

Decree No. 99/2011/ND-CP of October 27, 2011, detailing and guiding a number of articles of the Law on Protection of Consumer Rights

THE GOVERNMENT

Pursuant to the December 25, 2001 Law on Organization of the Government;

Pursuant to November 17, 2010 Law No. 59/2010/QH12 on Protection of Consumer Rights;

At the proposal of the Minister of Industry and Trade,

DECREES:

Chapter I

GENERAL PROVISIONS

Article 1. Scope of regulation

This Decree provides the protection of consumers in transactions with persons engaged in independent and regular commercial activities not subject to business registration; contracts with consumers and general transaction conditions; settlement of consumer right protection requests; social organizations engaged in consumer right protection; mediation of disputes between consumers and institutional or individual traders and state management of consumer right protection.

Article 2. Subjects of application

This Decree applies to consumers; goods and

service traders; and agencies, organizations and persons involved in consumer right protection in the territory of Vietnam.

Article 3. Interpretation of terms

In this Decree, the terms below are construed as follows:

1. Distance contract means a contract concluded between a consumer and a goods or service trader via an electronic device or by telephone.

2. Continuous service contract means a contract on service provision with an indefinite term or a term of three (3) months or more.

3. Door-to-door sale means the sale by a trader to a consumer at the latter's home or office.

Chapter II

PROTECTION OF CONSUMERS IN TRANSACTIONS WITH PERSONS ENGAGED IN INDEPENDENT AND REGULAR COMMERCIAL ACTIVITIES NOT SUBJECT TO BUSINESS REGISTRATION

Article 4. Responsibilities of a person engaged in independent and regular commercial activities not subject to business registration

1. To guarantee the quality, quantity, use and food safety of his/her goods or services provided to consumers under the law on consumer protection, the commercial law and other related laws.

2. Not to supply consumers with the goods and services provided in Clause 1, Article 5 of the Government's Decree No. 39/2007/ND-CP of March 16, 2007, on persons engaged in independent and regular commercial activities not subject to business registration.

3. To truthfully and fully provide information on his/her goods or services provided to consumers under the law on consumer protection, the commercial law and other related laws.

4. To change goods for or take back goods from and refund a consumer when his/her goods fail to meet requirements on quality, quantity or use as earlier informed to the consumer.

5. To comply with decisions on goods recall when his/her goods are subject to recall and bear expenses for goods destruction when his/her goods are subject to destruction under decisions of competent agencies.

6. In addition to Clauses 1, 2, 3, 4, and 5 of this Article, a person engaged in independent and regular commercial activities not subject to business registration operating in a market or trade center shall fully comply with rules on consumer protection set by the market management unit or the market or trade center operator and approved by a competent agency.

Article 5. Responsibilities of a market management unit or market or trade center operator

1. To issue rules under law which must cover

basic contents on consumer right protection, including:

a/ Rights and responsibilities of consumers;

b/ Rights and responsibilities of sellers;

c/ Persons responsible for receiving and settling requests and feedback of consumers;

c/ Measures to handle violations.

2. To mediate disputes between consumers and sellers within the market or trade center when so requested.

3. To place, and maintain operation of, scales or measuring devices in the market or trade center for consumers to check the quantity and quality of goods.

4. To regularly supervise the quality and quantity of goods in the market or trade center.

5. To set up, and publicly post up the number of, a telephone hotline for receiving and settling consumer requests suitable to the grade of the market or trade center as classified under law.

6. To biannually report on, and coordinate with functional agencies in charge of trade, market control, food safety, and standards, measurement and quality in, the control of quality, quantity, origin and food safety of goods and services within its market or trade center.

7. To report to competent agencies when detecting violations of the law on consumer right protection and other related laws.

8. To handle violations under its approved rules.

Article 6. Responsibilities of commune-level People's Committees

1. To examine and supervise market management units and operators of markets and trade centers in their localities in implementing approved rules. When there is no market management unit or market or trade center operator, to take measures to protect consumer rights within markets or trade centers.

2. To manage and inspect activities of persons engaged in independent and regular commercial activities not subject to business registration in their communes who operate outside markets and trade centers in order to protect consumer rights.

3. To coordinate with district- and provincial-level functional agencies in charge of trade, market control, food safety, and standards, measurement and quality in managing and inspecting activities of individual traders in their communes.

4. To handle violations of regulations on consumer protection according to their competence and law.

5. To mobilize and encourage individuals to carry out commercial activities in markets and trade centers; to create conditions for individuals to carry out business activities within markets and trade centers.

Chapter III

**CONTRACTS WITH CONSUMERS AND
GENERAL TRANSACTION CONDITIONS**

Section I

**CONTROL OF MODEL CONTRACTS
AND GENERAL TRANSACTION
CONDITIONS**

Article 7. General requirements on model contracts and general transaction conditions

Model contracts and general transaction conditions shall be made in writing and must fully meet the following conditions:

1. The language is Vietnamese. The contents are clear and understandable. The font size of the text is at least 12.

2. The paper background and ink color used in model contracts and general transaction conditions must contrast.

Article 8. Responsibilities for registration of model contracts and general transaction conditions

1. Before applying a model contract or general transaction conditions for a goods or service which must be registered under the Prime Minister's regulations, a trader shall register such contract or conditions under this Decree.

2. A model contract or general transaction conditions may only be applied to consumers when its/their registration is completed under Article 14 of this Decree.

Article 9. Authority to receive registration dossiers

1. The Ministry of Industry and Trade shall receive registration dossiers of model contracts and general transaction conditions which are applied nationwide or in two or more provinces.

2. Provincial-level Industry and Trade Departments shall receive registration dossiers of model contracts and general transaction conditions which are applied within a province or centrally run city.

Article 10. Dossiers and form of registration

1. A registration dossier of a model contract or general transaction conditions comprises:

a/ An application, made according to the form provided by the Ministry of Industry and Trade, specifying the address and business line of the goods or service trader;

b/ The draft model contract or general transaction conditions.

2. One (1) set of a registration dossier may be submitted directly, by post or electronically to a competent agency provided in Article 9 of this Decree.

3. For a dossier submitted directly, the recipient of the dossier shall make a receipt record the date of which is the date of dossier receipt. For a dossier submitted by post, the date of dossier receipt is based on the postmark. For a dossier submitted electronically, the date of dossier receipt is counted from the time a competent registry's electronic receipt acknowledgement message is sent.

Article 11. Request for dossier

supplementation

1. Within five (5) working days after receiving an incomplete registration dossier under Clause 1, Article 10 of this Decree, a competent registry shall request the applicant to supplement such dossier.

2. An applicant shall supplement the dossier within three (3) working days after receiving a competent agency's request.

Article 12. Consideration of registration dossiers

1. A competent registry shall consider a registration dossier after receiving it under Articles 10 and 11 of this Decree.

2. When considering a registration dossier, a competent registry may request the applicant to explain issues related to the model contract or general transaction conditions.

3. When considering a registration dossier of a model contract or general transaction conditions, a competent registry may consult involved agencies, organizations and persons.

Article 13. Scope of consideration of model contracts and general transaction conditions

A competent agency provided in Article 9 of this Decree shall consider a model contract or general transaction conditions regarding:

1. Invalid contents under Article 16 of the Law on Protection of Consumer Rights.

2. Requirements under Article 7 of this

Decree.

3. Compliance with the law on consumer right protection and general principles for contract conclusion.

Article 14. Completion of registration

1. Within twenty (20) working days after receiving a valid dossier, a competent registry shall send the trader a notice of acceptance of registration of a model contract or general transaction conditions. In case of refusing such registration, it shall send the trader a written reply clearly stating the reason.

2. After completing registration procedures, model contracts and general transaction conditions shall be published and stored on the websites of competent registries.

3. Competent registries shall regularly inspect and monitor the circulation of registered model contracts and general transaction conditions.

Article 15. Re-registration of model contracts and general transaction conditions

1. A trader shall re-register its model contract or general transaction conditions when:

a/ There is a change in law which results in a change in the contents of the model contract or general transaction conditions;

b/ It changes the contents of the model contract or general transaction conditions.

2. Procedures for re-registration of model

contracts and general transaction conditions are the same as the registration procedures under this Decree.

3. A trader shall notify consumers of changes in its model contract or general transaction conditions after completing the re-registration.

Article 16. Control of model contracts and general transaction conditions not subject to registration

1. When the contents of a model contract or general transaction conditions violate the law, on consumer right protection or are contrary to general principles for contract conclusion, a competent agency provided in Article 9 of this Decree may request the trader to modify or cancel those contents.

2. When the contents of a model contract or general transaction conditions are unclear or may be understood in different ways, a competent agency may request the trader to explain and clarify those contents.

3. Within ten (10) working days after receiving a competent agency's request, a trader shall modify or cancel violating contents of the contract and notify such to consumers having signed that contract. In case the modification or cancellation of violating contents results in the invalidity of contracts signed with consumers or general transaction conditions, causing damage to consumers, the trader shall pay damages to those consumers under the civil law.

Section 2
SPECIFIC CONTRACTS WITH
CONSUMERS

Article 17. Distance contracts

1. When concluding a distance contract, a trader shall provide a consumer with the following information:

a/ Name of the trader, telephone number, address, head office and address of the establishment responsible for the contract conclusion offer (if any);

b/ Quality of the goods or service;

c/ Goods delivery cost (if any);

d/ Modes of payment and goods delivery or service provision;

e/ The validity time of the offer and offered price;

f/ Costs for use of communication devices for contract conclusion, if these costs are not included in the goods or service price;

g/ Details on specifications, use and use method of the goods or service provided under the contract.

2. When a contract conclusion offer is made by telephone, a trader should clearly state its name and address and purpose of the call right from the beginning.

3. Unless otherwise agreed by involved parties, when a trader fails to properly or fully provide the information stated in Clause 1 of this Article, within ten (10) days after

concluding the contract, a consumer may unilaterally terminate the contract and notify such to the trader. The consumer is not obliged to pay any costs related to that termination and shall only pay for the goods or service he/she has used.

4. In case a consumer unilaterally terminates a contract under Clause 3 of this Article, a trader shall refund the paid money to the consumer within thirty (30) days after the consumer announces to unilaterally terminate the contract. Past this time limit, the trader shall pay interests for the delayed payment corresponding to the time of delayed payment at the prime interest rate announced by the State Bank at the time of payment. The refund shall be made by the mode of payment used by the consumer, unless the consumer agrees to the refund by another mode.

In case the contract termination causes damage to a consumer, a trader shall pay damages under the civil law.

Article 18. Continuous service contracts

1. A continuous service contract must contain:

a/ Name and contact address of the service provider;

b/ Description of the service to be provided;

c/ Service quality;

d/ Time and duration of service provision;

e/ Method of calculation of service charge and price;

f/ Modes of service provision and payment.

2. A continuous service contract shall be made in writing and one (1) copy shall be given to the consumer.

3. Unless otherwise agreed by involved parties, a consumer may unilaterally terminate a continuous service contract at any time and notify such in writing to the service provider. When a consumer unilaterally terminates a contract, he/she shall only pay the charge or price for the service he/she has used.

4. A service provider has the following obligations:

a/ Unless otherwise agreed by involved parties, not to request a consumer to make any payments before the service is provided to the consumer;

b/ Not to unilaterally terminate a contract and stop providing a service without a plausible reason. When repair or maintenance is required or there is another reason forcing it to stop the service, to notify consumers at least three (3) working days in advance before stopping the service;

c/ To regularly examine the quality of its service and ensure the quality as committed with consumers;

d/ Upon a consumer's notification of an incident or complaint about service quality, to promptly examine and settle such incident or complaint.

Article 19. Door-to-door sale contracts

1. A door-to-door salesperson is the staff of a trader and has the following obligations when selling door-to-door:

a/ To introduce the name, contact telephone number, address and head office of the trader responsible for the contract conclusion offer;

b/ Not to insist on contract conclusion after being refused by a consumer;

c/ To explain to a consumer about contract conditions and other information related to a goods or service that consumer is interested in.

2. Unless otherwise agreed by involved parties, a door-to-door sale contract shall be made in writing and one (1) copy shall be given to the consumer.

3. Within three (3) working days after concluding a contract, a consumer may request to unilaterally terminate that contract and notify such in writing to the trader. Before this time limit expires, a door-to-door salesperson may not request a consumer to make any payments or perform the contract, unless otherwise provided by law.

4. When a door-to-door sale contract is made in writing, a consumer himself/herself shall fill in the date of the contract when concluding such contract.

5. A trader shall take responsibility for all activities of its door-to-door salespersons.

Chapter IV

SETTLEMENT OF CONSUMER RIGHT PROTECTION REQUESTS

Article 20. Forms and contents of consumer right protection requests

1. A consumer or a social organization

engaged in consumer right protection may request a state management agency of consumer right protection provided in Article 25 of the Law on Protection of Consumer Rights. Such request may be made in writing or verbally.

2. A consumer right protection request must contain:

- a/ Information on the violating trader;
- b/ Information on the requesting social organization or consumer;
- c/ Details of the case;
- d/ Specific requests of the consumer or social organization engaged in consumer right protection;
- e/ Enclosed documents and evidences.

Article 21. Procedures for receiving requests

1. For a written request for consumer right protection, a person in charge shall consider and receive such request.

For a consumer right protection request made verbally, a person in charge shall record such request in writing and request the consumer or the representative of the social organization engaged in consumer right protection to sign or press his/her finger-print on that document.

2. When a consumer right protection request lacks any of the contents stated in Article 20 of this Decree, a competent agency shall request a consumer or social organization engaged in consumer right protection to supplement that request. The supplementation shall be made

within five (5) working days after receiving a competent agency's request.

Article 22. Settlement of consumer right protection requests

1. After receiving a consumer right protection request, a competent agency shall settle such request. When necessary, the competent agency may request involved parties to give explanations and additionally provide information and documents for settlement of the request.

2. Within fifteen (15) working days after receiving a valid consumer right protection request, a competent agency shall issue a reply under Article 26 of the Law on Protection of Consumer Rights. For a complicated case, the time limit for issuing a reply may be extended for not more than another fifteen (15) working days.

3. In the course of settling a consumer right protection request, if a competent agency finds that the case shows signs of violation of the law on handling of administrative violations or it must be settled by another authority, it shall forward the case dossier to that authority and clearly state this in its reply to the consumer.

Article 23. Public notification of the list of traders infringing upon consumer rights

1. District-level consumer right protection agencies shall make and publicize lists of goods or service traders infringing upon consumer rights under Clause 4, Article 26 of the Law on Protection of Consumer Rights. For cases of violation involving two or more districts,

provincial-level Industry and Trade Departments shall publicize lists of violating traders. For cases involving two or more provinces, the Ministry of Industry and Trade shall publicize lists of violating traders.

2. Lists of violating traders shall be publicized in the mass media, and posted up at the head offices and published on websites of consumer right protection agencies, covering:

- a/ Names and addresses of violators;
- b/ Acts and places of violation;
- c/ Agencies issuing violation handling decisions and numbers and dates of these decisions.

The duration for notification of violators is thirty (30) days from the date of notification.

3. Market management units and operators of markets or trade centers shall publicize lists of traders that infringe upon consumer rights in markets or trade centers under their management.

Chapter V

SOCIAL ORGANIZATIONS ENGAGED IN CONSUMER RIGHT PROTECTION

Section I

INITIATION OF LAWSUITS ON CONSUMER RIGHT PROTECTION

Article 24. Conditions for social organizations engaged in consumer right protection to initiate lawsuits on consumer right protection for public interest

A social organization engaged in consumer

right protection may itself initiate a lawsuit on consumer right protection for public interest when fully meeting the following conditions:

- 1. To be set up lawfully.
- 2. To have operation guidelines and objectives for consumer rights or for public interest related to consumer rights.
- 3. To have operated for at least three (3) years counting from the date of its establishment to the date of its lawsuit initiation.
- 4. To operate at provincial or higher level.

Article 25. Obligations of social organizations engaged in consumer right protection when initiating lawsuits on consumer right protection for public interest

When initiating itself a lawsuit on consumer right protection for public interest, a social organization engaged in consumer right protection has the following obligations:

- 1. To inform on the case under Article 44 of the Law on Protection of Consumer Rights.
- 2. To assure involved consumers' right to participate in the case.
- 3. To bear all expenses arising from the lawsuit initiation.

Article 26. Social organizations participating in lawsuit initiation

When a social organization has initiated a lawsuit on consumer right protection, related social organizations have the right and obligation to coordinate with such social

organization in collecting evidences, providing information and carrying out other activities related to judicial proceedings.

Section 2

PERFORMANCE OF STATE-ASSIGNED TASKS

Article 27. Conditions for social organizations engaged in consumer right protection to perform state-assigned tasks on consumer right protection

A social organization engaged in consumer right protection may perform state-assigned tasks on consumer right protection when fully meeting the following conditions:

1. To be set up lawfully.
2. To have operation guidelines and objectives for consumer right protection.
3. To have operated for at least one (1) year.
4. To operate at provincial or higher level.

Article 28. Tasks assigned by the State to social organizations

A social organization fully meeting the conditions provided in Article 27 of this Decree may be assigned by a competent state agency to perform one of the following tasks:

1. Disseminating information and educating about the rights and obligations of consumers.
2. Providing guidance and training to raise awareness for consumers.

3. Counseling and assisting consumers.

4. Conducting researches and field surveys and collecting opinions and needs of consumers.

Article 29. Competence to assign tasks on consumer right protection to social organizations

1. The Minister of Industry and Trade may assign state-assigned tasks on consumer right protection to social organizations that are eligible and operate nationwide or within two or more provinces.

2. Chairpersons of provincial-level People's Committees may assign state-assigned tasks on consumer right protection to social organizations that are eligible and operate within their provinces.

Article 30. Financial support for consumer right protection activities assigned by the State

When assigned by a competent state agency to perform state-assigned tasks on consumer right protection, a social organization may receive financial support from the State under law.

Chapter VI

MEDIATION OF DISPUTES BETWEEN CONSUMERS AND TRADERS

Article 31. Competence to set up and dissolve mediation organizations

The following agencies and organizations

may set up and dissolve mediation organizations:

1. State management agencies of consumer right protection.
2. Social organizations engaged in consumer right protection.

Article 32. Mediators

1. A Vietnamese citizen may act as a mediator when fully meeting the following conditions:

- a/ To have full civil act capacity;
- b/ To have good morals and be honest;
- c/ To have at least five (5) years of working experience.

2. A person who is being kept under administrative probation, is being examined for penal liability or has been sentenced without being remitted from his/her conviction may not act as a mediator.

Article 33. Responsibilities and powers of mediation organizations

In the course of operation, a mediation organization shall:

1. Comply with law.
2. Respect agreements of parties; neither intimidate nor coerce parties in the course of mediation.
3. Keep confidential information on the mediation and other information of involved

parties, unless otherwise agreed by parties or provided by law.

4. Not take advantage of the mediation to harm the rights and legitimate interests of involved parties.

5. Not mediate a dispute which harms the interests of the State or many consumers or public interests or shows elements of crimes.

Chapter VII

STATE MANAGEMENT OF CONSUMER
RIGHT PROTECTION

Article 34. State management agencies of consumer right protection

1. The Ministry of Industry and Trade is the central state management agency of consumer right protection.

The Vietnam Competition Authority is the agency assisting the Minister of Industry and Trade in performing the state management of consumer right protection.

2. Provincial-level People's Committees are local state management agencies of consumer right protection.

Provincial-level Industry and Trade Departments are agencies assisting chairpersons of provincial-level People's Committees in performing the state management of consumer right protection in their localities.

3. District-level People's Committees may decide on units to assist them in performing the

state management of consumer right protection in their districts.

Article 35. Responsibilities of local state management agencies of consumer right protection

1. Provincial-level Industry and Trade Departments shall assist provincial-level People's Committees in performing the following tasks:

a/ Controlling model contracts and general transaction conditions under the Law on Protection of Consumer Rights, this Decree and related laws;

b/ Appraising schemes and plans on operation of social organizations engaged in consumer right protection and submitting them to chairpersons of provincial-level People's Committees for decision and assignment of state-assigned tasks;

c/ Supervising social organizations engaged in consumer right protection in performing tasks assigned to them;

d/ Examining and supervising mediation activities of organizations mediating disputes between consumers and traders;

e/ Creating conditions for social organizations engaged in consumer right protection to operate;

f/ Providing technical and professional guidance for district-level state management agencies of consumer right protection to carry out activities related to consumer right protection;

g/ Publicizing lists of goods and service traders infringing upon consumer rights under

Clause 4, Article 26 of the Law on Protection of Consumer Rights and Article 23 of this Decree;

h/ Reporting on the state management of consumer right protection in their localities regularly or at the request of superior authorities;

i/ Inspecting and handling violations of consumer rights under law;

j/ Performing other responsibilities provided in Article 49 of the Law on Protection of Consumer Rights.

2. Units assisting district-level People's Committees in performing the state management of consumer right protection shall:

a/ Settle consumer right protection requests under the Law on Protection of Consumer Rights, this Decree and related laws;

b/ Examine and supervise the operation of social organizations engaged in consumer right protection in the localities under their management;

c/ Assist district-level People's Committees in managing according to their competence markets and trade centers in their localities to protect the rights of consumers when buying goods or services in these markets and trade centers;

d/ Provide technical and professional guidance for commune-level People's Committees to take necessary measures to protect the rights of consumers when buying goods or services of persons engaged in commercial activities outside markets and trade centers;

e/ Publicize lists of goods and service traders

infringing upon consumer rights under Clause 4, Article 26 of the Law on Protection of Consumer Rights and Article 23 of this Decree:

f/ Report on the state management of consumer right protection in their districts regularly or at the request of superior authorities;

g/ Perform other responsibilities under Article 49 of the Law on Protection of Consumer Rights.

Chapter VIII

IMPLEMENTATION PROVISIONS

Article 36. Effect

This Decree takes effect on December 15, 2011.

Article 37. Implementation responsibilities

1. The Ministry of Industry and Trade shall assume the prime responsibility for, and coordinate with the Ministry of Home Affairs and provincial-level People's Committees in guiding the state management of consumer right protection in localities.

2. Ministers, heads of ministerial-level agencies, heads of government-attached agencies, chairpersons of provincial-level People's Committees and concerned organizations and persons shall implement this Decree.-

On behalf of the Government

Prime Minister

NGUYEN TAN DUNG

THE PRIME MINISTER

Decision No. 58/2011/QĐ-TTg of October 24, 2011, on the establishment of the National Advisory Council for Financial and Monetary Policies

This Decision takes effect on the date of its signing and replaces the Prime Minister's Decision No. 175/2007/QĐ-TTg of November 19, 2007, and other previous documents on appointment of members to the National Advisory Council for Financial and Monetary Policies.-

Decision No. 59/2011/QĐ-TTg of October 24, 2011, promulgating the Working Regulation of the National Advisory Council for Financial and Monetary Policies

This Decision takes effect on the date of its signing.-

Decision No. 60/2011/QĐ-TTg of October 26, 2011, providing a number of policies on preschool education development during 2011-2015

THE PRIME MINISTER

Pursuant to the December 25, 2001 Law on Organization of the Government;