

CHAPTER 48

ENUGU STATE CONSUMER PROTECTION COMMITTEE LAW

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CHAPTER 48

ENUGU STATE CONSUMER PROTECTION COMMITTEE LAW

ENSL
1996/ no 7

A Law to make provisions for the protection of consumers and the control of the quality of products and goods intended for sale to the public and for connected purposes.

[1st December 1995]

1 This Law may be cited as the Enugu State Consumer Protection Committee Law

Short title

2. in this Law —

Interpretation

"Attorney-General" means Attorney-General of the State;

"Chairman" means Chairman of the Committee;

"Commissioner" means commissioner charged with the responsibility for matters relating to Commerce, industry and Technology;

'Committee' means Consumer Protection Committee established under section 3 of this Law

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

"Court" means any of the established and recognized courts of the State; "Governor" means Governor of Enugu State;

"member" means member of Committee;

**Ministry" means Ministry of Trade Industry and Technology; "State" means Enugu State of Nigeria,

PART II – ESTABLISHMENT, FUNCTIONS AND POWERS OF COMMITTEE

3 (1) There is hereby established a committee to be known as the Enugu State consumer Protection Committee which shall be a body corporate with perpetual succession and a common seal and with power to sue and be sued in its corporate name?

Establishment
and composition
of the state
consumer
protection
committee

(2) The Committee shall consist of—

- (a) a Chairman, and two other members to be appointed by the Governor,
- (b) one representative from each of the following Ministries and bodies —
 - (i) Ministry of Commerce, Industry and Technology;
 - (ii) State Police Command;
 - (iii) Ministry of Justice;
 - (iv) Ministry of Information;
 - (v) Ministry of Agriculture;

(c) a Secretary who shall be appointed by the Governor from amongst the staff of the Ministry;

(3) The Chairman and members of the Committee shall hold office for a period of three years and shall be eligible for reappointment for one further term only.

(4) Any member of the Committee may resign his appointment by a letter written under his

hand and addressed to the Governor through the Commissioner

(5) Notwithstanding the provisions of subsection (3) of this section the Governor may at any time remove any member of the Committee from office if he is of the opinion that it is not in the interest of the Committee for such member to continue in office and he shall cause such member to be notified to that effect

(6) Where the Committee is of the opinion that the continued presence in the Committee of any member is not in the interest of the State or the interest of the Committee, it may recommend to the Governor through the Commissioner, that the member concerned be removed from office

4. The functions of the Committee shall be —

- (a) to receive inquiry into the causes and circumstances of injury, loss, damage suffered or caused by a company, firm, trade association or individual.
- (b) to negotiate with the parties concerned and endeavour to bring about a settlement;
- (c) to seek ways and means of removing or eliminating from the market hazardous products and causing offenders to replace such products with safer and more appropriate alternatives;
- (d) to publish from time to time a list of products consumption whereof and sale have been banned, withdrawn, severally restricted or not approved.
- e. to cause an offending company, firm, trade association or individual to protect, compensate, provide relief and safeguards to injured consumers or communities from adverse effects of technologies that are inherently harmful, injurious, violent, or highly hazardous;
- f. to organize and undertake campaigns and other forms of activities as may lead to increased public consumer awareness;
- g. to encourage trade, industry and professional associations to develop and enforce to their various fields, quality designed to safeguard the interests of consumers;
- h. to encourage the formation of voluntary consumer groups or associations for consumers' wellbeing;
- i. to ensure that consumers' interests receive due consideration at the appropriate forum and to provide redress to obnoxious practices or the unscrupulous exploitation of consumers by companies, firms, trade associations or individuals;
- j. to seek ways and means of removing or eliminating hoarding, profiteering, product adulteration, faking of products and use of false weights and measures;
- k. to abolish and prohibit the formation or existence of any trade union where the Committee is satisfied that its existence is not in the interest of consumers;
- l. to perform such other functions as may be imposed on the Committee pursuant to this Law,

5 In the exercise of its functions under this law, the Committee shall have power —

- (a) to apply to court to prevent the circulation of any product which

- constitutes an imminent public hazard;
- (b) to compel a manufacturer to certify that all safety standards are met in their products;
- (c) to cause as it deems necessary, quality tests to be conducted on a consumer product;
- (d) to demand production of labels showing date and place of manufacture of commodity as well as certification of compliance.
- (e) to compel a manufacturer, dealer and service company where appropriate, to give public notice of any health hazards inherent in their products;
- (f) to ban the sale, distribution, and advertisement of products which do not comply with safety of health regulations, and
- (g) to check the activities of hoarders, trade unions, profiteers and transport unions and other trade malpractice.

6(1) consumer or community that has suffered any loss, injury, damage as a result of the use or impact of any goods, product or service may make a complaint in writing to or seek redress through the Committee.

(2) Where a consumer, or a person having an interest in a matter is an illiterate or is subject to any physical disability and thereby unable to write, the clerk or other official working with the Committee shall cause such consumer's or person's statement to be written at no fee or payment of any kind from such consumer or person.

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

8 Where upon an investigation by the Committee into a complaint by a consumer

- (a) the consumer's right has been violated, or
- (h) a wrong has been committed by way of trade, provision of service supply of information or advertisement thereby causing injury or loss to the consumer.

the consumer shall in addition to the redress which the Committee may impose base a right of civil action for compensation or restitution in any court

9 (1) It shall be the duty of the manufacturer or distributor of a product on becoming aware after such product has been placed on the market, of any unforeseen hazard arising from the use of such product, to

notify immediately the general public of such risk or danger and cause such product to be withdrawn from the market.

(2) Any person who violates subsection (1) of this section is guilty of an offence and liable to N30,000 fine or imprisonment for three years or to both such fine and imprisonment.

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

(2) If in the circumstance specified in subsection (1) of this section —

- (a) the Committee is unable to obtain from the person in question such an assurance as is mentioned in subsection (1) of this section; or
- (b) that the person has given such assurance but it appears to the Committee that he has failed to observe it:

the Committee shall notify the Attorney-General who shall cause proceedings to be commenced against the offending person for violation of the provisions of this Law,

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

11 Any person who issues or aids in issuing any wrong advertisement about any consumer item, is guilty of an offence and liable to a fine of N30,000 or to imprisonment of three years or to both such fine and imprisonment.

lowing wrong
Advertisement

12. Any person who, in contravention of any enactment whatsoever for the protection of the consumer —

Contravention
protecting
Consumer.

- (a) sells or offers for sale any unsafe or hazardous goods; or
- (b) provides any service or proffers any information or advertisement thereby causing injury or loss to a consumer.

is guilty of an offence under this Law and liable on conviction to N30,000 fine or three years imprisonment or to both such fine and imprisonment.

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

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

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

15.(1) The Committee may appoint any person (whether or not a member of the public service of the State) who possesses such qualifications and fulfils such requirements if any, as may be prescribed, a member of the Price Intelligence Unit and shall give to every such person so appointed a certificate of appointment.

(2) A member of the Price Intelligence Unit may, in the course of his duty, at any reasonable time and on production of his certificate of appointment if so required —

- (a) enter any premises for the purpose of conducting an investigation,
- (b) examine or take samples or specimens of any good or product;
- (c) open and examine whilst on the premises any container or package which he reasonably believes may help him in his investigation;
- (d) examine any book, document, other records found on the premises which he reasonably believes may contain any information relating to the enforcement of this Law or the regulations made thereunder and make copies thereof or extracts therefrom.
- (e) supply the Committee information on prices of various goods and services monitored from all the local government areas of the State.

(3) The owner or person in charge of any premises entered into by a member of the Price Intelligence Unit pursuant to this section and every person found therein shall give all reasonable assistance to the member and shall make available to the member all such information as the member may reasonably require for the purposes of this Law.

(4) Any articles or goods seized under this Law shall be kept or stored in such a place as the member may direct and shall be returned to the owner or the person from whom it was seized if the articles or goods upon analysis or examination are found not to have contravened the provisions of this Law.

16 The Attorney-General may at the request of the Committee apply to a court for an order commanding any person, partnership, company or trade association to comply with the provisions of this Law or any of the Committee made pursuant thereto.

Application of
Attorney
General

17. A witness summoned before the Committee shall be paid such fees and mileage allowances as are normally paid to witnesses summoned by a court.

Mileage
Allowance

18 Any person who without sufficient cause neglects or refuses to attend and testify before

Disobedience
of summon

the Committee or to answer any lawful inquiry or to produce any document as may be required of him is guilty of an offence and liable to a fine of not less than N5,000 or two years imprisonment or to both such fine and imprisonment.

19. Any person who wilfully makes or causes to be made any false entry or statement in any report required to be made under this Law or who wilfully makes or causes to be made any false entry in any account, record or memorandum kept by any person, partnership, company or trade association, is guilty of an offence and liable to N5,000 fine or imprisonment for two years or to both such fine and imprisonment

Making false entry

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

Liability of advertiser or publisher of false advertisement.

21 Any person who violates any order of the Committee is guilty of an offence and liable to N5,000 fine or to imprisonment for two years.

22(1) The Chairman shall be the Chief Executive of the Committee and shall be responsible for the execution of the policies of the Committee and the day-to-day affairs of the Committee

(2) Subject to the provisions of this Law, the Chairman shall hold office on such terms and conditions of emoluments and conditions of service as may be specified in his letter of appointment, and on such other conditions as may from time to time be approved by the Government generally in respect of public officers

(3) Subject to the provision of this Law, the Committee may appoint employees to assist the Committee in the exercise of its functions.

4. The remuneration and terms of office of other employees of the committee shall be determined by the Committee to accordance with the salaries approved from time to time by the Committee and in accordance with the terms and conditions approved by the Government for public officers

23 (I) The committee may, subject to the provisions of this Law, make staff regulations relating generally to the conditions of service of the staff of the Committee and without prejudice to the generality of the foregoing such regulations may provide for —

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

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

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

(2) Staff regulations made under subsection (1) of this section, shall not have effect until approved by the Commissioner and when approved the same shall not be published in the Gazette but the Committee shall (CAP, 48 I6S7

them to be brought to the notice of the affected persons in such manner as it may from time to time determine

24 (1) The Committee shall establish and maintain a fund which shall consist of—

Finance

la) such sums as may from time to time be provided by the Government for the running of the expenses of the Committee;

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

(2) The Committee may from time to time apply the proceeds of the fund established pursuant to this section —

(a) to defray the cost of administration of the committee,

(b) for reimbursing members of the Committee in accordance With such rates as may be approved from time to time by the Government;

(c) to the payment of salaries or other remuneration and allowances payable of the employees of the Committee.

id) for the maintenance of any property acquired by or in the vested Committee.

(e) for carrying out all or any of functions in the committee under this Law;

3 The Committee shall, not later than 30th July in each year submit to the Commissioner for approval its estimate of income and expenditure during the next succeeding financial year.

25. The Committee may, with the approval of the Commissioner accept gifts, lands, money or other property upon such terms and conditions as may be specified by the person or organization making the gift

Power to accept

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

Borrowing
power and
investment

26 (1) The Committee may, with the consent of the Commissioner or in accordance with the general guideline approved by the Governor borrow, by way of loan or overdraft from any source, any money required by the Committee for meeting its obligation and discharging its functions under this Law

(2) The Committee may invest any surplus fund of the Committee in such securities as may be

approved by the Governor

27 The Committee shall keep proper account and proper records in relation thereto and shall cause such account to be audited annually by a qualified auditor appointed by the Commissioner in accordance with the recommendation of the Auditor-General of the State

28. The Committee shall prepare and submit to the State Executive Council through the Commissioner, not later than July each year, a report on the activities of the committee during the immediately proceeding year and shall include in such report, a copy of the audited accounts of the committee for that year and the Auditor-General's report thereon

PART III— MISCELLANEOUS

29 The Commissioner may give to the Committee directions of a general nature with regard to the exercise by the Committee of its functions under this Law. and it shall be the duty of the Committee to comply with such directions

30. The Committee shall with the approval of the Commissioner have power to make regulations as may in its opinion be necessary or expedient for giving full effect to the provisions of this Law.