



**CONSUMER PROTECTION BILL, 2018**

MEMORANDUM

The purpose of this Bill is to protect the consumer of goods and services by establishing the Consumer Protection Agency, and regulation of Consumer Advocacy Organisations. It will also repeal the Consumer Contracts Act [Chapter 8:03] and to provide for matters incidental to or connected with issues of consumer protection.

The main provisions of the Bill are explained below:

*Part I*

**Clause 1** sets out the short title.

**Clause 2** provides for the definition of terms used in the Bill.

**Clause 3** provides for the application of the Act. It applies to the jurisdictional transactions conducted within Zimbabwe. Exceptions are goods or services promoted or supplied to the State, services supplied under an employment contract and transactions which the consumer is a juristic person whose asset value or annual turnover equals or exceeds the threshold value prescribed in the Government *Gazette* notice by the Minister of Industry and Commerce. The Act shall not apply to transactions for the sale, letting or hire of immovable property and contract of employment.

*Part II*

**Clause 4** and **5** provide for the establishment and functions of the Consumer Protection Agency.

The functions of the Agency are centred on the protection of consumers from unjust, unreasonable, improper and unacceptable, deceptive, unfair and fraudulent conduct and trading practices. The Agency shall also promote fair business practices by coordinating and networking consumer activities with consumers' *vis-à-vis* consumer organisations, and protect consumer interests. Further, the Authority promotes consumer awareness and empowerment by referring and appearing before any court of law.

**Clause 6** provides for the establishment of the Consumer Protection Committee. The Committee shall be responsible for the controlling of Agency operations and all such matters pertaining the running of the Agency. This clause also covers the composition of the Committee and the specific expertise of members of this Committee and an outline of their mandate.

**Clause 7** provides for the funds of the Agency and sources of such funds.

**Clauses 8** and **9** provide for the accreditation and suspension or cancellation of Consumer Protection Advocacy Groups. These clauses provide the framework and criteria upon which groups will be accredited in line with the purpose of this Act. The clauses further provide for instances in which accreditation may be cancelled and punitive measures for non-compliance with accreditation criteria is also enunciated.

*Part III*

**Clause 10** provides for the Consumer's right to consumer education which education will cover but not be limited to environmental impacts, benefits, costs and hazards among other areas.

**Clause 11** provides for the right to fair value, good quality and safety of goods and services. This clause outlines in detail the instances where and condition show these rights will be guaranteed.

**Clause 12** pursuant to the rights mentioned in the above clause, this clause further provides for the implied warranty of quality a producer, importer, distributor or retailer are expected to give the consumer. It further provides redress to the consumer when a violation occurs.

**Clause 13** provides for the warranty on repaired goods. As highlighted above, this clause offers redress in giving six months warranty, implied and/or express which warranty is to be given by a service provider.

**Clause 14** provides for the warning concerning fact and nature of risks in that a supplier of goods or services shall not supply such subject to risk of which ever nature and expect a consumer to be fully knowledgeable of such risk. This clause attracts a punitive measure to persons in contravention of this clause and its clear outlines of warnings to be given to consumers.

**Clause 15** provides for the recovery and safe disposal of designated products or components. This clause in essence talks to and relies on other already existing or future legislation that directly or indirectly regulates the safety of the consumer through regulations on safety health and the environment. The clause places liability on suppliers, producers and importers to be responsible for disposal of goods, components, remnants, containers or packaging into a common waste collection system.

**Clause 16** with the heading safety monitoring and recall provides, in addition to the mandate of the Authority, that the Authority shall promote the development of mechanisms to allow consumer complaints, reports and violations reported, received, investigated to be conducted. These will in turn provide for the return, repair or recalling of such goods consumers are exposed to.

**Clause 17** provides for the liability for damages caused by goods. The clause extends liability of damages caused by goods to the producer; any person who put their name on the packaging of goods or services; importers; distributors; retailers; suppliers and the exception to such liability. The clause also covers service providers; installers and suppliers among others.

**Clause 18** provides for the defences of the suppliers of goods and services in relation to the liability covered in clause 16 above.

**Clause 19** provides for the right to choose goods or services of his/her choice without undue pressure and the right to reject or return goods within a reasonable time.

**Clause 20** provides for the consumer's right to select suppliers.

**Clause 21** provides for the consumer's right to cancel advance reservation, booking or order. The clause also provides protection to the supplier who makes a commitment to provide these services in allowing deposits and reasonable payment, prescribed cancellation fees/charges and exceptions where such payments may be waived for non-fulfilment.

**Clause 22** provides for the delivery of goods or supply of services. The clause elaborates on the responsibilities of delivery of goods; and specifications to be included in agreements in relation to delivery of goods. The clause also provides for the inspection of goods by the consumer and other contentious issues related to delivery of goods.

**Clause 23** provides for the unsolicited goods or services. This clause defines what unsolicited goods or services are and covers contentious issues around the delivery, payment and return of such unsolicited goods.

**Clause 24** provides for the expiry and renewal of fixed-term agreements. This clause, which does not apply to juristic persons, gives an outline of the components of

time, how a fixed agreement may be legally terminated and liability of parties to such agreement in the event of expiration or termination.

**Clause 25** provides for pre-authorisation of repair or maintenance services. This clause applies to certain agreements or transactions above a prescribed amount. It provides for the repair and service of such goods or services at no cost for the consumer and other matters pertaining such repair and service.

**Clause 26** provides for the consumer's right to cooling-off period after direct marketing. This clause allows a consumer to rescind a transaction resulting from any direct marketing without reason or penalty within a certain number of days. The clause also outlines instances in which this is not applicable.

**Clause 27** provides for the right to disclosure of information regarding goods or services and disclosure of prices. The clause outlines the form of price display that is acceptable; advertisement that is allowed in relation to price disclosures and when or how a supplier may be bound by such price advertisement.

**Clause 28** provides for the disclosure by intermediaries for persons who agree to be represented. The clause also covers the areas in which the intermediary disclosure does not cover.

**Clause 29** provides for the disclosure of reconditioned or grey market goods.

**Clause 30** provides for the identification of deliverers, installers and others.

**Clause 31** provides for the right to noticeable and legible information in plain and understandable language.

**Clause 32** provides for description of product labelling and trade descriptions. The clause also prohibits the use of product labels and trade descriptions that are deceptive and misrepresentative.

**Clause 33** provides for the sales records. This clause compels a supplier of goods to provide a written record of each transaction to a consumer to whom goods or services are supplied. The clause goes further to outline what should be contained in such a record.

**Clause 34** covers the right for a consumer to be heard by the Agency or court and the right to seek redress in terms of this Act or any other law.

**Clause 35** which provides for the consumer's right to return goods, outlines the instances where such a right is applicable and also when not applicable. The clause also covers the form of redress appropriate for these instances.

**Clause 36** provides that a consumer has the right to be treated fairly and honestly in any transaction or promotional activity by any supplier, marketer or service provider and to be protected from unconscionable conduct.

**Clause 37** prohibits false and misleading representations in relation to the marketing of goods or services either through words or conduct by a supplier or anyone acting on the behalf of the supplier.

**Clause 38** prohibits fraudulent schemes and offers and all such actions related to the distribution of false communication.

**Clause 39** gives the consumer the right to assume that a supplier of goods or services is legally entitled to or has the legal right or authority to sell or supply goods or services.

**Clause 40** deals with auctions. It provides description of a sale on auction; conclusion of a sale and transactions related to sales at auctions.

