

THE PRESIDENT OF THE REPUBLIC OF INDONESIA

**ACT OF THE REPUBLIC OF INDONESIA
NUMBER : 8 OF 1999 ; DATED : APRIL 20, 1999**

R E

CONSUMERS PROTECTION

BY THE GRACE OF GOD THE ALMIGHTY
THE PRESIDENT OF THE REPUBLIC OF INDONESIA

- Considering :**
- a. that national development is aimed at translating into reality a just and prosperous community which shall be materially and spiritually equitable in an era of economic democracy on the basis of Pancasila and the Constitution of 1945;
 - b. that the development of national economy in the era of globalization must be able to support the growth of the business world so that it shall be capable of producing a variety of goods and/or services which shall possess technological content and may promote the welfare of the community at large and at the same time obtain certainty about the goods and/or services which are acquired from trade without inflicting losses to consumers;
 - c. that greater opening up of the national market as a result of the process of economic globalization must continue to assure the promotion of the community's welfare and the certainty of the quality, quantity, and comfort of the goods and/or services acquired in the market;
 - d. that to promote the dignity of consumers, it is necessary to enhance the awareness, knowledge, care, capability and independence of consumers to protect themselves and nurture a responsible attitude of business agents;
 - e. that the legal stipulations protecting the interests of consumers in Indonesia are not adequate;
 - f. that on the basis of the consideration referred to above it is necessary to have sets of acts to translate into reality the balance in the protection of the consumers interests and those of the business agents so that a sound economy shall be established;

- g. that to this end, it is necessary to establish the act on consumers' protection.

Bearing in mind : Article 5 paragraph (1), Article 21 paragraph (1), Article 27 and Article 33 of the Constitution of 1945.

**With the approval of
THE HOUSE OF PEOPLE'S REPRESENTATIVES OF THE REPUBLIC OF INDONESIA**

HAS DECIDED :

To stipulate : THE ACT ON CONSUMERS' PROTECTION.

**CHAPTER I
GENERAL PROVISIONS
Article 1**

Referred to in this act as :

1. Consumers' protection shall be every effort made to guarantee legal certainty aimed at providing protection to the consumers.
2. A consumer shall be anybody using goods and/or services which are available in the community, both for his own purpose, for the purpose of his family and other people as well as other living creatures and which are not to be traded.
3. A business agent shall be any individual or business company, either in the form of a legal entities or otherwise, set up and domiciled or undertaking activities in the jurisdiction of the state of the Republic of Indonesia, both individually and jointly through agreements on the running of business activities in various economic areas;
4. Goods shall be anything which is either tangible or otherwise, which is either movable or otherwise or which can be used up or otherwise and which can be traded, put on, used or utilized by consumers.
5. A service shall be any service in the form of a job or an achievement which is made available to the community in order to be utilized by consumers.
6. Promotion shall be an activity of identifying or dissemination of information of particular goods and/or services to draw the consumers' interest to purchase goods and/or services which shall be and are being traded.
7. The import of goods shall be an activity of importing goods into a customs area.
8. The import of services shall be an activity of providing foreign services to be used in the territory of the Republic of Indonesia.
9. A non-governmental Institute of consumers' protection shall be a non-governmental institute which is registered and recognized by the government and whose activities

shall be the handling of consumers' protection.

10. A standard clause shall be every regulation or provision and requirements already prepared and stipulated earlier unilaterally by a business agent and set forth in a document and/or an agreement which shall be binding to a consumer and which he shall be obligated to fulfill.
11. The Agency for the Settlement of Consumers' Disputes shall be an agency assigned to handle and settle disputes between business agents and consumers.
12. The national Agency for Consumers' Protection shall be an agency set up to help efforts to develop consumers' protection.
13. The Minister shall be the minister whose scope of duties and responsibility shall encompass the trade area.

CHAPTER II PRINCIPLE AND AIMS Article 2

The protection of consumers shall be based on the principle of benefit, justice, balance, security and safety on the part of consumers and legal certainty.

Article 3

The protection of consumers shall be aimed at :

- a. promoting the consciousness, capability and independence consumers to protect themselves;
- b. raising the dignity and self-respect of consumers by means of averting the negative excesses of the use of goods and/or services from them;
- c. promoting the empowerment of consumers in choosing, determining and demanding their rights as consumers;
- d. creating a system of consumers' protection which shall contain the element of legal certainty and information transparency as well as an access to obtain information;
- e. nurturing the consciousness of business agents regarding the significance of consumers' protection so that an honest and responsible attitude in doing business shall be fostered;
- f. raising the quality of goods and/or services which shall guarantee the sustainability of the production of goods and/or services and consumers' health, comfort, security and safety.

CHAPTER III RIGHTS AND OBLIGATIONS First Part

Rights and obligations of consumers
Article 4

The rights of consumers shall be :

- a. the right to comfort, security and safety in using goods and/or services;
- b. the right of choosing goods and/or services and obtaining the said goods and/or services in accordance with the exchange value and condition and guarantee pledged;
- c. the right to correct, clear and honest information about the condition and guarantee of the goods and/or services;
- d. the right that their opinions and complaints about goods and/or services used should be listened to;
- e. the right of obtaining advocacy, protection and an endeavor to properly settle disputes over consumers' protection;
- f. the right of obtaining consumers' fostering and education;
- g. the right of being correctly, honestly and indiscriminatorily treated and served;
- h. the right of obtaining compensation and or refund if the goods and/or services received do not conform to the agreement or are not as they should be;
- i. the rights regulated in other acts.

Article 5

The obligations of consumers shall be :

- a. reading or following information guidelines and procedure of using or utilizing goods and/or services for the sake of safety and security;
- b. being well meaning in conducting transactions in the purchase of goods and/or services;
- c. paying in conformity with the exchange value agreed upon;
- d. following efforts to properly and legally settle disputes over consumers' protection.

Second Part
Rights and Obligations of Business Agents
Article 6

The rights of business agents shall be :

- a. the right of receiving payment in conformity with the agreement on the condition and the exchange value of goods and/or services traded;

- b. the right of obtaining legal protection from the acts taken by consumers without a good intention;
- c. the right of making a proper self-defense in the legal settlement of consumers' disputes;
- d. the right to the rehabilitation if it is legally proven that the losses sustained by consumers are not caused by the goods and/or services traded;
- e. the rights regulated in other acts.

Article 7

The obligations of business agents shall be :

- a. having a good intention in conducting business activities;
- b. providing correct, clear and honest information about the condition and guarantee of goods and/or services and providing explanation about uses, repair and maintenance;
- c. treating or serving consumers correctly and honestly and indiscriminatorily;
- d. guaranteeing the quality of the goods and/or services produced and/or traded on the basis of the prevailing standard provisions on the quality of goods and/or services;
- e. providing an opportunity to consumers to test and/or try certain goods and/or services and providing an assurance and/or a guarantee for the goods made and/or traded;
- f. giving compensation and/or refund for the losses caused by the use, application and utilization of goods and/or services traded;
- g. giving compensation and/or refund if the goods and/or services received or utilized are not up to the agreement.

CHAPTER IV PROHIBITED ACTS TO BUSINESS AGENTS

Article 8

- (1) Business agents shall be prohibited to produce and/or trade goods and/or services which :
 - a. do not fulfill or conform to the standard required and the acts;
 - b. do not conform to the net weight, net volume or the quantity in units counted as expressed in the label of the goods concerned;
 - c. do not conform to the size, measurement, weight and quantity in the units counted in accordance with the real measurement;

- d. do not conform to the condition, guarantee, superiority or efficacy as stated in the label or description of the said goods and/or services;
 - e. do not conform to certain quality, level, composition, processing, style, mode or use as stated in the label or description of the said goods and/or services;
 - f. do not conform to the promise stated in the label, description, advertisement or sales promotion of the said goods and/or services;
 - g. do not mention the expiration date or the period of best use/utilization of certain goods;
 - h. do not comply with the provision on production in a manner permitted by the religion as stated by the word "halal" (permitted by the act) set forth on the label;
 - i. do not place a label or provide an explanation of the goods containing the name of the goods, the size, the net weight/volume, the composition, the direction of use, the manufacturing date, the side effects, the name and the address of the business agent and other information but the use which pursuant to the stipulation must be provided/made;
 - j. do not mention the information and/or direction of use of the goods in the Indonesian language pursuant to the prevailing acts.
- (2) A business agent shall be prohibited from trading goods which are damaged, flawed or used and contaminated without providing full and correct information about the said goods.
 - (3) a business agent shall be prohibited from trading pharmaceutical preparations which are damaged, flawed or used, and contaminated, with or without full and correct information being provided.
 - (4) A business agent violating the provisions in paragraphs (1) and (2) shall be prohibited from trading the said goods and/or services and shall be obligated to withdraw them from distribution.

Article 9

- (1) A business agent shall be prohibited from offering, promoting and advertising particular goods and/or services falsely, and/or as if :
 - a. the said goods fulfilled and/or had discounts, special prices, certain quality standard, certain style or mode, certain characteristics, and certain history or uses.
 - b. the said goods were in a good and/or brand-new condition;
 - c. the said goods and/or services had obtained and/or had sponsors, agreements, certain equipment, certain profits, and certain working characteristics or accessories;

- d. the said goods and/or services were made by a company with a sponsor, agreement or affiliation;
 - e. the said goods and/or services were available;
 - f. the said goods did not contain a hidden flaw;
 - g. the said goods were complementary to certain other goods;
 - h. the said goods hailed from certain areas;
 - i. other goods and/or services were directly or indirectly relegated;
 - j. excessive words such as safe, harmless, without any risk or side effects were used without complete explanation;
 - k. something containing an uncertain promise were offered.
- (2) It is prohibited to trade the goods and/or services as meant in paragraph (1).
- (3) A business agent violating paragraph (1) shall be prohibited from proceeding with his offer, promotion and advertising of the said goods and/or services.

Article 10

In offering goods and/or services intended for trading, it is prohibited to offer, promote, advertise or make an incorrect and misleading statement about :

- a. the price or tariff of particular goods and/or services;
- b. the usefulness of particular goods and/or services;
- c. the condition, guarantee, right or compensation regarding certain goods and/or services;
- d. offered discounts or attractive prizes;
- e. the hazard of using goods and/or services.

Article 11

In the event of a sale or an auction, a business agent shall be prohibited to cheat/mislead consumers in the following way :

- a. stating as if the said goods and/or services had fulfilled a certain quality standard;
- b. stating as if the said goods and/or services had no hidden flaw;
- c. not intending to sell the goods offered but rather other goods;
- d. not supplying goods in a certain quantity and/or in a sufficient quantity with a view to selling other goods;

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- e. not providing services in a certain capacity or in a sufficient quantity with a view to selling other services;
- f. raising the price or tariffs of goods and/or services prior to conducting a sale.

Article 12

A business agent shall be prohibited to offer, promote or advertise certain goods and/or services at a special price or tariff in a certain period of time and quantity if the said business agent does not mean to implement this in accordance with the period of time and quantity offered, promoted or advertised.

Article 13

- (1) A business agent shall be prohibited to offer, promote or advertise certain goods and/or services by means of promising the awarding of prizes in the form of goods and/or services free of charge with a view to not awarding them or awarding them not as promised.
- (2) A business agent shall be prohibited to offer, promote or advertise medicines, traditional medicines, food supplement, health equipment and health services by means of promoting the awarding of prizes in the form of other goods and/or services.

Article 14

In offering goods and/or services intended to be traded with prizes to be given through a lottery, a business agent shall be prohibited to :

- a. draw the lottery for the prizes after the period of time promised;
- b. announce the result not through the mass media;
- c. award prizes not in accordance with those promised;
- d. replace the prizes with other things not compatible in value with those promised.

Article 15

In offering goods and/or services, a business agent shall be prohibited to resort to coercion or other ways that may lead to physical and psychical disturbance to the consumers.

Article 16

In offering goods and/or services through an order, a business agent shall be prohibited:

- a. not to comply with the order and/or agreement on the time of settlement in accordance with what is promised;
- b. not to fulfill a promise regarding a certain service and/or achievement.

Article 17

- (1) An advertising business agent shall be prohibited to produce advertisements which :

- a. cheat consumers regarding the quality, quantity, materials, uses and prices of goods and/or tariffs of services;
 - b. cheat consumers in respect of the guarantee given to goods and/or services;
 - c. contain misleading, wrong or inappropriate information about goods and/or services;
 - d. do not contain information about the risks entailed in using the goods and/or services;
 - e. exploit an event and/or a person without permission from the authority or agreement from the person concerned;
 - f. violate ethics and/or acts on advertising.
- (2) An advertising business agent shall be prohibited to continue the circulation of advertisements violating the provisions in paragraph (1).

CHAPTER V
PROVISION ON SETTING FORTH OF STANDARD CLAUSE
Article 18

- (1) In offering goods and/or services intended to be traded, a business agent shall be prohibited to set forth a standard clause on each document and/or agreement if :
- a. this shall be concerned with the transfer of responsibility of the business agent;
 - b. it is stated that a business agent shall reserve the right to reject the return of the goods already purchased by consumers;
 - c. it is stated that a business agent shall reserve the right to reject the return of the money already paid by consumers for the goods and/or services they have purchased;
 - d. it states the granting of proxy from a consumer to a business agent, either directly or indirectly, to conduct all unilateral acts related to the goods already purchased by consumers by installments;
 - e. it regulates matters related to proving the loss of use of the goods or utilization of the services purchased by consumers;
 - f. it bestows the right to a business agent to reduce the benefit of the services or reduce the assets of consumers which are the objects of the transaction of services;
 - g. it states consumers' compliance with new regulations, supplementary regulations, further regulations and/or further amendment made unilaterally by a business agent during the period in which consumers make use of the services they purchase.

- h. it states that consumers bestows proxy to a business agent for the purpose of conveying mortgage, the right of pawning or the collateral right on the goods purchased by a consumer by installments.
- (2) A business agent shall be prohibited to set forth a standard clause whose position and form is difficult to see or which cannot be clearly read or whose expression is difficult to understand.
- (3) Every standard clause stipulated by a business agent on the document or agreement fulfilling the provisions as meant in paragraphs (1) and (2) shall be declared as having been cancelled by the act.
- (4) A business agent shall be obligated to adjust the standard clause contradicting this act.

CHAPTER VI
RESPONSIBILITY OF A BUSINESS AGENT
Article 19

- (1) A business agent shall be responsible to provide compensation on the damage, contamination, and/or losses sustained by consumers as a result of using the goods and/or services produced or traded.
- (2) The compensation as meant in paragraph (1) may be in the form of cash refund or replacement by goods and/or services which are of a similar type or of a comparable value, or health maintenance and/or the provision of compensation pursuant to the prevailing acts.
- (3) The provision of compensation shall be undertaken within an interval of 7 (seven) days as from the date of transactions.
- (4) The provision of compensation as meant in paragraphs (1) and (2) shall not abolish the possibility of a criminal lawsuit on the basis of further verification of a mistake.
- (5) The provisions as meant in paragraphs (1) and (2) shall apply if the business agent can prove that the said mistake is that of the consumer.

Article 20

An advertising business agent shall be responsible for the advertisements produced and also for all consequences brought about by the said advertisements.

Article 21

- (1) An importer of goods shall be responsible as the manufacturer of the goods imported if the importation of the said goods is not conducted by the overseas agent or representative of the producer.
- (2) An importer of services shall be responsible as the provider of foreign services if the said provision of foreign services is not conducted by an agent or representative of the provider of foreign services.

Article 22

Verification of whether or not there is a mistake in a criminal case as meant in Article 19 paragraph (4), Article 20 and Article 21 shall constitute the burden and responsibility on the part of a business agent regardless of the likelihood on the part of the prosecutor to undertake verification.

Article 23

A business agent rejecting and/or failing to respond to and/or make a compensation for the demand made by a consumer as meant in Article 19 paragraphs (1), (2), (3) and (4) may be used through an agency for the settlement of consumers' disputes or taken to a judiciary agency at the domicile of the consumer.

Article 24

- (1) A business agent selling goods and/or services to another business agent shall be responsible for the demand for compensation and/or lawsuit filed by a consumer if :
 - a. other business agents sell the said goods and/or services without any changes introduced to the said goods and/or services;
 - b. other business agents do not know during the transaction that a change has been introduced to the goods and/or services by a business agent or that the said goods and/or services do not conform to the specimen, the quality and the composition.
- (2) The business agent as meant in paragraph (1) shall be exempted from the responsibility for a demand for compensation made by and/or lawsuit filed by the consumer if other business agents purchasing goods and/or services re-sell the said goods and/or services to the consumer after introducing changes to the said goods and/or services.

Article 25

- (1) A business agent producing goods whose utilization shall be continued within a period of at least 1 (one) year shall be obligated to provide spare parts and/or after-sales services and fulfill the guarantee in accordance with what is agreed upon.
- (2) A business agent as meant in paragraph (1) shall be responsible for the demand for compensation and/or lawsuit from a consumer if the said business agent :
 - a. fails or neglects to provide spare parts and/or repair facilities;
 - b. does not or fail to fulfill the guarantee agreed upon.

Article 26

A business agent trading services shall be obligated to fulfill the guarantee agreed upon and/or promised.

Article 27

A business agent producing goods shall be exempted from the responsibility for losses sustained by consumers if :

- a. the said goods prove to be those which should not have been distributed or intended to be distributed;
- b. the flaw of the goods emerge on a later day;
- c. the flaw emerges as a result of compliance with the provision on the qualification of the goods;
- d. negligence caused by the consumer;
- e. the passage of the claiming period 4 (four) years after the purchase of the goods or the passage of the period agreed upon.

Article 28

Verification of whether or not there is a mistake in the lawsuit for compensation as meant in Articles 19, 22 and 23 shall constitute the burden and responsibility of a business agent.

CHAPTER VII FOSTERING AND SUPERVISION First Part Fostering Article 29

- (1) The government shall be responsible for fostering of the provision of consumers' protection which guarantee that the consumers and the business agent shall enjoy their rights and that the obligations of consumers and business agents shall be performed.
- (2) Fostering by the government in respect of the provision of consumers' protection as meant in paragraph (1) shall be undertaken by the Minister and/or technically relevant minister.
- (3) The Minister as meant in paragraph (2) shall undertake coordination regarding the provision of consumers' protection.
- (4) Fostering of the provision of consumers' protection as meant in paragraph (2) shall encompass the following efforts :
 - a. the creation of a business climate and the growth of healthy relationships between business agents and consumers;
 - b. the development of non-governmental consumers' protection institutes.
 - c. increase the quality of the human resources and the increase in the research and development activities in the field of consumers protection.
- (5) Further provisions regarding fostering of the provision of consumers' protection shall be regulated in a government regulation.

Second part
To be continue

Second Part
S U P E R V I S I O N
Article 30

- (1) Supervision over the provision of consumers' protection and the application of the acts shall be undertaken by the government, the community and non-governmental institutions for consumers' protection.
- (2) Supervision by the government as meant in paragraph (1) shall be undertaken by the Minister and/or technically relevant ministers.
- (3) Supervision by the community and non-governmental institutions for consumers' protection shall be undertaken over goods and/or services distributed in the market.
- (4) If the result of the supervision as meant in paragraph (3) turns out to deviate from the prevailing acts and harm the consumers, the Minister and/or technically relevant ministers shall take action pursuant to the prevailing acts.
- (5) The result of the supervision undertaken by the community and non-governmental institutions for consumers' protection may be disseminated to the community and may be conveyed to the Minister and technically relevant ministers.
- (6) The provision on the implementation of the supervision task as meant in paragraphs (1), (2) and (3) shall be stipulated in a government regulation.

CHAPTER VIII
NATIONAL AGENCY FOR CONSUMERS' PROTECTION
First Part
Name, Position, Functions and Tasks
Article 31

In the framework of developing efforts to protect consumers the National Agency for Consumers' Protection is established.

Article 32

The National Agency for Consumers' Protection shall be domiciled in the capital of the State of the Republic of Indonesia and shall be responsible to the President.

Article 33

The National Agency for Consumers' Protection shall be assigned the tasks of providing suggestions and considerations to the government in an effort to develop consumers' protection in Indonesia.

Article 34

- (1) To perform the functions as meant in Article 33, the National Agency for Consumers' Protection shall be assigned the following tasks :
 - a. providing suggestions and recommendations to the government in the framework of drawing up policies in consumers' protection;
 - b. undertaking researches and studies on the Acts prevailing in the area of consumers' protection;
 - c. undertaking researches on goods and/or services concerning consumers' safety;
 - d. bolstering the development of non-governmental institutions for consumers' protection;
 - e. disseminating information through the media about consumers' protection and popularizing an attitude of siding with consumers;
 - f. receiving complaints about consumers' protection from the community, non-governmental institutions for consumers' protection or business agents;
 - g. undertaking surveys concerning the need of consumers.
- (2) In carrying out the tasks as meant in paragraph (1), the National Agency for Consumers' Protection may establish co-operation with international consumers organizations.

Second Part

Organizational Structure and Membership

Article 35

- (1) The National Agency for Consumers' Protection shall be made up of a chairperson, concurrently a member, a deputy chairperson, concurrently a member, and a minimum of 15 (fifteen) and a maximum of 25 (twenty-five) members, who shall represent all segments.
- (2) Members of the National Agency for Consumers' Protection shall be installed and discharged by the President at the suggestion of the Minister, after consulting the

House of People's Representatives of the Republic of Indonesia.

- (3) The term of office of the chairperson, the deputy chairperson, and members of the National Agency for Consumers' Protection shall be 3 (three) years and they may be installed again for the next term of office.

Article 36

Members of the National Agency for Consumers' Protection shall be made up of the representatives of :

- a. the government;
- b. business agents;
- c. non-governmental institutions for consumers' protection;
- d. academics; and
- e. experts.

Article 37

The requirements set for members of the National Agency for Consumers' Protection shall be as follows :

- a. citizens of the Republic of Indonesia;
- b. having healthy physical condition;
- c. having a good conduct;
- d. never having been convicted owing to a crime;
- e. possessing knowledge and experience in the area of consumers' protection;
- f. being at least 30 (thirty) years of age.

Article 38

Membership in the National Agency for Consumers' Protection shall be terminate because of the following :

- a. death;
- b. resigning at one's own request;
- c. being domiciled outside the territory of the State of the Republic of Indonesia
- d. being continuously ill;
- e. the term of office as a member has terminated; or
- f. being discharged.

Article 39

- (1) To facilitate the implementation of its tasks, the National Agency for Consumers' Protection shall be assisted by a secretariat.
- (2) The secretariat as meant in paragraph (1) shall be headed by a secretary appointed by the chairperson of the National Agency for Consumers' Protection.

- (3) The functions, tasks and working system of the secretariat as meant in paragraph (1) shall be regulated in a decision of the chairperson of the National Agency for Consumers' Protection.

Article 40

- (1) If needed, the National Agency for Consumers' Protection may set up a representative office in the capital of a first-level region to help the implementation of its tasks.
- (2) The establishment of the representative office as meant in paragraph (1) may be stipulated further in a decision of the chairperson of the National Agency for Consumers' Protection.

Article 41

In implementing its tasks, the National Agency for Consumers' Protection shall work on the basis of a working system regulated in a Decision of the chairperson of the National Agency for Consumers' Protection.

Article 42

Charges for the implementation of the tasks of the National Agency for Consumers' Protection shall be borne by the state's budget of revenues and expenditures and other sources pursuant to the prevailing acts.

Article 43

Further provisions on the establishment of the National Agency for Consumers' Protection shall be regulated in a Government Regulation.

CHAPTER IX

NON-GOVERNMENTAL INSTITUTES FOR CONSUMERS' PROTECTION

Article 44

- (1) The government shall recognize non-governmental institutes for consumers' protection which fulfill the requirements.
- (2) Non-governmental institutes for consumers' protection shall have an opportunity to play an active role in realizing consumers' protection.
- (3) The tasks of non-governmental institutes for consumers' protection shall encompass the following activities :
 - a. disseminating information in the framework of enhancing awareness of the rights and obligations and consumers' prudence in using goods and/or services.
 - b. providing advice to consumers needing it;
 - c. cooperating with relevant government agencies in an effort to realize consumers' protection;

- d. helping consumers in fighting for their rights, including receiving complaints or grievances from consumers;
 - e. supervising, along with the government and the community, the implementation of consumers' protection.
- (4) Further provisions on the tasks of non-governmental institutes for consumers' protection as meant in paragraph (3) shall be regulated in a government regulation.

CHAPTER X
SETTLEMENT OF DISPUTES
First Part
General
Article 45

- (1) Every disadvantaged consumer may sue a business agent through an institute assigned to settle disputes between consumers and business agents or through a judicial process within the public court.
- (2) The settlement of consumers' disputes may be sought through the court of Act or outside the court of Act on the basis of a choice voluntarily made by the disputing parties.
- (3) Out-of-court settlement of a dispute as meant in paragraph (2) shall not waive the criminal responsibility as regulated in the act.
- (4) If a choice has been made for an out-of-court settlement of a consumer's dispute, a Lawsuit through the court of Act can only be made if this attempt is said to be unsuccessful by one or both of the disputing parties.

Article 46

- (1) A lawsuit of the violation made by a business agent may be filed by :
 - a. disadvantaged consumer or the their concerned;
 - b. a group of consumers sharing a common interest;
 - c. a non-governmental institute for consumers' protection which has fulfilled the requirements, namely that it is in the form of a Legal entities or a foundation the articles of association of which clearly state that the aim of the establishment of this organization is protecting consumers and which has undertaken activities in accordance with its articles of association.
 - d. the government and/or relevant government agency if the goods and/or services used or utilized inflict big material losses and/or claim quite a few victims.
- (2) Lawsuits filed by a group of consumers, non-governmental institute for consumers' protection or the government as meant in paragraph (1) letter b, letter c or letter d shall be filed to the public court.
- (3) Further provisions on the big material losses and/or quite a few victims as meant in paragraph (1) letter d shall be regulated in a Government Regulation.

Second Part
Out-of-Court Settlement of Disputes
Article 47

Out-of-court settlement of consumers' disputes shall be sought to reach an agreement regarding the form and amount of compensation and/or in respect of certain acts to guarantee that there shall be no recurrence or repeat of the losses sustained by the consumers.

Third Part
Settlement of Disputes through the Court
Article 48

The settlement of consumers' disputes through the court shall refer to the prevailing provisions on public judicature with account being taken of the provision in Article 45.

CHAPTER XI
AGENCY FOR SETTLEMENT OF CONSUMERS' DISPUTES
Article 49

- (1) The government shall set up agencies for the settlement of consumers' disputes in second-level regions for out-of-court settlement of consumers' disputes.
- (2) To be able to be appointed a member of an agency for the settlement of consumers' disputes, one must fulfill the following requirements :
 - a. a citizen of the Republic of Indonesia;
 - b. being physically healthy;
 - c. having a good conduct;
 - d. never having been convicted because of a crime;
 - e. having knowledge and experience in the consumers' protection area;
 - f. being at least 30 (thirty) years of age.
- (3) The members as meant in paragraph (2) shall be made up of representatives of the government, consumers and business agents.
- (4) Members from each representative group as meant in paragraph (3) shall be a minimum of 3 (three) persons and a maximum of 5 (five) persons.
- (5) The appointment and discharge of members and settlement of consumers' disputes shall be stipulated by the Minister.

Article 50

An agency for the settlement of consumers' disputes as meant in Article 49 paragraph (1) shall be comprised of :

- a. the chairman, concurrently member;
- b. deputy chairman, concurrently member;
- c. members.

Article 51

- (1) In performing its tasks, the agency for the settlement of consumers' disputes shall be assisted by a secretariat.
- (2) The secretariat of the agency for the settlement of consumers' disputes shall be made up of the head of the secretariat and secretariat members.
- (3) Appointment and discharge of the head of the secretariat and members of the secretariat of the agency for the settlement of consumers' disputes shall be stipulated by the Minister.

Article 52

The tasks and authority of the agency for the settlement of consumers' disputes shall encompass the following :

- a. handling and settling consumers' disputes through mediation or arbitration or conciliation;
- b. providing consultation on consumers' protection;
- c. supervising the setting forth of a standard clause;
- d. reporting to a public investigator a violation of the provision in this act;
- e. receiving complaints, either in writing or otherwise from consumers about a violation of consumers' protection;
- f. checking and examining disputes on consumers' protection;
- g. summoning business agents allegedly violating consumers' protection;
- h. summoning and presenting witnesses, expert witnesses and/or any person assumed to have knowledge of a violation of this act;
- i. requesting assistance from an investigator to present business agents, witnesses, expert witnesses or anybody as meant in letters g and h, who are not in a position to fulfill the summonses from agency for the settlement of consumers' disputes;
- j. obtaining, examining and/or assessing letters, documents or other means of evidence for an investigation and/or examination;
- k. deciding on and stipulating whether or not losses are inflicted upon consumers;
- l. notifying the decision to the business agent committing a violation against consumers' protection;
- m. imposing an administrative sanction on a business agent violating the provisions in this act.

Article 53

Further provisions on the implementation of the tasks and the exercise of the authority of the agencies for the settlement of consumers' disputes in second-level regions shall be regulated in a Ministerial Decree.

Article 54

- (1) To handle and settle consumers' disputes, the agency for the settlement of consumers' disputes shall set up a council.

- (2) The members of the council referred to in paragraph (1) must be odd in number and must be at least 3 (three) person representing all the elements as meant in Article 49 paragraph (3), with a council clerk assisting them.
- (4) The decision of the council is final and binding.
- (5) Further technical provisions on the implementation of the tasks of the council shall be regulated in a Ministerial Decree.

Article 55

The agency for the settlement of consumers' disputes shall be obligated to make a decision at the latest 21 (twenty-one) working days after the receipt of a lawsuit.

Article 56

- (1) Within a maximum of 7 (seven) working days as from the receipt of the decision of the agency for the settlement of consumers' disputes as meant in Article 55, a business agent shall be obligated to implement the said decision.
- (2) All parties can raise an objection to the district court at the latest 14 (fourteen) working days after receiving a notification about the said decision.
- (3) A business agent not raising an objection within the period of time as meant in paragraph (2) shall be considered as having accepted the decision of the agency for the settlement of consumers' disputes.
- (4) If the provisions as meant in paragraph (1) and paragraph (3) are not implemented by the business agent, the agency for the settlement of consumers' disputes shall leave the said decision to the investigator so that he may carry out an investigation pursuant to the prevailing acts.
- (5) The decision of the agency for the settlement of consumers' disputes as meant in paragraph (3) shall be a sufficient preliminary evidence for an investigator to undertake his investigation.

Article 57

Regarding the decision of the council as meant in Article 54 paragraph (3), a request shall be made to the district court in the location where the consumer has been disadvantaged that it make a decision on the execution.

Article 58

- (1) A district court shall be obligated to make a decision on the objection as meant in Article 56 paragraph (2) within a maximum of 21 (twenty-one) days as from the receipt of the objection.

- (2) Regarding the decision of the district court as meant in paragraph (1), all parties shall, within a maximum of 14 (fourteen) days, be able to file an appeal to the Supreme Court of the Republic of Indonesia.
- (3) The Supreme Court of the Republic of Indonesia shall be obligated to make a decision within a maximum of 30 (thirty) days as from the receipt of the application for the appeal.

**CHAPTER XII
INVESTIGATION
Article 59**

- (1) Other than police officers of the State of the Republic of Indonesia, certain civilian civil service officials within a government agency whose scope of duty and responsibility encompasses consumers' protection shall also be specially authorized as investigators as meant in the prevailing Criminal Procedural Code.
- (2) The civilian civil service officials as meant in paragraph (1) shall be authorized to :
 - a. verify the report or information about a criminal act in consumers' protection;
 - b. examine a person or a Legal Entities assumed to have committed a criminal act in consumers protection;
 - c. ask for information and evidences from a person or legal entities in connection with the occurrence of a criminal act in consumers' protection;
 - d. examining book-keeping, records and other documents related to a criminal act in consumers' protection;
 - e. examining certain places where evidence are assumed to be available and confiscate goods which result from a violation and may be made evidences in a case of a criminal act in consumers' protection;
 - f. asking experts for their help in the framework of the implementation of the task of investigation into a criminal act in consumers' protection.
- (3) Civilian civil servant investigators as meant in paragraph (1) shall notify the beginning of the investigation and the result of the investigation to the police investigators.
- (4) Civilian civil servant investigators as meant in paragraph (1) shall convey the result of the investigation to a public prosecutor through the police investigators.

**CHAPTER XIII
SANCTIONS
First Part
Administrative Sanctions**

Article 60

- (1) The agency for the settlement of consumers' disputes shall be authorized to impose administrative sanctions to business agents violating Article 19 paragraph (2) and paragraph (3), Article 20, Article 25 and Article 26.
- (2) The administrative sanctions shall be in the form of a stipulation of compensation worth a maximum of Rp 200,000,000.00 (two hundred million rupiah).
- (3) The procedure for the stipulation of the administrative sanction as meant in paragraph (1) shall be regulated further in the acts.

**Second Part
Criminal Sanctions
Article 61**

Criminal prosecution may be undertaken against a business agent and/or the management.

Article 62

- (1) A business agent violating the provisions as meant in Article 8, Article 9, Article 10, Article 13 paragraph (2), Article 15, Article 17 paragraph (1) letter a, letter b, letter c and letter e, paragraph (2) and Article 18 shall be penalized with a maximum of 5 (five) years in prison or a maximum fine of Rp 2,000,000,000.00 (two billion rupiah).
- (2) A business agent violating the provision as meant in Article 11, Article 12, Article 13 paragraph (1), Article 14, Article 16 and Article 17 paragraph (1) letter d and letter f shall be penalized with a maximum of 2 (two) years in prison or a maximum fine of Rp 500,000,000.00 (five hundred million rupiah).
- (3) The prevailing criminal provisions shall apply to violations resulting in serious injuries, serious illnesses, permanent disability or death.

Article 63

The criminal sanctions as meant in Article 62 may be subject to the imposition of additional sanctions in the form of the following :

- a. confiscation of certain goods;
- b. announcement of the judge's ruling;
- c. payment of compensation;
- d. an injunction that certain activities which cause losses to consumers should be terminated;
- e. the obligation to withdraw goods from distribution; or
- f. revocation of business licenses.

**CHAPTER XIV
TRANSITIONAL PROVISION
Article 64**

All provisions in the acts aimed at protecting consumers already existing at the time when this act is promulgated shall remain valid as long as they are not specially regulated and/or do not contradict provisions in this act.

**CHAPTER XV
CLOSING PROVISIONS
Article 65**

This act shall take effect 1 (one) year as of the date of promulgation.

For public cognizance, this act shall be promulgated by publishing it in the State Gazette of the Republic of Indonesia.

Ratified at : J A K A R T A
On : APRIL 20, 1999
PRESIDENT OF THE REPUBLIC OF INDONESIA

signed
BACHARUDDIN JUSUF HABIBIE

Promulgated at : JAKARTA
On : APRIL 20, 1999
STATE MINISTER/STATE SECRETARY

signed
AKBAR TANJUNG

STATE GAZETTE OF THE REPUBLIC OF INDONESIA OF 1999 NO. 42

Elucidation
To be continue

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