done in bad faith or with malice.

Right to cancel certain contracts within cancellation period

11. —(1) The Minister may make regulations prescribing that a consumer who, in relation to a consumer transaction, has entered into a contract falling within any class of contracts specified in the regulations may cancel the contract within a cancellation period specified in the regulations.

(2) For the purposes of this section, the Minister may make regulations prescribing —

(a) the manner in which notices of cancellation may be properly given;

(b) any notice that the supplier must give to the consumer and the manner in which such notice may be properly given;

(c) the rights and obligations of parties to a contract cancelled pursuant to regulations made under this section, or any other contract entered into for the purposes of the cancelled contract, including the amount or value of any deposit, security, goods or compensation recoverable in an action arising from the cancellation; and

(d) the effect of cancellation pursuant to regulations made under this section on any rights the parties to the contract may otherwise have.

Limitation period

12. —(1) No action under section 6 shall be commenced later than 2 years from —

(a) the date of the occurrence of the last material event on which the action is based; or

(b) the earliest date on which the consumer had knowledge that the supplier had engaged in the unfair practice to which the action relates, including —

(i) in the case of an unfair practice referred to in section 4(a) or (b) or involving any representation, act or omission that is false, deceptive or misleading, knowledge that the representation, act or omission is false, deceptive or misleading; and

(ii) in the case of an unfair practice referred to in section 4(c) or involving taking advantage of the consumer, knowledge that the supplier had taken advantage of him, whichever occurs later.

[15/2008]

(2) No action under section 8(6), (7) or (8) shall be commenced later than one year from the date of the failure to comply with the undertaking sought to be enforced.

(3) No action under section 9 shall be commenced later than 2 years —

(a) from the date of the occurrence of the last material event on which the action is based; or

(b) where the specified body alleges in the action that the supplier has engaged in an unfair practice in respect of any consumer, from the earliest date on which that consumer had knowledge that the supplier had engaged in the alleged unfair practice, as provided in subsection (1)(b),

whichever occurs later.

[15/2008]

(4) No action under any regulations made under section 11 shall be commenced later than one year from the date of the cancellation of the contract.

- (5) Knowledge that any representation, act or omission did or did not, as a matter of law, involve an unfair practice is irrelevant for the purposes of subsection (1)(b).
- (6) For the purposes of subsection (1)(b), a consumer's knowledge includes knowledge which he might reasonably have been expected to acquire from facts —
- (a) observable or ascertainable by him; or
 - (b) ascertainable by him with the help of appropriate expert advice which it is reasonable for him to seek.
- (7) A consumer shall not be taken by virtue of subsection (6) to have knowledge of a fact ascertainable only with the help of expert advice so long as he has taken all reasonable steps to obtain (and, where appropriate, to act on) that advice.
- (8) The Limitation Act (Cap. 163) shall apply (with the necessary modifications, including the modifications set out in the Fourth Schedule) to actions referred to in this section as if such actions were actions for which a period of limitation is prescribed in Part II of the Limitation Act.

PART III
ADDITIONAL CONSUMER RIGHTS
IN RESPECT OF NON-CONFORMING GOODS

Interpretation of this Part

12A.-(1) In this Part, unless the context otherwise requires -

“applicable contract” means –

- (a) a contract of sale of goods;
- (b) a contract for the transfer of goods;
- (c) a contract of hire; or
- (d) a hire-purchase agreement;

“contract of hire” and “contract for the transfer of goods” have the same meanings, respectively, as in the Supply of Goods Act (Cap. 394);

“contract of sale of goods” has the same meaning as in the Sale of Goods Act (Cap. 393);

"delivery" has the same meaning as in the Sale of Goods Act;

[SGA, s. 61(1): "delivery" means voluntary transfer of possession from one person to another except that, in relation to sections 20A and 20B, it includes such appropriation of goods to the contract as results in property in the goods being transferred to the buyer.]

“goods” –

- (a) in relation to a sale, has the same meaning as in the Sale of Goods Act;
- (b) in relation to a transfer or bailment, has the same meaning as in the Supply of Goods Act;

[43/96]

“hire-purchase agreement” has the same meaning as in Part III of the Hire Purchase Act (Cap. 125);

"repair" means, in cases where there is a lack of conformity in goods within the meaning of subsection (4), to bring the goods into conformity with the contract;

[Added to UKSGA by regulation 6(2) of the UK Sale and Supply of Goods to Consumers Regulations 2002]

“transferee” –

- (a) in relation to a contract of sale of goods, means the buyer within the meaning of the Sale of Goods Act (Cap. 393);
- (b) in relation to a contract for the transfer of goods, means the transferee within the meaning of the Supply of Goods Act (Cap. 394);
- (c) in relation to a contract of hire, means the bailee within the meaning of the Supply of Goods Act (Cap. 394); and
- (d) in relation to a hire-purchase agreement, means the hirer within the meaning of the Hire-Purchase Act (Cap. 125);

“transferor” –

- (a) in relation to a contract of sale, means the seller within the meaning of the meaning of the Sale of Goods Act;
- (b) in relation to a contract for the transfer of goods, has the same meaning as in the Supply of Goods Act;
- (c) in relation to a contract of hire, means the hirer within the meaning of the meaning of the Supply of Goods Act; and
- (d) in relation to a hire-purchase agreement, means the owner within the meaning of the Hire-Purchase Act.

(2) References in this Part to dealing as consumer are to be construed in accordance with Part I of the Unfair Contract Terms Act (Cap. 396).

[SGA s. 61(4A)]

(3) For the purposes of this Part, it is for a transferor claiming that the transferee does not deal as consumer to show that he does not.

[SGA s. 61(4B)]

(4) For the purposes of this Part, goods do not conform to –

- (a) a contract of sale, if there is, in relation to the goods, a breach of an express term of the contract or a term implied by section 13, 14 or 15 of the Sale of Goods Act;
- (b) a contract for the supply or transfer of goods if there is, in relation to the goods, a breach of an express term of the contract or a term implied by section 3, 4 or 5 of the Supply of Goods Act;
- (c) a contract of hire, if there is, in relation to the goods, a breach of an express term of the contract or a term implied by section 13, 14 or 15 of the Sale of Goods Act; or
- (d) a hire-purchase agreement, if there is, in relation to the goods, a breach of an express term of the contract or a term implied by section 7, 7A or 7B of the Hire Purchase Act.

[UKSGA, s. 48F]

Application of this Part

12B.-(1) This Part applies if -

- (a) the transferee deals as consumer; and

(b) the goods do not conform to the applicable contract at the time of delivery.

(2) If this section applies, the transferee has the right -

(a) under and in accordance with section 12C, to require the transferor to repair or replace the goods; or

(b) under and in accordance with section 12D -

(i) to require the transferor to reduce the amount to be paid for the transfer by the transferee by an appropriate amount; or

(ii) to rescind the contract with regard to the goods in question.

(3) For the purposes of subsection (1)(b), goods which do not conform to the contract for the supply of goods at any time within the period of 6 months starting with the date on which the goods were delivered to the transferee must be taken not to have so conformed at that date.

(4) Subsection (3) does not apply if -

(a) it is established that the goods did so conform at that date; or

(b) its application is incompatible with the nature of the goods or the nature of the lack of conformity.

(5) The reference to the amount to be paid for the transfer in subsection (2) is, in the case of a contract of sale, a reference to the purchase price of the goods.

[UKSGA, s. 48A]

Repair or replacement of the goods

12C.-(1) If section 12B applies, the transferee may require the transferor -

(a) to repair the goods; or

(b) to replace the goods.

(2) If the transferee requires the transferor to repair or replace the goods, the transferor must -

(a) repair or, as the case may be, replace the goods within a reasonable time but without causing significant inconvenience to the transferee; and

(b) bear any necessary costs incurred in doing so (including in particular the cost of any labour, materials or postage).

(3) The transferee must not require the transferor to repair or, as the case may be, replace the goods if that remedy is -

(a) impossible;

(b) disproportionate in comparison to the other of those remedies; or

(c) disproportionate in comparison to an appropriate reduction in the amount to be paid for the transfer under paragraph (a), or rescission under paragraph (b), of section 12D(1).

(4) One remedy is disproportionate in comparison to the other if the one imposes costs on the transferor which, in comparison to those imposed on him by the other, are unreasonable, taking into account -

- (a) the value which the goods would have if they conformed to the applicable contract;
- (b) the significance of the lack of conformity to the applicable contract; and
- (c) whether the other remedy could be effected without significant inconvenience to the transferee.

(5) Any question as to what is a reasonable time or significant inconvenience is to be determined by reference to -

- (a) the nature of the goods; and
- (b) the purpose for which the goods were acquired.

[UKSGA, s. 48B]

Reduction of purchase price or rescission of contract

12D.-(1) If section 12B applies, the transferee may -

- (a) require the transferor to reduce the amount to be paid for the transfer of the goods in question to the transferee by an appropriate amount; or
- (b) rescind the contract with regard to those goods, if the condition in subsection (2) is satisfied.

(2) The condition is that -

- (a) by virtue of section 12C(3) the transferee may require neither repair nor replacement of the goods; or
- (b) the transferee has required the transferor to repair or replace the goods, but the transferor is in breach of the requirement of section 12C(2)(a) to do so within a reasonable time and without significant inconvenience to the transferee.

(3) For the purposes of this Part, if the transferee rescinds the contract, any reimbursement to the transferee may be reduced to take account of the use he has had of the goods since they were delivered to him.

[UKSGA, s. 48C]

Relation to other remedies, etc.

12E.-(1) If the transferee requires the transferor to repair or replace the goods the transferee must not act under subsection (2) until he has given the transferor a reasonable time in which to repair or replace (as the case may be) the goods.

(2) The transferee acts under this subsection if -

- (a) he rejects the goods and terminates the contract for breach of condition; or
- (b) he requires the goods to be replaced or repaired (as the case may be).

[UKSGA, s. 48D]

Powers of court

12F.-(1) In any proceedings in which a remedy is sought by virtue of the Sale of Goods Act, the Supply of Goods Act or the Hire-Purchase Act, the court, in addition to any other power it has, may act under this section.

(2) On the application of the transferee the court may make an order requiring specific performance by the transferor of any obligation imposed on him by virtue of section 12C.

(3) Subsection (4) applies if -

- (a) the transferee requires the transferor to give effect to a remedy under section 12C or 12D or has claims to rescind under section 12D; but
- (b) the court decides that another remedy under section 12C or 12D is appropriate.

(4) The court may proceed -

- (a) as if the transferee had required the transferor to give effect to the other remedy; or
- (b) if the other remedy is rescission under section 12D, as if the transferee had claimed to rescind the contract under that section.

(5) If the transferee has claimed to rescind the contract the court may order that any reimbursement to the transferee is reduced to take account of the use he has had of the goods since they were delivered to him.

(6) The court may make an order under this section unconditionally or on such terms and conditions as to damages, payment of the price and otherwise as it thinks just.

[UKSGA, s. 48E]

PART IV GENERAL

No contracting out

13. —(1) The provisions of this Act shall prevail notwithstanding any agreement to the contrary and any term contained in a contract is void, if and to the extent that it is inconsistent with the provisions of this Act.

(2) Any waiver or release given of any right, benefit or protection conferred under this Act shall be void.

(3) Subsections (1) and (2) shall not apply to any release made by a person in settlement of a dispute.

Rights transferred

14. Where, other than in the course of business, an individual, as heir or assignee of a consumer, receives goods or services, that individual has the same rights as the consumer to seek and obtain redress from the supplier under this Act.

Preservation of other rights or remedies

15. —(1) Subject to subsection (2), nothing in this Act shall restrict, limit or derogate from any right or remedy that a consumer may have apart from this Act.

(2) Subsection (1) shall have effect subject to any provision to the contrary in any regulations made under section 11 or 20.

Exemption from liability for publishers

16. A person who, on behalf of a supplier, prints, publishes, distributes, broadcasts or telecasts an advertisement in good faith and in the ordinary course of his business shall not be liable under this Act in respect of any statement, representation or omission in that advertisement.

Parol evidence rule abolished

17. —(1) Notwithstanding sections 93 and 94 of the Evidence Act (Cap. 97), parol or extrinsic evidence establishing the existence of an express warranty is admissible in any action relating to a consumer transaction between a consumer and a supplier even though it adds to, varies or contradicts a written contract.

(2) Subsection (1) shall not be applicable to establish the existence of any express warranty in respect of goods or services intended for business use.

Interpretation of documents

18. If a consumer and a supplier enter into a consumer transaction and —

(a) all or any part of the transaction or contract is evidenced by a document provided by the supplier; and

(b) a provision of the document is ambiguous,
the provision must be interpreted against the supplier.

Burden of proof

18A. —(1) If, in any proceedings taken in any court between a consumer and a supplier in relation to a consumer transaction, any dispute arises as to whether the supplier has complied with any specified requirement of this Act or the regulations made thereunder, the burden of proving that the supplier has so complied shall be on the supplier.

[15/2008]

(2) The Minister may, by regulations, specify the requirements of this Act or the regulations made thereunder to which subsection (1) shall apply.

[15/2008]

(3) This section shall not affect any other rule of law that places a burden of proof on the supplier.

[15/2008]

Amendment of Schedules

19. The Minister may, by order published in the Gazette, amend the Schedules.

Regulations

20. —(1) The Minister may make such regulations as may be necessary or expedient for the purposes of this Act.

(2) Without prejudice to the generality of subsection (1), the Minister may make regulations

—
(a) exempting any class of supplier or any class of goods or services or transactions from the application of this Act or any provision of this Act, and imposing conditions for that exemption;

(b) modifying the application of any provision of this Act to any class of supplier or any class of goods or services or transactions;

(c) controlling or prohibiting any practice in relation to any consumer transaction;

(d) prescribing information or notices that must be provided to consumers by suppliers with respect to any consumer transaction;

(e) prescribing the form or terms of contracts to be used in any consumer transaction and any information to be contained therein;

(f) requiring suppliers to maintain books, accounts (including trust accounts) or records in relation to any consumer transaction, and prescribing the form and mode of keeping such books, accounts and records;

(g) prescribing or adopting, with or without modification, codes, standards or rules governing the conduct of suppliers engaged in any consumer transaction;

- (h) prescribing the rights and obligations of parties in relation to a consumer transaction involving any practice regulated under this Act or any regulations made thereunder, including the right to sue for the purpose of enforcing such rights or obligations in circumstances specified therein;
- (i) specifying limitation periods for any action under this Act or any regulations made thereunder;
- (j) specifying, for the purposes of section 7(1)(d), actions under provisions in any regulations made under this section;
- (k) specifying dispute resolution schemes for the purposes of section 7(10); and
- (l) modifying the application of section 6(2), in relation to any class of supplier or any class of goods or services or transactions, where multiple actions involving the same unfair practice are commenced under section 6(1) by the same consumer.

[15/2008]

FIRST SCHEDULE

Section 2

EXCLUDED TRANSACTIONS

1. The term “consumer transaction” does not include any of the following transactions:
 - (a) acquisition of an estate or interest in any immovable property (but not including any lease of residential property granted in consideration of rent or any time share contract);
 - (b) (for the avoidance of doubt) service provided under a contract of employment; or
 - (c) any transaction or activity that is regulated under any written law specified in paragraph 2.
2. The following Acts are specified for the purposes of paragraph 1(c):
 - (a) to (g) (Deleted by Act 15 of 2008);
 - * (h) Deleted by Act 15/2008, wef 01/04/2010.
 - * (i) Pawnbrokers Act (Cap. 222).

[15/2008]

*Sub-paragraphs (h) and (i) of paragraph 2 will be deleted when section 8(b) and (c), respectively, of the Consumer Protection (Fair Trading) (Amendment) Act 2008 (Act 15 of 2008) is brought into operation.

SECOND SCHEDULE

Section 4(d)

SPECIFIC UNFAIR PRACTICES

1. Representing that goods or services have sponsorship, approval, performance characteristics, accessories, ingredients, components, qualities, uses or benefits that they do not have.
2. Representing that goods or services are of a particular standard, quality, grade, style, model, origin or method of manufacture if they are not.
3. Representing that goods are new or unused if they are not or if they have deteriorated or been altered, reconditioned or reclaimed.
4. Representing that goods have been used to an extent different from the fact or that they have a particular history or use if the supplier knows it is not so.

5. Representing that goods or services are available or are available for a particular reason, for a particular price, in particular quantities or at a particular time if the supplier knows or can reasonably be expected to know it is not so, unless the representation clearly states any limitation.
6. Representing that a service, part, repair or replacement is needed or desirable if that is not so, or that a service has been provided, a part has been installed, a repair has been made or a replacement has been provided, if that is not so.
7. Representing that a price benefit or advantage exists respecting goods or services where the price benefit or advantage does not exist.
8. Charging a price for goods or services that is substantially higher than an estimate provided to the consumer, except where the consumer has expressly agreed to the higher price in advance.
9. Representing that a transaction involving goods or services involves or does not involve rights, remedies or obligations where that representation is deceptive or misleading.
10. Representing that a person has or does not have the authority to negotiate the final terms of an agreement involving goods or services if the representation is different from the fact.
11. Taking advantage of a consumer by including in an agreement terms or conditions that are harsh, oppressive or excessively one-sided so as to be unconscionable.
12. Taking advantage of a consumer by exerting undue pressure or undue influence on the consumer to enter into a transaction involving goods or services.
13. Representing in relation to a voucher that another supplier will provide goods or services at a discounted or reduced price if the supplier making the representation knows or ought to know that the other supplier will not do so.
14. Making a representation that appears in an objective form such as an editorial, documentary or scientific report when the representation is primarily made to sell goods or services, unless the representation states that it is an advertisement or a promotion.
15. Representing that a particular person has offered or agreed to acquire goods or services whether or not at a stated price if he has not.
16. Representing the availability of facilities for repair of goods or of spare parts for goods if that is not the case.
17. Offering gifts, prizes or other free items in connection with the supply of goods or services if the supplier knows or ought to know that the items will not be provided or provided as offered.
18. Representing that goods or services are available at a discounted price for a stated period of time if the supplier knows or ought to know that the goods or services will continue to be so available for a substantially longer period.
19. Representing that goods or services are available at a discounted price for a particular reason that is different from the fact.
20. Using small print to conceal a material fact from the consumer or to mislead a consumer as to a material fact, in connection with the supply of goods or services.

THIRD SCHEDULE

Section 10(6)

CONSTITUTION AND PROCEEDINGS OF INJUNCTION PROPOSALS REVIEW PANEL

1. Subject to any direction under paragraph 7, all the members of the Panel shall be present to constitute a quorum for a meeting of the Panel and any decision in writing signed by all the

members of the Panel shall be as valid and effectual as if it had been made or reached at a meeting of the Panel where all its members were present.

2. The Panel may meet for the purposes of its inquiry, adjourn or otherwise regulate the conduct of its inquiry as the members think fit.

3. The Chairman may at any time summon a meeting of the Panel.

4. All members of the Panel shall vote on any question arising at the meeting (subject to any direction under paragraph 7) and such question shall be determined by a majority of votes.

5. The supplier to whom the proposal under consideration by the Panel relates shall not have the right to be heard by the Panel, whether in person or by counsel, unless the Panel in its absolute discretion otherwise allows.

6. A member of the Panel shall declare to the Minister, or any other person authorised by the Minister, the nature and extent of all conflicts of interest or potential conflicts of interest, if any, with his duties or interests as a member of the Panel arising from —

(a) his holding of any office;

(b) his interest in any contract;

(c) his possession or ownership of any property;

(d) any direct or indirect relationship with a supplier or consumer affected by a proposal referred to in section 10(5)(a); or

(e) his connection or association with any trade or consumer body.

7. Where the Minister, or any other person authorised by the Minister, is satisfied that a member of the Panel is unable to carry out his duties properly and effectively because of any conflict of interest or potential conflict of interest referred to in paragraph 6, the Minister may replace that member or direct that member to abstain from taking part in any proceedings relating to any matter affected by his conflict of interest or potential conflict of interest.

8. In the event that the Chairman is unable, by reason of illness, leave of absence or any other cause, to exercise any of the functions of his office, the Deputy Chairman shall exercise those functions.

FOURTH SCHEDULE

Section 12(8)

MODIFICATIONS TO PROVISIONS OF LIMITATION ACT

1. In the case of an action under section 6, subsection (1) of section 24 of the Limitation Act (Cap. 163) shall be replaced by the following subsection:

“(1) If, on the date from which the period of limitation begins to run, the person to whom an action under section 6 of the Consumer Protection (Fair Trading) Act (Cap. 52A) accrued was under a disability, the action may be brought at any time before the expiration of one year from the date when the person ceased to be under a disability or died, whichever event first occurred, notwithstanding that the period of limitation has expired.”

2. In the case of an action under section 8(6), subsection (1) of section 24 of the Limitation Act shall be replaced by the following subsection:

“(1) If, on the date from which the period of limitation begins to run, the person to whom an action under section 8(6) of the Consumer Protection (Fair Trading) Act (Cap. 52A) accrued was under a disability, the action may be brought at any time before the expiration of one year from the date when the person ceased to be under a disability or died, whichever event first occurred, notwithstanding that the period of limitation has expired.”

3. In the case of an action under any regulations made under section 11, subsection (1) of section 24 of the Limitation Act shall be replaced by the following subsection:

“(1) If, on the date from which the period of limitation begins to run, the person to whom an action under any regulations made under section 11 of the Consumer Protection (Fair Trading) Act accrued was under a disability, the action may be brought at any time before the expiration of one year from the date when the person ceased to be under a disability or died, whichever event first occurred, notwithstanding that the period of limitation has expired.”.

4. Sections 24A, 24B and 24C of the Limitation Act (Cap. 163) shall not apply to actions under this Act.