

消費者法規翻譯叢書之十六

外國消費者保護法

(第十六輯)

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序言

美國總統甘乃迪於1962年揭示消費者享有一講求安全、知道真相、選擇及表達意見四大權利；1963年國際消費者組織聯盟（IOCU）再加入基本需求、請求賠償、消費教育及健康環境四大權利，宣示消費者應享有八大權利，並負五大義務—認知、行動、關懷、環保、團結義務；聯合國繼於1985年通過「保護消費者指導方針」。從以上之宣示，消費者保護事務已成為世界各國政府的共通關注之議題。

我國為更有效保護消費者權益，並順應世界潮流，於歷經個別立法保護時期及消費者保護方案時期後，終於83年1月11日經總統公布施行消費者保護法，使我國正式進入消費者保護法時期，為我國消費者保護法制展開新紀元，嗣後並於92年、94年修訂部分條文。

值此保障消費者之思想已蔚為世界潮流之際，為健全並周延我國有關消費者保護法制及充實消費者保護之新知，本會於84年起，即著手編印外國消費者保護法規選輯，自84年6月出版外國消費者保護法第1輯以來，迄今將進入第15年。選輯內容，包括派員出國考察或開會時所蒐集，及經由國外政府機關、國際組織網站下載之消費者保護相關法規，並將之譯介，彙編成書，作為本會及各界進一步瞭解各國消費者保護有關規定及供比較研究之參考。

本書為本會譯介外國消費者保護法第16輯，內容包括日本關於預付式票券之規範等法律及愛爾蘭2007年消費者保護法，本書採用中文翻譯及外文(日、英文)左右對照方式印刷，俾供讀者閱讀之便利。

本選輯中譯文部分，其中日本關於預付式票券之規範等法律之日文部分，係由政治大學法律系陳洸岳副教授負責翻譯，愛爾蘭2007年消費者保護法之英文部分，係由資策會科技法律中心郭佳玫副組長負責翻譯；謹此敘明，並表謝忱。

行政院消費者保護委員會 謹識

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關於預付式票券之規範等法律

第一章	總則	(第1條～第3條)
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第三章	第三者發行型之發行者的登記	(第6條～第11條)
第四章	記載事項及發行保證金之提存等	(第12條～第15條)
第五章	監督	(第16條～第22條)
第六章	預付式票券發行協會	(第23條～第26條)
第七章	其他	(第27條～第30條)
第八章	罰則	(第31條～第38條)
	附則	

平成元年（1988年）十二月二十二日	法律第九十二號	
平成五年十一月十二日	法律第八九號	修訂
平成九年六月二十日	法律第一〇二號	修訂
平成十年十月十六日	法律第一三一號	修訂
平成十一年十二月八日	法律第一五一號	修訂
平成十一年十二月二十二日	法律第一六〇號	修訂
平成十二年五月三十一日	法律第九一號	修訂
平成十四年六月十二日	法律第六五號	修訂
平成十六年六月二日	法律第七六號	修訂
平成十六年六月九日	法律第八八號	修訂
		(未施行。五年內施行)
平成十七年七月二十六日	法律第八七號	修訂
平成十八年六月二日	法律第五〇號	修訂
		(未施行。平成二十年十二月一日施行)

前払式証票の規制等に関する法律

第1章	総則	(第1条～第3条)
第2章	自家発行型前払式証票の発行の届出等	(第4条～第5条)
第3章	第三者型発行者の登録	(第6条～第11条)
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第5章	監督	(第16条～第22条)
第6章	前払式証票発行協会	(第23条～第26条)
第7章	雑則	(第27条～第30条)
第8章	罰則	(第31条～第38条)
	附則	

平成元・12・22・法律 92号＝
改正平成5・11・12・法律 89号――
改正平成9・6・20・法律102号――
改正平成10・10・16・法律131号――
改正平成11・12・8・法律151号――
改正平成11・12・22・法律160号――
改正平成12・5・31・法律 91号――
改正平成14・6・12・法律 65号――
改正平成16・6・2・法律 76号――
改正平成16・6・9・法律 88号

(未)(施行＝5年内)

改正平成17・7・26・法律 87号――
改正平成18・6・2・法律 50号

(未)(施行＝平20年12月1日)

修訂「商品券取締法」（昭和七年（1932）法律第二八號）全部

第一章 總則

（目的）

第一條 本法目的在於藉由對預付式票券之發行者進行登記等必要之規範、並確保其發行等業務之適當的營運，以保護預付式票券購入人等之利益，同時有助於有關預付式票券之信用的維持。

（定義）

第二條 本法之「預付式票券」係指以下所列票券等（不含車票、入場券及其他依政令所定之票券及依政令所定其發行之日起限一定期間內得使用之票券）。

- 一 取得對應於被記載於票券等（於本項中，以下稱「票券等」）或依電磁式方法（指電子方式、磁氣方式等無從依人之知覺而認知的方式。以下於本項中，亦同）被紀錄之金額（包含得被確認將金額以「度」等單位換算表示時之該單位數。以下於本款及第三項，亦同）之對價而被發行之票券等（包含取得依電磁式方法對應於被記錄於票券等金額之對價，且該金額之記錄得被加計的情形），且自該票券等之

商品券取締法（昭和7年法律第28号）の全部を改正する。

第1章 総則

（目的）

第 1 条 この法律は、前払式証票の発行者に対して登録その他の必要な規制を行い、その発行等の業務の適正な運営を確保することにより、前払式証票の購入者等の利益を保護するとともに、前払式証票に係る信用の維持に資することを目的とする。

（定義）

第 2 条 この法律において「前払式証票」とは、次に掲げる証票その他の物（乗車券、入場券その他の政令で定めるもの及びその発行の日から政令で定める一定の期間内に限り使用できるものを除く。）をいう。

- 1 証票その他の物（以下この項において「証票等」という。）に記載され又は電磁的方法（電子的方法、磁気的方法その他の人の知覚によつて認識することができない方法をいう。以下この項において同じ。）により記録されている金額（金額を度その他の単位により換算して表示していると認められる場合の当該単位数を含む。以下この号及び第3項において同じ。）に応ずる対価を得て発行される証票

發行者或該發行者所指定之人（於次款中稱「發行者等」）購入或借用物品、或受領勞務提供時，為清償此等代價，依提示、交付等方法而得使用之票券。

二 取得對應於被記載於票券等或依電磁式方法被紀錄物品或勞務數量之對價而被發行之票券等（包含取得依電磁式方法對應於被紀錄於票券等之物品或勞務數量之對價，且該數量之記錄得被加計的情形），且得對發行者等依提示、交付等方法，請求給付該物品或提供該勞務之票券。

2 本法之「基準日未使用餘額」係指，預付式票券之發行人於每年三月三十一日及九月三十日（此二日以下稱「基準日」）前發行之全部預付式票券在各該基準日之未使用餘額（指配合以下各款所列預付式票券之區分，各該款所定之金額）的合計總額，依內閣府令所定算出之金額。

一 前項第一款之預付式票券

- 等（電磁的方法により証票等に記録される金額に應ずる対価を得て当該金額の記録の加算が行われるものを含む。）であつて、当該証票等の発行者又は当該発行者が指定する者（次号において「発行者等」という。）から物品を購入し、若しくは借り受け、又は役務の提供を受ける場合に、これらの代価の弁済のために提示、交付その他の方法により使用することができるもの
- 2 証票等に記載され又は電磁的方法により記録されている物品又は役務の数量に應ずる対価を得て発行される証票等（電磁的方法により証票等に記録される物品又は役務の数量に應ずる対価を得て当該数量の記録の加算が行われるものを含む。）であつて、発行者等に対して、提示、交付その他の方法により、当該物品の給付又は当該役務の提供を請求することができるもの
 - 2 この法律において「基準日未使用残高」とは、前払式証票の発行者が毎年三月三十一日及び九月三十日（以下これらの日を「基準日」という。）までに発行したすべての前払式証票の当該基準日における未使用残高（次の各号に掲げる前払式証票の区分に応じ当該各号に定める金額をいう。）の合計額として内閣府令で定めるところにより算出した額をいう。
 - 1 前項第一号の前払式証票

於該基準日得作為代價之清償的金額

二 前項第二款之預付式票券

於該基準日，將得請求給付或提供之物品或勞務之數量，依內閣府令所定換算為金錢之金額。

- 3 本法之「票券金額等」係指，於第一項第一款之預付式票券的情形，為其發行時得作為代價之清償的金額；於同項第二款之預付式票券的情形，為其發行時得請求給付或提供之物品或勞務之數量。

- 4 本法之「自家發行型預付式票券」係指，限於自預付式票券之發行者（包含以政令所定與該發行者具有密切關係之人。以下於本項中，亦同。）購入或借用物品、或受領勞務之提供時，為清償此等代價，得以提示、交付等方法而使用之被發行之預付式票券；及僅得對發行者，以提示、交付等方法請求給付物品或提供勞務之被發行之預付式票券。

- 5 本法之「第三者發行型預付式票券」係指，自家發行型預付式票券以外之預付式票券。

- 当該基準日において代価の弁済に充てることができる金額
- 2 前項第2号の前払式証票
当該基準日において給付又は提供を請求することができる物品又は役務の数量を内閣府令で定めるところにより金銭に換算した金額
- 3 この法律において「証票金額等」とは、第1項第1号の前払式証票にあつてはその発行時において代価の弁済に充てることができる金額をいい、同項第2号の前払式証票にあつてはその発行時において給付又は提供を請求することができる物品又は役務の数量をいう。
- 4 この法律において「自家発行型前払式証票」とは、前払式証票の発行者（当該発行者と政令で定める密接な関係を有する者を含む。以下この項において同じ。）から物品を購入し、若しくは借り受け、又は役務の提供を受ける場合に限り、これらの代価の弁済のために提示、交付その他の方法により使用することができることとされている前払式証票及び発行者に対してのみ、提示、交付その他の方法により、物品の給付又は役務の提供を請求することができることとされている前払式証票をいう。
- 5 この法律において「第三者発行型前払式証票」とは、自家発行型前払式証票以外の前払式証票をいう。

- 6 本法之「自家型發行者」係指，限於發行自家發行型預付式票券者（包含自該發行者受讓事業之全部者及該發行者之一般承繼人，並限於其已發行之自家發行型預付式票券於基準日有未使用餘額者。）之法人（包含定有代表人或管理人之無法人格之社團或財團（以下稱「無法人格之社團等」）。）或個人。
- 7 本法之「第三者型發行者」係指，依第六條為登記，從事發行第三者發行型預付式票券業務之法人。
- 8 本法之「基準期間」係指，自基準日之次日起至次一基準日間之期間。

（排除適用）

第三條 本法就以下所列預付式票券，不適用之。

- 一 中央或地方公共團體（於次款中稱「中央等」）發行之預付式票券。
- 二 依法律直接設立之法人、依特別法以特別之設立行為所設立之法人或依特別法由地方公共團體為設立者所設立之法人（此等法人中，限於其資本金或出資額之全部係來自中央等，及其他準於中央等之法人、並以政令所定者）發行之預付式票券。

- 6 この法律において「自家型発行者」とは、自家発行型前払式証券のみの発行者（その発行者から事業の全部を譲り受けた者及びその発行者の一般承継人を含み、その発行した自家発行型前払式証券の基準日未使用残高があるものに限る。）である法人（人格のない社団又は財団で代表者又は管理人の定めのあるもの（以下「人格のない社団等」という。）を含む。）又は個人をいう。
- 7 この法律において「第三者型発行者」とは、第六条の登録を受けて第三者発行型前払式証券の発行の業務を行う法人をいう。
- 8 この法律において「基準期間」とは、基準日の翌日から次の基準日までの期間をいう。

（適用除外）

第 3 条 この法律は、次に掲げる前払式証券については、適用しない。

- 1 国又は地方公共団体（次号において「国等」という。）が発行する前払式証券
- 2 法律により直接に設立された法人、特別の法律により特別の設立行為をもつて設立された法人又は特別の法律により地方公共団体が設立者となって設立された法人（これらの法人のうち、その資本金又は出資の額の全部が国等からの出資によるものその他の国等に準ずる法人で政令で定めるものに限る。）が発行する前払式証券

- 三 僅對發行者之從業員發行之自家發行型預付式票券（完全被限定在從業員之使用者），及其他類似並以政令所定之預付式票券。
- 四 依分期付款買賣法（昭和三六年(1961)法律第一五九號）及其他法律之規定，依政令所定有關採取為保全預先受領金額措施之交易的預付式票券。
- 五 被限定僅使用於為了使用者之商事行為交易的預付式票券。

第二章 自家發行型預付式票券之發行的提報等

（自家發行型預付式票券之發行的提報）

第四條 自家型發行者，於基準日時，如其已發行之自家發行型預付式票券之基準日未使用餘額超過自其開始發行後依政令所定金額（於第十三條第一項及第十六條稱「提報基準額」。）時，自該基準日之次日起二個月（於第十二條稱「提報期限」。）內，應依內閣府令所定，提報以下所列事項予內閣總理大臣。終止自家發行型預付式票券之發行後，再次開始發行時，亦同。

- 一 姓名、商號或名稱及住所，法人者（包含無法

- 3 専ら発行者の従業員に対して発行される自家発行型前払式証票（専ら当該従業員が使用することとされているものに限る。）その他これに類するものとして政令で定める前払式証票
- 4 割賦販売法（昭和36年法律第159号）その他の法律の規定に基づき前受金の保全のための措置が講じられている取引に係る前払式証票として政令で定めるもの
- 5 その使用者のために商行為となる取引においてのみ使用することとされている前払式証票

第2章 自家発行型前払式証票の発行の届出等

（自家発行型前払式証票の発行の届出）

第4条 自家発行型発行者は、基準日においてその発行した自家発行型前払式証票の基準日未使用残高がその発行を開始してから最初に政令で定める額（第13条第1項及び第16条において「届出基準額」という。）を超えることとなったときは、当該基準日の翌日から2月を経過する日（第12条において「届出期限」という。）までに、内閣府令で定めるところにより、次に掲げる事項を内閣総理大臣に届け出なければならない。自家発行型前払式証票の発行を廃止した後再びその発行を開始したときも、同様とする。

- 1 氏名、商号又は名称及び住所並びに法人（人格

人格之社團等），其代表人或管理人之姓名。

- 二 發行之自家發行型預付式票券之票券金額等的種類。
 - 三 該基準日之基準日未使用餘額。
 - 四 其他以內閣府令所定事項。
- 2 已為前項提報之自家型發行者（於次條及第十六條稱「為提報之自家型發行者」），於同項各款所列事項有變動時，應儘速提報該意旨予內閣總理大臣。

（為提報之自家型發行者之地位的承繼等）

第五條 為提報之自家型發行者讓與涉及自家發行型預付式票券發行之事業的全部、或就為提報之自家型發行者有合併、公司分割（以使承繼涉及該自家發行型預付式票券發行之事業的全部者為限）或繼承時，受讓該事業之全部者、合併後續存之法人、因合併而設立之法人、因公司分割承繼該事業全部之法人或繼承人（繼承人為二人以上之情形，依其協議決定應承繼涉及自家發行型預付式票券之發行的事業之繼承人時，該繼承人。以下同），承繼該為提報之自家型發行者之地位。

- 2 依前項規定承繼為提報之自家型發行者之地位者，

- のない社団等を含む。)にあつては、その代表者又は管理人の氏名
- 2 発行する自家発行型前払式証票の証票金額等の種類
 - 3 当該基準日における基準日未使用残高
 - 4 その他内閣府令で定める事項
- 2 前項の届出をした自家型発行者（次条及び第16条において「届出自家型発行者」という。）は、同項各号に掲げる事項に変更があつたときは、遅滞なく、その旨を内閣総理大臣に届け出なければならない。

（届出自家型発行者の地位の承継等）

- 第 5 条 届出自家型発行者が自家発行型前払式証票の発行に係る事業の全部を譲渡したとき、又は届出自家型発行者について合併、会社分割（当該自家発行型前払式証票の発行に係る事業の全部を承継させるものに限る。）若しくは相続があつたときは、当該事業の全部を譲り受けた者又は合併後存続する法人若しくは合併により設立された法人、会社分割により当該事業の全部を承継した法人若しくは相続人（相続人が2人以上ある場合においてその協議により当該自家発行型前払式証票の発行に係る事業を承継すべき相続人を定めたときは、その者。以下同じ。）は、その届出自家型発行者の地位を承継する。
- 2 前項の規定により届出自家型発行者の地位を承継

應儘速提報該意旨予內閣總理大臣。

- 3 為提報之自家型發行者，於終止自家發行型預付式票券之發行時，應儘速提報該意旨予內閣總理大臣。
- 4 為提報之自家型發行者之法人，於因合併以外之事由而解散時，其清算人（解散如係因開始破產程序之決定時，為破產管理人）應儘速提報該意旨予內閣總理大臣。
- 5 為提報之自家型發行者之無法人格之社團等消滅時，其代表人或管理人應儘速提報該意旨予內閣總理大臣。

第三章 第三者型發行者之登記

（登記）

第六條 第三者發行型預付式票券之發行業務，非係受內閣總理大臣登記之法人，不得為之。

（登記之申請）

第七條 欲受前條規定之登記者，應向內閣總理大臣提出記載下列事項之登記申請書。

した者は、遅滞なく、その旨を内閣総理大臣に届け出なければならない。

- 3 届出自家型発行者は、自家発行型前払式証票の発行を廃止したときは、遅滞なく、その旨を内閣総理大臣に届け出なければならない。
- 4 届出自家型発行者たる法人が合併以外の事由により解散したときは、その清算人（解散が破産手続開始の決定による場合にあつては、破産管財人）は、遅滞なく、その旨を内閣総理大臣に届け出なければならない。
- 5 届出自家型発行者たる人格のない社団等が消滅したときは、その代表者又は管理人であつた者は、遅滞なく、その旨を内閣総理大臣に届け出なければならない。

第3章 第三者型発行者の登録

（登録）

- 第6条 第三者発行型前払式証票の発行の業務は、内閣総理大臣の登録を受けた法人でなければ、行つてはならない。

（登録の申請）

- 第7条 前条の登録を受けようとする者は、次に掲げる事項を記載した登録申請書を内閣総理大臣に提出しなければならない。

- 一 商號或名稱及住所。
 - 二 資本金或出資額。
 - 三 董監事之姓名或名稱及住所。
 - 四 發行之預付式票券之票券金額等之種類。
 - 五 其他依內閣府令所訂之事項。
- 2 前項之登記申請書中，應附上無該當於第九條第一項各款事項之書面誓約、及其他依內閣府令所定書面文件。

（登記之實施）

第八條 內閣總理大臣於受理第六條之登記申請後，除有依第九條第一項規定拒絕其登記之情形外，應於第三者型發行者登記簿登記下列事項。

- 一 前條第一項各款所列事項。
 - 二 登記年月日及登記序號。
- 2 內閣總理大臣依前項規定為登記時，應儘速通知登記申請人該意旨。
- 3 內閣總理大臣應將第三者型發行者登記簿供公眾閱覽。

（拒絕登記）

第九條 申請登記人有該當於以下各款之一的事由、或登記申請書或其所附書面文件中之重要事項有不實之記載或重要之事實有漏載者，內閣總理大臣應拒絕其登記。

- 1 商号又は名称及び住所
 - 2 資本金又は出資の額
 - 3 役員の氏名又は名称及び住所
 - 4 発行する前払式証票の証票金額等の種類
 - 5 その他内閣府令で定める事項
- 2 前項の登録申請書には、第9条第1項各号に該当しないことを誓約する書面その他内閣府令で定める書類を添付しなければならない。

(登録の実施)

- 第 8 条 内閣総理大臣は、第6条の登録の申請があつたときは、次条第1項の規定によりその登録を拒否する場合を除くほか、次に掲げる事項を第三者型発行者登録簿に登録しなければならない。
- 1 前条第1項各号に掲げる事項
 - 2 登録年月日及び登録番号
- 2 内閣総理大臣は、前項の規定による登録をしたときは、遅滞なく、その旨を登録申請者に通知しなければならない。
- 3 内閣総理大臣は、第三者型発行者登録簿を公衆の縦覧に供しなければならない。

(登録の拒否)

- 第 9 条 内閣総理大臣は、登録申請者が次の各号のいずれかに該当するとき、又は登録申請書若しくはその添付書類のうちに重要な事項について虚偽の記載があり、若しくは重要な事実の記載が欠けている

- 一 無法人格者。
- 二 法人意圖使用與其他第三者型發行者現在使用之商號或名稱同一之商號或名稱、或有被誤認為其他第三者型發行者之虞的商號或名稱者。
- 三 依第二十條第一項規定被撤銷第六條之登記、且自該撤銷之日起未滿三年之法人。
- 四 依本法規定受罰金刑，自該刑之執行終了日、或未受該刑之執行之日起未滿三年之法人。
- 五 董監事中有該當下列情形之一者的法人。
 - (1) 已成年之被監護人或被輔助人。
 - (2) 尚未復權之破產人。
 - (3) 受拘役以上之刑，自該刑之執行終了日、或未受該刑之執行之日起未滿三年者。
 - (4) 依本法規定受罰金刑，自該刑之執行終了日、或未受該刑之執行之日起未滿三年者。
 - (5) 於第三者型發行者依第二十條第一項規定被撤銷第六條之登記的情形，自該撤銷之日起

ときは、その登録を拒否しなければならない。

- 1 法人でない者。
- 2 他の第三者型発行者が現に用いている商号若しくは名称と同一の商号若しくは名称又は他の第三者型発行者と誤認されるおそれのある商号若しくは名称を用いようとする法人。
- 3 第20条第1項の規定により第6条の登録を取り消され、その取消の日から3年を経過しない法人。
- 4 この法律の規定により罰金の刑に処せられ、その刑の執行を終わり、又はその刑の執行を受けることがなくなった日から3年を経過しない法人。
- 5 役員のうち次のいずれかに該当する者のある法人。
 - イ 成年被後見人又は被保佐人。
 - ロ 破産者で復権を得ないもの。
 - ハ 禁錮以上の刑に処せられ、その刑の執行を終わり、又はその刑の執行を受けることがなくなった日から3年を経過しない者
- 2 この法律の規定により罰金の刑に処せられ、その刑の執行を終わり、又はその刑の執行を受けることがなくなった日から3年を経過しない者。
- ホ 第三者型発行者が第20条第1項の規定により第6条の登録を取り消された場合に

回溯三十日之期間中，曾擔任該第三者型發行者之董監事、且自該撤銷之日起未滿三年者。

六 未保有為適當實施第三者發行型預付式票券發行業務之充分財產基礎的法人。

2 內閣總理大臣依前項規定拒絕登記時，應附加理由，儘速通知登記申請人該意旨。

（第三者型發行者之地位的承繼等）

第十條 第三者型發行者讓與涉及第三者發行型預付式票券發行之事業的全部、或就第三者型發行者有合併、公司分割（以使承繼涉及該第三者發行型預付式票券發行之事業的全部者為限）時，受讓該事業全部的法人、合併後續存之法人、因合併而設立之法人、或因公司分割承繼該事業全部之法人，承繼該第三者型發行者之地位。但受讓該事業全部的法人、合併後續存之法人、因合併而設立之法人、或因公司分割承繼該事業全部之法人，有該當於前條第一項第二款至第五款之任一情形者，不在此限。

2 第五條第二項至第四項之規定，就第三者型發行者，準用之。準用之際，同條第三項中之「自家發

において、その取消しの日前30日以内に当該第三者型発行者の役員であった者で、当該取消しの日から3年を経過しないもの。

- 6 第三者発行型前払式証票の発行の業務を適確に遂行するに足りる財産的基礎を有しない法人。
- 2 内閣総理大臣は、前項の規定により登録を拒否したときは、遅滞なく、その理由を示して、その旨を登録申請者に通知しなければならない。

(第三者型発行者の地位の承継等)

- 第 10 条 第三者型発行者が第三者発行型前払式証票の発行に係る事業の全部を譲渡したとき、又は第三者型発行者について合併若しくは会社分割（当該第三者発行型前払式証票の発行に係る事業の全部を承継させるものに限る。）があつたときは、当該事業の全部を譲り受けた法人又は合併後存続する法人若しくは合併により設立された法人若しくは会社分割により当該事業の全部を承継した法人は、その第三者型発行者の地位を承継する。ただし、当該事業の全部を譲り受けた法人又は合併後存続する法人若しくは合併により設立された法人若しくは会社分割により当該事業の全部を承継した法人が前条第1項第2号から第5号までのいずれかに該当するときは、この限りでない。
- 2 第5条第2項から第4項までの規定は、第三者型発行者について準用する。この場合において、同条

行型預付式票券」，以「第三者發行型預付式票券」取代之。

- 3 第三者型發行者因合併以外之事由而解散、或終止第三者發行型預付式票券之發行時，該第三者型發行者依第六條所為登記，失其效力。

（變更之提報）

第十一條 第三者型發行者於第七條第一項各款所列事項有變更時，應儘速提報該意旨予內閣總理大臣。

- 2 內閣總理大臣受理依前項規定所為之提報後，應將提報之事項登記於第三者型發行者登記簿。

第四章 記載事項及發行保證金之提存等

（預付式票券之記載事項）

第十二條 自家型發行者及第三者型發行者（以下稱「自家型發行者等」）應依內閣府令所定，於其發行之預付式票券（於自家型發行者之情形，限於提報期後所發行者）記載以下所列事項。

- 一 姓名、商號或名稱。

第3項中「自家発行型前払式証票」とあるのは、「第三者発行型前払式証票」と読み替えるものとする。

- 3 第三者型発行者が合併以外の事由により解散したとき、又は第三者発行型前払式証票の発行を廃止したときは、当該第三者型発行者の第6条の登録は、その効力を失う。

（変更の届出）

- 第 11 条 第三者型発行者は、第7条第1項各号に掲げる事項に変更があつたときは、遅滞なく、その旨を内閣総理大臣に届け出なければならない。
- 2 内閣総理大臣は、前項の規定による届出を受理したときは、届出があつた事項を第三者型発行者登録簿に登録しなければならない。

第 4 章 表示事項及び発行保証金の供託等

（前払式証票の表示事項）

- 第十二条 自家型発行者及び第三者型発行者（以下「自家型発行者等」という。）は、その発行する前払式証票（自家型発行者にあつては、届出期限後に発行するものに限る。）に、内閣府令で定めるところにより、次に掲げる事項を表示しなければならない。

- 1 氏名、商号又は名称

- 二 住所或與該預付式票券之發行有關之營業所或事務所之所在地。
- 三 該預付式票券之票券金額等。
- 四 定有得使用該預付式票券之期間或期限者，該期間或期限。
- 五 其他依內閣府令所定之事項。

（發行保證金之提存等）

第十三條 自家型發行者等，於基準日時，如其已發行之預付式票券之基準日未使用餘額（於次條第一項之權利行使程序終了日後之基準日之情形，視為無同條第二項之與公告有關之預付式票券，而為依第二條第二項規定算出之金額。以下在本項及第六項，亦同。）在超過提報基準額、且超出依政令所定金額時，應將相當於該基準日未使用餘額之二分之一以上金額之發行保證金，於該基準日之次日起兩個月內，提存於主營業所或事務所之最近的提存所。

- 2 就前項之發行保證金應為提存之自家型發行者等，依政令所定，於有依內閣總理大臣之命令，締結將該自家型發行者等所需發行保證金為提存之契約、並將該意旨向內閣總理大臣為提報時，於該契約效力存續期間中，就於該契約中被提存之金額（以下於本條中稱「契約金額」），得不提存同項發行保證金之全部或一部。

- 2 住所又は当該前払式証票の発行に係る営業所若しくは事務所の所在地
- 3 当該前払式証票の証票金額等
- 4 当該前払式証票を使用することのできる期間又は期限が設けられている場合は、当該期間又は期限
- 5 その他内閣府令で定める事項

（発行保証金の供託等）

第 13 条 自家型発行者等は、基準日において、その発行した前払式証票の基準日未使用残高（次条第1項の権利の実行の終了した日以後の基準日にあつては、同条第2項の公示に係る前払式証票がないものとみなして第2条第2項の規定により算出した額。以下この項及び第6項において同じ。）が届出基準額を超える額で政令で定める額を超えるときは、当該基準日未使用残高の2分の1以上の額に相当する額の発行保証金を当該基準日の翌日から2月以内に主たる営業所又は事務所の最寄りの供託所に供託しなければならない。

- 2 前項の先行保証金につき供託をすべき自家型発行者等は、政令で定めるところにより、当該自家型発行者等のために所要の発行保証金が内閣総理大臣の命令に応じて供託される旨の契約を締結し、その旨を内閣総理大臣に届け出たときは、当該契約の効力の存する間、当該契約において供託されることとなっている金額（以下この条において

- 3 就第一項之發行保證金已為提存（含前項之契約的締結。以下於本項及第五項、第三十三條第二款，亦同）之自家型發行者等，應依內閣府令所定，於每一基準日儘速地就與該基準日有關之發行保證金之提存，提報予內閣總理大臣。
- 4 內閣總理大臣於認有保護預付式票券之購入者等之利益的必要時，得對締結有第二項之契約之自家型發行者等或該契約之相對人，命其提存相當於契約金額之全部或一部。
- 5 依第一項或前項規定，就發行保證金已為提存之自家型發行者等，因次條第一項之權利行使程序之終了及其他事實之發生，致發行保證金之金額（含契約金額。於次項中，亦同）低於相當於該事實發生日前最近之基準日未使用餘額（於同條第一項權利實程序終了日前最近之基準日的情形，視為無同條第二項與公告有關之預付式票券，而為依第二條第二項規定算出之金額。）之二分之一的金額時，應依內閣府令所定提存不足之金額、並儘速地提報該意旨予內閣總理大臣。

- 「契約金額」という。)につき、同項の発行保証金の全部又は一部の供託をしないことができる。
- 3 第1項の発行保証金につき供託（前項の契約の締結を含む。以下この項及び第5項並びに第33条第2号において同じ。）をした自家型発行者等は、基準日ごとに、遅滞なく、内閣府令で定めるところにより、当該基準日に係る発行保証金の供託につき、内閣総理大臣に届け出なければならない。
 - 4 内閣総理大臣は、前払式証票の購入者等の利益の保護のため必要があると認めるときは、第2項の契約を締結した自家型発行者等又はその契約の相手方に対し、契約金額に相当する金額の全部又は一部を供託すべき旨を命ずることができる。
 - 5 第1項又は前項の規定により発行保証金につき供託をした自家型発行者等は、次条第1項の権利の実行の手續の終了その他の事実の発生により、発行保証金の額（契約金額を含む。次項において同じ。）がその事実が発生した日の直前の基準日における基準日未使用残高（同条第一項の権利の実行の手續が終了した日の直前の基準日にあつては、同条第2項の公示に係る前払式証票がないものとみなして第2条第2項の規定により算出した額）の2分の1に相当する額に不足することとなつたときは、内閣府令で定めるところによりその不足額について供託を行い、遅滞なく、その旨を内閣総理大臣に届け出なければならない。

- 6 依第一項或第二項規定提存之發行保證金，於基準日之基準日未使用餘額低於第一項之政令所定金額、或於基準日之發行保證金之金額超過相當於基準日未使用餘額之二分之一之金額時，得依政令所定，取回其全部或一部。
- 7 依第一項或第五項規定提存之發行保證金，得以國債證券、地方債證券及其他以內閣府令所定之有價證券（包含公司債之抵付法（平成十三年（2001）法律第七十五號）第一二九條第一項規定之抵付公司債等）充之。
- 8 除以上各項規定外，關於因自家型發行者等之主營業所或事務所之所在地變更，而須變更保管發行保證金之場所及其他發行保證金之相關必要事項，以內閣府令及法務省令定之。

（發行保證金之歸還）

第十四條 預付式票券之所有人，關於與預付式票券有關之債權，就發行該預付式票券之自家型發行者等之發行保證金，有優先於其他債權者受清償之權利。

- 2 內閣總理大臣於有行使前項權利之申請時，如認該申請有理由，應對有該權利之人，公告定六十日以上之一定期間內應向內閣總理大臣申報債權、並告知於該期間內未申報債權時，將不得參與就與該公

- 6 第1項又は前2項の規定により供託した発行保証金は、基準日において基準日未使用残高が第1項の政令で定める額以下となったとき、又は基準日において発行保証金の額が基準日未使用残高の2分の1に相当する額を超えることとなったときは、政令で定めるところにより、その全部又は一部を取り戻すことができる。
- 7 第1項又は第5項の規定により供託する発行保証金は、国債証券、地方債証券その他の内閣府令で定める有価証券（社債等の振替に関する法律（平成13年法律第75号）第129条第1項に規定する振替社債等を含む。）をもってこれに充てることができる。
- 8 前各項に規定するもののほか、自家型発行者等の主たる営業所又は事務所の所在地の変更に伴う発行保証金の保管替えその他発行保証金に関し必要な事項は、内閣府令・法務省令で定める。

（発行保証金の還付）

- 第 14 条 前払式証票の所有者は、前払式証票に係る債権に関し、当該前払式証票を発行した自家型発行者等に係る発行保証金について、他の債権者に先立ち弁済を受ける権利を有する。
- 2 内閣総理大臣は、前項の権利の実行の申立てがあつた場合において、当該申立てを理由があると認めるときは、当該権利を有する者に対し、六十日を下らない一定の期間内に内閣総理大臣に債権の

告有關之發行保證金之權利行使的程序。

- 3 除前項規定之外，第一項之權利行使之相關必要事項，以政令定之。

（名義借用之禁止）

第十五條 第三者型發行者，不得以自己之名義，使他人從事發行第三者發行型預付式票券之業務。

第五章 監督

（預付式票券發行業務之相關帳冊文件）

第十六條 為提報之自家型發行者（包含已為第五條第三項之提報、且其發行之自家發行型預付式票券之基準日未使用餘額超出提報基準額者）及第三者型發行者（於次條及第十八條中稱「提報自家型發行者等」），應依內閣府令所定，製作關於該預付式票券發行業務之帳冊文件，並保管之。

（報告書之提出）

第十七條 為提報之自家型發行者等，應於每一基準日之次日

申出をすべきこと及びその期間内に債権の申出をしないときは当該公示に係る発行保証金についての権利の実行の手續から除斥されるべきことを公示しなければならない。

- 3 前項に規定するもののほか、第1項の権利の実行に
関し必要な事項は、政令で定める。

（名義貸しの禁止）

- 第 15 条 第三者型発行者は、自己の名義をもって、他人に
第三者発行型前払式証票の発行の業務を行わせて
はならない。

第 5 章 監督

（前払式証票の発行の業務に関する帳簿書類）

- 第 16 条 届出自家型発行者（第5条第3項の届出をした者
で、その発行した自家発行型前払式証票の基準日
未使用残高が届出基準額を超えるものを含む。）
及び第三者型発行者（次条及び第18条において
「届出自家型発行者等」という。）は、内閣府令
で定めるところにより、その前払式証票の発行の
業務に関する帳簿書類を作成し、これを保存しな
なければならない。

（報告書の提出）

- 第 17 条 届出自家型発行者等は、基準日ごとに、当該基準

起兩個月內，提出記載有以下事項之關於預付式票券發行業務報告書予內閣總理大臣。

- 一 有關包含該基準日在內之基準期間中所發行之預付式票券之發行額，依內閣府令所定方式算出之金額。
 - 二 該基準日之基準日未使用餘額。
 - 三 其他以內閣府令所定事項。
- 2 前項報告書應附加內閣府令所定文件。

（進入檢查等）

第十八條 內閣總理大臣於施行本法之必要限度內，得命為提報之自家型發行者等，提出就其業務或財產，得為參考之報告或資料，或使其職員進入第三者型發行者之營業所或事務所，檢查其業務或財產的狀況或帳冊文件等物件，或詢問關係人。

- 2 依前項規定為進入檢查之職員，應攜帶表明其身份之證明書，並應於關係人請求時提示之。
- 3 依第一項規定所為之進入檢查的權限，不得解為係犯罪搜查而被認許者。

日の翌日から2月以内に、次に掲げる事項を記載した前払式証票の発行の業務に関する報告書を内閣総理大臣に提出しなければならない。

- 1 当該基準日を含む基準期間において発行した前払式証票の発行額として内閣府令で定めるところにより算出した額
 - 2 当該基準日における基準日未使用残高
 - 3 その他内閣府令で定める事項
- 2 前項の報告書には、内閣府令で定める書類を添付しなければならない。

(立入検査等)

- 第18条 内閣総理大臣は、この法律の施行に必要な限度において、届出自家型発行者等に対し、その業務若しくは財産に関し参考となるべき報告若しくは資料の提出を命じ、又は当該職員に、第三者型発行者の営業所若しくは事務所に立ち入り、その業務若しくは財産の状況若しくは帳簿書類その他の物件を検査させ、若しくは関係者に質問させることができる。
- 2 前項の規定により立入検査をする職員は、その身分を示す証明書を携帯し、関係者の請求があつたときは、これを提示しなければならない。
 - 3 第1項の規定による立入検査の権限は、犯罪捜査のために認められたものと解してはならない。

（業務改善命令）

第十九條 內閣總理大臣就第三者型發行者之預付式票券之發行業務的營運，認有危害預付式票券之購買者等利益之事實時，於為保護購買者等之利益的必要限度內，得命該第三者型發行者應採取變更該業務方法或其他改善該業務營運之必要措施。

（登記之撤銷等）

第二十條 內閣總理大臣於第三者型發行者有該當以下各款之一之情形時，得撤銷依第六條所為之登記、或定六個月以內之期間命令停止該第三者發行型預付式票券之發行業務的全部或一部。

- 一 有該當於第九條第一項第二款或第五款之情形者。
 - 二 以不正當之方法受第六條之登記者。
 - 三 違反本法或本法授權之命令、或違反基於該等法令所為之處分者。
- 2 內閣總理大臣於未能確知第三者型發行者之營業所或事務所之所在地、或未能確知代表第三者型發行者之董監事之所在時，得依內閣府令所定公告該事實，並於該公告日起經三十日後，該第三者型發行者仍未申報時，撤銷該第三者型發行者依第六條所受之登記。

(業務改善命令)

第 19 条 内閣総理大臣は、第三者型発行者の前払式証票の発行に係る業務の運営に関し、前払式証票の購入者等の利益を害する事実があると認めるときは、購入者等の利益の保護のため必要な限度において、当該第三者型発行者に対し、当該業務の方法の変更その他当該業務の運営の改善に必要な措置をとるべきことを命ずることができる。

(登録の取消し等)

第 20 条 内閣総理大臣は、第三者型発行者が次の各号のいずれかに該当するときは、第6条の登録を取り消し、又は6月以内の期間を定めてその第三者発行型前払式証票の発行の業務の全部若しくは一部の停止を命ずることができる。

- 1 第9条第1項第2号又は第5号に該当することとなったとき。
 - 2 不正の手段により第6条の登録を受けたとき。
 - 3 この法律若しくはこの法律に基づく命令又はこれらに基づく処分違反したとき。
- 2 内閣総理大臣は、第三者型発行者の営業所若しくは事務所の所在地を確知できないとき、又は第三者型発行者を代表する役員の所在を確知できないときは、内閣府令で定めるところにより、その事実を公告し、その公告の日から30日を経過しても当該第三者型発行者から申出がないときは、当該第三者型発行者の第6条の登録を取り消すことができる。

- 3 依前項規定所為之處分，不適用行政程序法（平成五年（1993）法律第八十八號）第三章之規定。

（登記之塗銷）

第二十一條 內閣總理大臣於因第十條第三項之規定致第六條之登記失其效力、或因前條第一項或第二項之規定致撤銷第六條之登記時，應塗銷該登記。

（監督處分之公告）

第二十二條 內閣總理大臣於依第二十條第一項或第二項為處分時，應依內閣府令所定公告該意旨。

第六章預付式票券發行協會

（預付式票券發行協會）

第二十三條 自家型發行者等為保護預付式票券購買者等之利益，並有助預付式票券發行相關業務之健全發展，得於其名稱中使用預付式票券發行協會之文字，設立民法（明治二九年法律第八十九號）第三十四條規定之法人。

- 2 前項規定之法人（以下於本章及次章中稱「協會」）應將會員名簿供公眾閱覽。

- 3 前項の規定による処分については、行政手続法（平成5年法律第88号）第3章の規定は、適用しない。

（登録の抹消）

第 21 条 内閣総理大臣は、第10条第3項の規定により第6条の登録がその効力を失ったとき、又は前条第1項若しくは第2項の規定により第6条の登録を取り消したときは、当該登録を抹消しなければならない。

（監督処分の公告）

第 22 条 内閣総理大臣は、第20条第1項又は第2項の規定による処分をしたときは、内閣府令で定めるところにより、その旨を公告しなければならない。

第6章 前払式証票発行協会

（前払式証票発行協会）

第 23 条 自家型発行者等は、前払式証票の購入者等の利益の保護を図るとともに、前払式証票の発行に係る業務の健全な発展に資することを目的として、その名称中に前払式証票発行協会という文字を用いる民法（明治29年法律第89号）第34条の規定による法人を設立することができる。

- 2 前項に規定する法人（以下この章及び次章において「協会」という。）は、会員の名簿を公衆の縦

（名稱使用之限制）

第二十四條 非協會之人不得於其名稱中使用預付式票券發行協會之文字。

- 2 未加入協會者不得於其名稱中使用預付式票券發行協會會員之文字。

（協會之業務）

第二十五條 協會為達成其目的，執行以下業務。

- 一 為使會員從事預付式票券之發行相關業務時，遵守本法及其他法令規定，對其進行指導、勸告等業務。
- 二 關於會員所為預付式票券之發行相關業務，為確保契約內容之妥當公平及保護預付式票券之購入者的利益等，進行必要之指導、勸告等業務。
- 三 解決預付式票券之購入者等對會員所為預付式票券之發行相關業務的申訴。
- 四 對預付式票券之購入者等，進行宣傳報導及其他為達成協會之目的的必要業務。

覽に供しなければならない。

（名称の使用制限）

第 24 条 協会でない者は、その名称中に前払式証票発行協会という文字を用いてはならない。

- 2 協会に加入していない者は、その名称中に前払式証票発行協会会員という文字を用いてはならない。

（協会の業務）

第 25 条 協会は、その目的を達成するため、次に掲げる業務を行う。

- 1 前払式証票の発行に係る業務を行うに当たり、この法律その他の法令の規定を遵守させるための会員に対する指導、勧告その他の業務
- 2 会員の行う前払式証票の発行に係る業務に関し、契約の内容の適正化その他前払式証票の購入者等の利益の保護を図るため必要な指導、勧告その他の業務
- 3 会員の行う前払式証票の発行に係る業務に対する前払式証票の購入者等からの苦情の解決
- 4 前払式証票の購入者等に対する広報その他協会の目的を達成するため必要な業務

（申訴之解決）

- 第二十六條 預付式票券之購入者等對會員所為預付式票券之發行相關業務提出申訴請求解決時，協會應聽取其諮詢、向請求人提供必要之建言、調查與申訴之相關情事，並通知該會員申訴之內容，要求其迅速處理。
- 2 協會就前項提出之申訴的解決，認有必要時，得要求該會員提出書面或口頭的說明、或資料。
 - 3 會員於受協會依前規定所為要求時，非有正當理由，不得拒絕。
 - 4 協會就第一項之申訴及該申訴之相關情形與其解決結果，應周告會員。

第七章 雜 則

（與登記之撤銷等有關之債務的履行等）

- 第二十七條 第三者型發行者因第十條第三項之規定致第六條之登記失其效力、或因第二十條第一項或第二項之規定致第六條之登記被撤銷時，該原第三者型發行者或其概括承繼人，於完成該第三者型發行

(苦情の解決)

- 第 26 条 協会は、前払式証票の購入者等から会員の行う前払式証票の発行に係る業務に関する苦情について解決の申出があつたときは、その相談に応じ、申出人に必要な助言をし、その苦情に係る事情を調査するとともに、当該会員に対しその苦情の内容を通知してその迅速な処理を求めなければならない。
- 2 協会は、前項の申出に係る苦情の解決について必要があると認めるときは、当該会員に対し、文書若しくは口頭による説明を求め、又は資料の提出を求めることができる。
 - 3 会員は、協会から前項の規定による求めがあつたときは、正当な理由がないのに、これを拒んではならない。
 - 4 協会は、第1項の申出、当該苦情に係る事情及びその解決の結果について会員に周知させなければならない。

第7章 雑 則

(登録の取消し等に伴う債務の履行の完了等)

- 第 27 条 第三者型発行者について、第10条第3項の規定により第6条の登録が効力を失つたとき、又は第20条第1項若しくは第2項の規定により第6条の登録が取り消されたときは、当該第三者型発行者であつた者

者已發行之第三者發行型預付式票券相關債務之履行的目的範圍內，仍視為第三者型發行者。

（向財務大臣資料提出等）

第二十七條之二 財務大臣就與其執掌有關之金融破綻處理制度及金融危機管理，認有企畫或設計預付式票券相關制度之必要時，得請求內閣總理大臣提出必要之資料及說明。

- 2 財務大臣就與其執掌有關之金融破綻處理制度及金融危機管理，認有企畫或設計預付式票券相關制度之特別必要時，於必要之限度內，得請求自家型發行者等或協會提出資料、說明及其他協助。

（授權）

第二十八條 內閣總理大臣將本法所定權限（不含以政令規定者）授權予金融廳廳長。

- 2 金融廳廳長依政令所定，得將依前項規定被授權之權限的一部授權予財務局長或財務分局長。

（授權以內閣府令規定之事項）

第二十九條 除本法所規定者外，為實施本法之必要事項，以

又はその一般承継人は、当該第三者型発行者が発行した第三者発行型前払式証票に係る債務の履行を完了する目的の範囲内においては、なお第三者型発行者とみなす。

（財務大臣への資料提出等）

第 27 条の2 財務大臣は、その所掌に係る金融破綻処理制度及び金融危機管理に関し、前払式証票に係る制度の企画又は立案をするため必要があると認めるときは、内閣総理大臣に対し、必要な資料の提出及び説明を求めることができる。

2 財務大臣は、その所掌に係る金融破綻処理制度及び金融危機管理に関し、前払式証票に係る制度の企画又は立案をするため特に必要があると認めるときは、その必要の限度において、自家型発行者等又は協会に対し、資料の提出、説明その他の協力を求めることができる。

（権限の委任）

第 28 条 内閣総理大臣は、この法律による権限（政令で定めるものを除く。）を金融庁長官に委任する。

2 金融庁長官は、政令で定めるところにより、前項の規定により委任された権限の一部を財務局長又は財務支局長に委任することができる。

（内閣府令への委任）

第 29 条 この法律に定めるもののほか、この法律を実施す

內閣府令定之。

（過渡措施）

第三十條 基於本法規定，制定、修訂或廢止命令時，得於合理之範圍內以該命令，就因制定、修訂或廢止之相關事項，制定必要之過渡措施（包含有關罰則之過渡措施）。

第八章 罰 則

第三十一條 該當於以下各款情形之一者，處三年以下有期徒刑或300萬元以下罰金、或併科之。

- 一 未受第六條之登記，從事第三者發行型預付式票券之發行業務者。
- 二 以不正當手段受第六條之登記者。
- 三 違反第十五條規定，使他人從事第三者發行型預付式票券之發行業務者。

第三十二條 違反基於第二十條第一項規定受停止發行業務之命令，從事第三者發行型預付式票券之發行業務者，處一年以下有期徒刑或100萬元以下罰金、或併科之。

るため必要な事項は、内閣府令で定める。

(経過措置)

第 30 条 この法律の規定に基づき命令を制定し、又は改廃する場合においては、その命令で、その制定又は改廃に伴い合理的に必要とされる範囲内において、所要の経過措置（罰則に関する経過措置を含む。）を定めることができる。

第 8 章 罰 則

第 31 条 次の各号のいずれかに該当する者は、三年以下の懲役若しくは300万円以下の罰金に処し、又はこれを併科する。

- 1 第6条の登録を受けないで第三者発行型前払式証券の発行の業務を行った者
- 2 不正の手段により第6条の登録を受けた者
- 3 第15条の規定に違反して、他人に第三者発行型前払式証券の発行の業務を行わせた者

第 32 条 第20条第1項の規定による発行の業務の停止の命令に違反して、第三者発行型前払式証券の発行の業務を行った者は、1年以下の懲役若しくは100万円以下の罰金に処し、又はこれを併科する。

第三十三條 該當於以下各款情形之一者，處六個月以下有期徒刑或50萬元以下罰金、或併科之。

- 一 未依第四條第一項規定提報、或為不實之提報者。
- 二 違反第十三條第一項或第五項規定，未為提存者。
- 三 違反依第十三條第四項所定命令，未為提存者。

第三十四條 該當於以下各款情形之一者，處30萬元以下罰金。

- 一 於第七條第一項之登記申請書或同條第二項之文件，為不實之記載並提出者。
- 二 未為第十條第二項中準用第五條第二項或第十一條第一項規定之提報、或為不實之提報者。
- 三 違反第十二條規定，未記載同條各款所列事項、或為不實之記載而發行預付式票券者。
- 四 就第十六條規定所定之帳冊文件，未加製作或未為保存、或製作不實之帳冊文件者。
- 五 未提出第十七條第一項之報告書或同條第二項之文件、或提出不實記載之報告書或文件者。
- 六 未提出第十八條第一項所規定之報告或資

第 33 条 次の各号のいずれかに該当する者は、6月以下の懲役若しくは50万円以下の罰金に処し、又はこれを併科する。

- 1 第4条第1項の規定による届出をせず、又は虚偽の届出をした者
- 2 第13条第1項又は第5項の規定に違反して、供託を行わなかった者
- 3 第13条第4項の規定による命令に違反して、供託を行わなかった者

第 34 条 次の各号のいずれかに該当する者は、30万円以下の罰金に処する。

- 1 第7条第1項の登録申請書又は同条第2項の書類に虚偽の記載をして提出した者
- 2 第10条第2項において準用する第5条第2項又は第11条第1項の規定による届出をせず、又は虚偽の届出をした者
- 3 第12条の規定に違反して、同条各号に掲げる事項の表示をせず、又は虚偽の表示をして前払式証票を発行した者
- 4 第16条の規定による帳簿書類の作成若しくは保存をせず、又は虚偽の帳簿書類の作成をした者
- 5 第17条第1項の報告書若しくは同条第2項の書類を提出せず、又は虚偽の記載をした報告書若しくは書類を提出した者
- 6 第18条第1項の規定による報告若しくは資料

料、或提出不實之報告或資料且抗拒妨害或規避同項規定之檢查、或對依同項規定所為之詢問不為答辯或為不實之答辯者。

七 違反依第十九條規定所定之命令者。

八 違反第二十四條第二項規定，於其名稱中使用預付式票券發行協會會員之文字者。

第三十五條 未依第四條第二項或第五條第二項為提報、或為不實之提報者，處20萬元以下罰金。

第三十六條 法人（包含無法人格之社團等。以下於本項中亦同。）之代表人或管理人、或法人或自然人之代理人使用人等從事業務者，關於該法人或自然人之業務，有違反第三十一條至前條之行為時，除處罰該行為人外，並科處該法人或自然人各該相當規定之罰金刑。

2 無法人格之社團等有適用前項規定之情形時，其代表人或管理人就該訴訟行為，除代表該無法人格之社團等外，準用以法人為被告或嫌疑人時之刑事訴訟相關法律的規定。

の提出をせず、若しくは虚偽の報告若しくは資料の提出をし、同項の規定による検査を拒み、妨げ、若しくは忌避し、又は同項の規定による質問に対して答弁をせず、若しくは虚偽の答弁をした者

- 7 第19条の規定による命令に違反した者
- 8 第24条第2項の規定に違反して、その名称中に前払式証票発行協会会員という文字を用いた者

第 35 条 第4条第2項又は第5条第2項の規定による届出をせず、又は虚偽の届出をした者は、20万円以下の罰金に処する。

第 36 条 法人（人格のない社団等を含む。以下この項において同じ。）の代表者若しくは管理人又は法人若しくは人の代理人、使用人その他の従業者が、その法人又は人の業務に関し、第31条から前条までの違反行為をしたときは、その行為者を罰するほか、その法人又は人に対しても、各本条の罰金刑を科する。

- 2 人格のない社団等について前項の規定の適用がある場合には、その代表者又は管理人がその訴訟行為につきその人格のない社団等を代表するほか、法人を被告人又は被疑者とする場合の刑事訴訟に関する法律の規定を準用する。

第三十七條 該當於以下各款情形之一者，處50萬元以下罰鍰。

- 一 未為第十條第二項中準用第五條第三項或第四項規定之提報、或為不實之提報者。
- 二 無正當理由而拒絕將第二十三條第二項之名冊供公眾閱覽者。

第三十八條 該當於以下各款情形之一者，處10萬元以下罰鍰。

- 一 未為第五條第三項至第五項、第十三條第三項或第五項規定之提報、或為不實之提報者。
- 二 違反第二十四條第一項規定，於其名稱中使用預付式票券發行協會之文字者。

附 則

（施行日期）

第一條 本法於公布日起算未逾越一年之範圍內，以政令定其施行日。

（過渡措施）

第二條 於本法施行之日（以下稱「施行日」）前廢止發行預付式票券者（含自該人受讓營業之全部者及該人之概括承繼人，但不含本法施行之際仍為該發行之

第 37 条 次の各号のいずれかに該当する者は、50万円以下の過料に処する。

- 1 第10条第2項において準用する第5条第3項又は第4項の規定による届出をせず、又は虚偽の届出をした者
- 2 正当な理由がないのに第23条第2項の名簿の縦覧を拒んだ者

第 38 条 次の各号のいずれかに該当する者は、10万円以下の過料に処する。

- 1 第5条第3項から第5項まで又は第13条第3項若しくは第5項の規定による届出をせず、又は虚偽の届出をした者
- 2 第24条第1項の規定に違反して、その名称中に前払式証票発行協会という文字を用いた者

附 則

（施行期日）

第 1 条 この法律は、公布の日から起算して1年を超えない範囲内において政令で定める日から施行する。

（経過措置）

第 2 条 この法律は施行の日（以下「施行日」という。）前に前払式証票の発行を廃止した者（その者から営業の全部を譲り受けた者及びその者の一般承継

人）之法人（含無人格之社團等）或個人（以下於本條中稱「廢止發行人」），就已發行之預付式票券，無本法之適用。但該廢止發行人於施行日後又開始發行預付式票券者，於開始該發行日之後，不在此限。

- 2 即有合於前項規定之情形，但廢止發行人已發行之預付式票券中，就該當於修訂前之「禮券取締法」（以下稱「舊法」）第三條規定之禮券，適用修訂後「預付式票券規範法」（以下稱「新法」）第十三條及第十四條之規定（含該等規定相關之罰則）。於此情形，各該規定中之「自家型發行者等」置換為「附則第二條第一項所定之廢止發行人」。

第三條 於本法施行之際，就對於仍僅發行自家發行型預付式票券者（含無人格之社團等）適用新法第四條第一項規定之情形，同項中之「開始該發行後」置換為「本法施行日後」。

第四條 於本法施行之際，仍從事發行第三者型發行型預付

人を含み、この法律の施行の際現にその発行を行っている者を除く。)である法人(人格のない社団等を含む。)又は個人(以下この条において「発行廃止者」という。)が発行した前払式証票については、この法律は、適用しない。ただし、当該発行廃止者が施行日以降再び前払式証票の発行を開始したときは、その発行を開始した日以後においては、この限りでない。

- 2 前項本文の規定にかかわらず、発行廃止者が発行した前払式証票のうち、改正前の商品券取締法(以下「旧法」という。)第3条に規定する商品券に該当するものについては、改正後の前払式証票の規制等に関する法律(以下「新法」という。)第13条及び第14条の規定(これらの規定に係る罰則を含む。)を適用する。この場合において、これらの規定中「自家型発行者等」とあるのは、「附則第2条第1項に規定する発行廃止者」とする。

第 3 条 この法律の施行の際現に自家発行型前払式証票のみの発行を行っている者(人格のない社団等を含む。)に対する新法第4条第1項の規定の適用については、同項中「その発行を開始してから」とあるのは、「この法律の施行の日以降において」とする。

第 4 条 この法律の施行の際現に第三者型発行型前払式証

式票券業務者(含無人格之社團等。於次條第一項，亦同。)，於發行日後六個月內（於該期間內有依新法第九條第一項規定拒絕登記處分時、或依次項規定置換適用新法第二十條第一項規定致被命廢止該業務時，為該處分所為之日或被命廢止之日止），不適用新法第六條之規定，仍得繼續從事該業務。從事該業務者於該期間內申請同條登記者，於該期間經過後，就其申請至允許登記或遭拒絕登記處分前，亦同。

- 2 於依前項規定得繼續從事發行第三者發行型預付式票券之業務時，該者視為第三者型發行者，適用新法第十條第一項本文、第十二條至第十四條、第十六條至第十九條、第二十條第一項（不含第二款）及第三項、第二十七條之規定（包含與此等規定有關之罰則）。於此情形，新法第十條第一項本文中之「合併時」置換為「合併或繼承時」、「因合併而設立之法人」置換為「因合併而設立之法人或繼承人」，新法第二十條第一項中之「撤銷第六條之登記」置換為「命廢止第三者發行型預付式票券之發行業務」、「第九條第一項第二款或第五款」置換為「該人（該人為法人或無法人格之社團等時，其董監事、代表人或管理人）為第九條第一項第五款第一目至第五目之任一情形」，新法第

票の発行の業務を行っている者（人格のない社団等を含む。次条第1項において同じ。）は、施行日から6月間（当該期間内に新法第9条第1項の規定による登録の拒否の処分があったとき、又は次項の規定により読み替えて適用される新法第20条第1項の規定により当該業務の廃止を命じられたときは、当該処分のあった日又は当該廃止を命じられた日までの間）は、新法第6条の規定にかかわらず、引き続き当該業務を行う事ができる。その者がその期間内に同条の登録の申請をした場合において、その期間を経過した時は、その申請について登録又は登録の拒否の処分があるまでの間も、同様とする。

- 2 前項の規定により引き続き第三者発行型前払式証券の発行の業務を行うことができる場合においては、その者を第三者型発行者とみなして、新法第10条第1項本文、第12条から第14条まで、第16条から第19条まで、第20条第1項（第2号を除く。）及び第3項並びに第27条の規定（これらの規定に係る罰則を含む。）を適用する。この場合において、新法第10条第1項本文中「合併があったとき」とあるのは「合併若しくは相続があったとき」と、「合併により設立された法人」とあるのは、「合併により設立された法人若しくは相続人」と、新法第20条第1項中「第6条の登録を取り消し」とあるのは、「第三者発行型前払式証券の発行の業務の廃止を命じ」と、「第9条第1項第2号又は第5

二十七條中之「依第十條第三項規定至第六條之登記失其效力時、或依第二十條第一項或第二項規定至第六條之登記被撤銷時」置換為「自本法施行日起經六個月時、有依第九條第一項規定拒絕登記之處分時、廢止第三者發行型預付式票券之發行時、有因合併以外之事由而解散時、或因依附則第四條第二項規定置換適用第二十條第一項規定致有廢止第三者發行型預付式票券之發行業務之命令時」，新法第三十一條第一款中之「未受第六條之登記」置換為「違反依附則第四條第二項規定置換適用第二十條第一項規定之廢止第三者發行型預付式票券發行業務之命令」。

- 3 依前項規定置換適用新法第二十條第一項規定致被命廢止第三者發行型預付式票券發行業務時，就新法第九條第一項規定之適用，被命廢止者及其董監事、代表人或管理人視為依新法第二十條第一項規定致被撤銷新法第六條之登記的法人及其董監事，被命廢止之日視為依新法第二十條第一項規定之新法第六條撤銷登記之日。

号」とあるのは「その者（その者が法人又は人格のない社団等であるときは、その役員又は代表者若しくは管理人）が第9条第1項第5号イからホまでのいずれか」と、新法第27条中「第10条第3項の規定により第6条の登録が効力を失ったとき、又は第20条第1項若しくは第2項の規定により第6条の登録が取り消されたときは」とあるのは「この法律の施行の日から6月を経過したとき、第9条第1項の規定による登録の拒否の処分があつたとき、第三者発行型前払式証票の発行を廃止したとき、合併以外の事由による解散があつたとき、又は附則第4条第2項の規定により読み替えて適用される第20条第1項の規定による第三者発行型前払式証票の発行の業務の廃止の命令があつたときは」と、新法第31条第1号中「第6条の登録を受けないで」とあるのは「附則第4条第2項の規定により読み替えて適用される第20条第1項の規定による第三者発行型前払式証票の発行の業務の廃止の命令に違反して」とする。

- 3 前項の規定により読み替えて適用される新法第20条第1項の規定により第三者発行型前払式証票の発行の業務の廃止を命じられた場合における新法第9条第1項の規定の適用については、当該廃止を命じられた者及びその者の役員又は代表者若しくは管理人を新法第20条第1項の規定により新法第6条の登録を取り消された法人及びその役員と、当該廃止を命じられた日を新法第20条第1項の規定

第五條 於自施行日起經六個月之日，適用前條第一項規定從事發行第三者發行型預付式票券業務、且於施行日後最初到來之基準日時之基準日未使用餘額低於政令所定金額者，於該當以下所列全部要件時，於施行日起經六個月之日後至施行日起經三年之日止（於該期間內有依新法第九條第一項規定拒絕登記之處分時、或依第四項規定置換適用新法第二十條第一項規定被命廢止該業務時，為至該處分之日或被命廢止之日止），不適用新法第六條規定，得繼續從事該當業務。

一 無法人格者。

二 於本法公布日前即持續從事發行第三者發行型預付式票券業務者。

三 於施行日後最初到來之基準日次日後之各基準期間，新法第十七條第一項第一款所定金額未超過政令所定金額。

2 適用前項規定從事發行第三者發行型預付式票券業務者，應於施行日後滿六個月之日起兩個月內，依大藏省令規定，提報下列事項予大藏大臣。

による新法第六條の登録の取消の日とみなす。

- 第 5 条 施行日から6月を経過する日において前条第1項の規定の適用を受けて第三者発行型前払式証票の発行の業務を行っている者で、施行日以後最初に到来する基準日における基準日未使用残高が政令で定める額以下のものは、次に掲げる要件のすべてに該当する場合には、施行日から6月を経過した日以後施行日から3年を経過する日までの間（当該期間内に新法第9条第1項の規定による登録の拒否の処分があったとき、又は第4項の規定により読み替えて適用される新法第20条第1項の規定により当該業務の廃止を命じられたときは、当該処分のあった日又は当該廃止を命じられた日までの間）は、新法第6条の規定にかかわらず、引き続き当該業務を行うことができる。
- 1 法人でないこと
 - 2 この法律の公布の日以前から引き続き第三者発行型前払式証票の発行の業務を行っていること。
 - 3 施行日以後最初に到来する基準日の翌日以後の各基準期間における新法第17条第1項第1号に掲げる額が政令で定める額を超えないこと。
- 2 前項の規定の適用を受けて第三者発行型前払式証票の発行の業務を行う者は、施行日から6月を経過した日から2月以内に、大蔵省令で定めるとこ

- 一 姓名、商號或名稱及住所，無人格之社團等者為其代表人或管理人之姓名。
 - 二 發行之預付式票券之票券金額之種類。
 - 三 施行日後最初到來基準日之基準日未使用餘額。
 - 四 其他依大藏省令所定事項。
- 3 於依第一項規定繼續從事發行第三者發行型預付式票券之情形，前項之提報視為新法第四條第一項之提報、為前項之提報者視為同條第二項為提報之自家型發行者，適用同項、新法第五條第一項至第三項及第五項、第三十三條第一款、第三十五條、第三十六條及第三十八條第一款之規定。於此情形中，新法第五條第一項中之「自家發行型預付式票券」置換為「第三者發行型預付式票券」、「合併或繼承」置換為「繼承」、「合併後續存之法人或因合併而設立之法人或繼承人」置換為「繼承人」，同條第三項中之「自家發行型預付式票券」置換為「第三者發行型預付式票券」。
- 4 於依第一項規定得繼續從事發行第三者發行型預付式票券之情形，該者視為第三者型發行者，適用新法第十二條至第十四條、第十六條至第十九條、第二十條第一項（不含第二款）及第三項、第二十七

ろにより、次に掲げる事項を大蔵大臣に届け出なければならない。

- 1 氏名、商号又は名称及び住所並びに人格のない社団等にあつては、その代表者又は管理人の氏名
 - 2 発行する前払式証票の証票金額等の種類
 - 3 施行日以後最初に到来する基準日における基準日未使用残高
 - 4 その他大蔵省令で定める事項
- 3 第1項の規定により引き続き第三者発行型前払式証票の発行の業務を行う場合においては、前項の届出を新法第4条第1項の届出と、前項の届出をした者を同条第2項の届出自家型発行者とみなして、同項、新法第5条第1項から第3項まで及び第5項、第33条第1号、第35条、第36条並びに第38条第1号の規定を適用する。この場合において、新法第5条第1項中「自家発行型前払式証票」とあるのは「第三者発行型前払式証票」と、「合併若しくは相続」とあるのは「相続」と、「合併後存続する法人若しくは合併により設立された法人若しくは相続人」とあるのは「相続人」と、同条第3項中「自家発行型前払式証票」とあるのは「第三者発行型前払式証票」とする。
- 4 第1項の規定により引き続き第三者発行型前払式証票の発行の業務を行うことができる場合においては、その者を第3者型発行者とみなして、新法第12条から第14条まで、第16条から第19条まで、第

條之規定（包含與此等規定有關之罰則）。於此情形中，新法第二十條第一項中之「撤銷第六條之登記」置換為「命廢止第三者發行型預付式票券之發行型業務」、「第九條第一項第二款或第五款」置換為「該人（該人為無法人格之社團等者為其代表人或管理人）為第九條第一項第五款第一目至第五目之任一情形」，新法第二十七條中之「依第十條第三項規定致第六條之登記失其效力時、或依第二十條第一項或第二項規定致第六條之登記被撤銷時」置換為「自本法施行日起滿三年時、有依第九條第一項規定拒絕登記之處分時、廢止第三者發行型預付式票券之發行時、或因依附則第五條第四項規定置換適用第二十條第一項規定而有廢止第三者發行型預付式票券之發行業務之命令時」，新法第三十一條第一款中之「未受第六條之登記」置換為「違反依附則第五條第四項規定置換適用第二十條第一項規定致廢止第三者發行型預付式票券發行業務之命令」。

- 5 前條第三項之規定，於依前項規定置換適用新法第二十條第一項規定，致發行第三者發行型預付式票券業務被命廢止之情形，準用之。

20条第1項（第2号を除く。）及び第3項並びに第27条の規定（これらの規定に係る罰則を含む。）を適用する。この場合において、新法第20条第1項中「第6条の登録を取り消し」とあるのは「第三者発行型前払式証票の発行の業務の廃止を命じ」と、「第9条第1項第2号又は第5号」とあるのは「その者（その者が人格のない社団等であるときは、その代表者又は管理人）が第9条第1項第5号イからホまでのいずれか」と、新法第27条中「第10条第3項の規定により第6条の登録が効力を失ったとき、又は第20条第1項若しくは第2項の規定により第6条の登録が取り消されたときは」とあるのは「この法律の施行の日から3年を経過したとき、第9条第1項の規定による登録の拒否の処分があつたとき、第三者発行型前払式証票の発行を廃止したとき、又は附則第5条第4項の規定により読み替えて適用される第20条第1項の規定による第三者発行型前払式証票の発行の業務の廃止の命令があつたときは」と、新法第31条第1号中「第6条の登録を受けないで」とあるのは「附則第5条第4項の規定により読み替えて適用される第20条第1項の規定による第三者発行型前払式証票の発行の業務の廃止の命令に違反して」とする。

- 5 前条第3項の規定は、前項の規定により読み替えて適用される新法第20条第1項の規定により第三者発行型前払式証票の発行の業務の廃止を命じられた場合について準用する。

第 六 條 新法第十二條之規定，就施行日後發行之預付式票券，適用之。

第 七 條 新法第十三條及第十四條之規定，自施行日後最初到來之基準日起，適用之，該基準日前之舊法第三條所定與商品券有關之提存及該商品券所有人之權利的實行，仍依往例處理。

2 依舊法第一條（包含依前項規定仍依往例處理之情形）規定提存之提存物，視為依新法第十三條第一項規定提存之發行保證金。

3 就該當於以下所列全部要件之預付式票券，暫不適用新法第十三條及第十四條之規定。

一 不該當於舊法第三條規定之商品券者。

二 依內閣府令所定換算該票券金額等為金錢之金額，低於政令所定金額。

4 於本法施行時，就原從事舊法第三條所定商品券以外之預付式票券之發行業務者（包含無人格之社團等）已發行之該預付式票券（不含適用前項規定之情形），於適用與其有關之新法第十三條之規定時，同條第一項及第五項中之「二分之一」，分別依下表左欄所定基準日，置換為下表右欄之比例。

第 6 条 新法第12条の規定は、施行日以後発行する前払式証票について適用する。

第 7 条 新法第13条及び第14条の規定は、施行日以後最初に到来する基準日から適用し、当該基準日前における旧法第3条に規定する商品券に係る供託及び当該商品券の所有者の権利の実行については、なお従前の例による。

2 旧法第1条（前項の規定によりなお従前の例によることとされる場合を含む。）の規定により供託した供託物は、新法第13条第1項の規定により供託した発行保証金とみなす。

3 次に掲げる要件のすべてに該当する前払式証票については、当分の間、新法第13条及び第14条の規定は、適用しない。

1 旧法第3条に規定する商品券に該当しないこと。

2 その証票金額等を内閣府令で定めるところにより金銭に換算した金額が政令で定める額以下であること。

4 この法律の施行の際現に旧法第3条に規定する商品券以外の前払式証票の発行の業務を行っている者（人格のない社団等を含む。）が発行した当該前払式証票（前項の規定の適用があるものを除く。）に係る新法第13条の規定の適用については、同条第1項及び第5項中「2分の1」とあるのは、次の表の上覧に掲げる基準日について、それ

施行日起一年內到來之基準日	六分之一
施行日起滿一年後之自施行日起 二年內到來之基準日	六分之二

第八條 本法施行前已為之行為、及依本法附則仍依往例處理之情形，就本法施行後對所為行為之罰則的適用，仍依往例處理。

（對政令之委任）

第九條 除附則第二條至前條之規定外，為施行本法所必要之過渡措施，以政令定之。

（登記證照稅法之部分修訂）

第十條 修訂登記證照稅法（昭和四二年（1967）法律第三十五號）之部分規定如下。

附表第一 第二十四款之四後增訂下款。

二十四之五 預付式票券之第三者型發行者之登記		
關於預付式票券之規範等法律（平成元年法律第九二號） 第六條（登記）之第三者型發行者之登記	登記 件數	每件十五 萬日圓

それ同表の下欄のように読み替えるものとする。

施行日から1年以内に到来する基準日	6分の1
施行日から1年を経過した後施行日から2年以内に到来する基準日	6分の2

第 8 条 この法律の施行前にした行爲及びこの法律の附則においてなお従前の例によることとされる場合におけるこの法律の施行後にした行爲に対する罰則の適用については、なお従前の例による。

(政令への委任)

第 9 条 附則第2条から前条までに定めるもののほか、この法律の施行に伴い必要な経過措置は、政令で定める。

(登録免許税法の一部改正)

第 10 条 登録免許税法（昭和42年法律第35号）の一部を次のように改正する。

別表第1 第24号の4の次に次の1号を加える。

24の5 前払式証票の第三者型発行者の登録		
前払式証票の規制等に関する法律（平成元年法律第92号） 第6条（登録）の第三者型発行者の登録	登録 件数	1 件 に つ き 15 万 円

（大藏省設置法之部分修訂）

第十一條 修訂大藏省設置法（昭和二四年（1949）法律第一四四號）部分規定如下。

修訂第四條第八十六款如下

86・刪除。

第四條第九十七款之七後，增訂下款。

97之8・有關適用關於預付式票券之規範等法律（平成元年法律第九十二號）之預付式票券的規範

第五條第三十五款之四後，增訂下款。

35之5・基於有關預付式票券之規範等法律，對預付式票券之發行者，進行登記及其他必要之規範。

(大蔵省設置法の一部改正)

第 11 条 大蔵省設置法(昭和24年法律第144号)の一部を次のように改正する。

第 4 条第86号を次のように改める。

86・削除

第4条第97号の7の次に次の1号を加える。

97の8・前払式証票の規制等に関する法律(平成元年法律第92号)の適用を受ける前払式証票の規制に関すること。

第5条第35号の4の次に次の1号を加える。

35の5・前払式証票の規制等に関する法律の規定に基づき、前払式証票の発行者に対して登録その他必要な規制を行うこと。

消費者保護法2007

2007年11月19日

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1931年農業程序法(馬鈴薯)規定Agricultural Produce (Potatoes) Act 1931

1914年英國與葡萄牙商業貿易條約Anglo-Portuguese Commercial Treaty Act 1914

1916年英國與葡萄牙商業貿易條約Anglo-Portuguese Commercial Treaty Act 1916

2001年照護假法Carer's Leave Act 2001

1995年臨時性貿易法Casual Trading Act 1995

1942年中央銀行法Central Bank Act 1942

2003年中央銀行與愛爾蘭財稅局法Central Bank and Financial Services Authority of Ireland Act 2003

2004年中央銀行與愛爾蘭財稅局法Central Bank and Financial Services Authority of Ireland Act 2004

1990年公司法Companies Act 1990

2002年競爭法Competition Act 2002

1993年審計官和審計長法修正案Comptroller and Auditor General (Amendment) Act 1993

1995年消費者信用法Consumer Credit Act 1995

1978年消費者資訊法Consumer Information Act 1978

1967年刑事訴訟法Criminal Procedure Act 1967

2000年電子商務法Electronic Commerce Act 2000

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Electronic Commerce Act 2000	2000, No. 27
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- 1972年歐洲共同體法European Communities Act 1972
1997年歐盟國會選舉法European Parliament Elections Act 1997
1998年愛爾蘭食品安全局法Food Safety Authority of Ireland Act 1998
1997年資訊公開法Freedom of Information Act 1997
1981商品檢驗標示法Hallmarking Act 1981
1986年產業發展條例Industrial Development Act 1986
1993年產業發展條例Industrial Development Act 1993
2005年解釋條例Interpretation Act 2005
2006年投資基金、公司與雜項規定法案Investment Funds, Companies and Miscellaneous Provisions Act 2006
1991年瑕疵產品責任法Liability for Defective Products Act 1991
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1986年國家檔案法National Archives Act 1986
1996年愛爾蘭國家標準局法National Standards Authority of Ireland Act 1996
1979年偶然貿易法Occasional Trading Act 1979

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2003年國家語言法Official Languages Act 2003
1980年監察人法Ombudsman Act 1980
2002年兒童監察人法Ombudsman for Children Act 2002
1997年工時法Organisation of Working Time Act 1997
1980年定量包裝商品法Packaged Goods (Quantity Control) Act 1980
1995年包裝假期和旅遊交易法Package Holidays and Travel Trade Act 1995
1998年與2006年父母照護假法Parental Leave Acts 1998 and 2006
1964年典當法Pawnbrokers Act 1964
2003年人身傷害評估委員會法Personal Injuries Assessment Board Act 2003
1930年葡萄牙條約法Portuguese Treaty Act 1930
1972年價格修正法案Prices (Amendment) Act 1972
1958年價格法Prices Act 1958
1997年（對供應商）即時付款法Prompt Payment of Accounts Act 1997
2003年（定期契約）受僱者保護法Protection of Employees (Fixed-Term Work) Act 2003
2001年（部分工時）受僱者保護法Protection of Employees (Part-Time Work) Act 2001
1980年傳銷法Pyramid Selling Act 1980
1967到2003年裁員補償法Redundancy Payments Acts 1967 to 2003
1987年貿易限制法修正案Restrictive Practices (Amendment) Act 1987

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Prompt Payment of Accounts Act 1997	1997, No. 31
Protection of Employees (Fixed-Term Work) Act 2003	2003, No. 29
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Pyramid Selling Act 1980	1980, No. 27
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Restrictive Practices (Amendment) Act 1987	1987, No. 31

1968年道路交通法Road Traffic Act 1968

1980年貨品販售與服務提供法Sale of Goods and Supply of Services Act 1980

1955年種子生產法Seed Production Act 1955

1936年西班牙貿易協定Spanish Trade Agreement Act 1936

1997年稅務合併法Taxes Consolidation Act 1997

1994年聘僱條件資訊提供法Terms of Employment (Information) Act 1994

1994年和2001年聘僱條件資訊提供法Terms of Employment (Information) Acts 1994 and 2001

1980換物印花票法Trading Stamps Act 1980

1977年不公平免職法Unfair Dismissals Act 1977

1977到2005年不公平免職法Unfair Dismissals Acts 1977 to 2005

2005年獸醫實習法Veterinary Practice Act 2005

Road Traffic Act 1968	1968, No. 25
Sale of Goods and Supply of Services Act 1980	1980, No. 16
Seed Production Act 1955	1955, No. 14
Spanish Trade Agreement Act 1936	1936, No. 6
Taxes Consolidation Act 1997	1997, No. 39
Terms of Employment (Information) Act 1994	1994, No. 5
Terms of Employment (Information) Acts 1994 and 2001	
Trading Stamps Act 1980	1980, No. 23
Unfair Dismissals Act 1977	1977, No. 10
Unfair Dismissals Acts 1977 to 2005	
Veterinary Practice Act 2005	2005, No. 22

2007年11月19日

2007年消費者保護法

本法制定之目的，在落實2005年5月11日經歐盟國會與執委會通過之「不公平商業行為指令」（Directive NO. 2005/29/EC），建立「國家消費者署」（THE NATIONAL CONSUMER AGENCY）組織，定義其功能，同時修正1993年產業發展條例，建立與傳銷機制相關事項之規定（2007年4月21日）。經議會通過之規定如下：

第一編 總則

第一條 標題

- (1) 本法簡稱2007年消費者保護法
- (2) 本法規定應從內閣總理發布命令日開始執行。部分章節之執行，包括第4章規定應用於其他應用（根據工作排程2或其他法規），得由內閣總理依特別之目的考量，另發佈命令執行之。

Number 19 of 2007

CONSUMER PROTECTION ACT 2007

AN ACT TO GIVE EFFECT TO THE UNFAIR COMMERCIAL PRACTICES DIRECTIVE (DIRECTIVE NO. 2005/29/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL OF 11 MAY 2005), TO ESTABLISH A BODY TO BE KNOWN AS AN GHNIOMHAIREACTH NÁISIÚNTA TOMHALTÓIRÍ OR, IN THE ENGLISH LANGUAGE, THE NÁTIONAL CONSUMER AGENCY AND TO DEFINE ITS FUNCTIONS, TO MAKE NEW PROVISION IN RELATION TO PYRAMID SELLING SCHEMES, TO AMEND THE INDUSTRIAL DEVELOPMENT ACT 1993 AND TO PROVIDE FOR RELATED MATTERS. [21st April, 2007]
BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1 Preliminary Matters

1.—

- (1) This Act may be cited as the Consumer Protection Act 2007.
- (2) This Act shall come into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions, including the application of section 4 to

第二條 名詞定義

(1) 本法名詞定義如下：

廣告：包括任何形式的廣告或行銷行為。

組織：意指根據本法第7條而成立的國家消費者署（the National Consumer Agency）

授權的官員：意指根據第30條任命之人

執行長：意指國家消費者署的執行長

工作守則：意指任何法規、協議或其他規則、標準等不在不實狀況下所頒佈，且其要旨是基於管轄或定義企業經營者的商業行為，並由企業經營者同意、承諾遵行的規則或標準。

商業行為：意指由企業經營者所為，與消費者交易有關之任何作為或不作為、引導性行為、或宣傳活動等；任何由企業經營者所為，涉及消費者交易過程前、中、後階段之行為均屬之。

消費者：意指任何自然人所為，與其本身從事之行業、職業或交易行為無關之行為，不論其是否居住於本國。

different enactments specified in Schedule 2 and to different provisions of those enactments.

2.—

(1) In this Act—

“advertisement” includes any form of advertising or marketing;

“Agency” means the National Consumer Agency established by section 7;

“authorised officer” means a person appointed under section 30;

“chief executive” means the chief executive officer of the Agency;

“code of practice” means any code, agreement or set of rules or standards that is not imposed by or under an enactment but purports to govern or define commercial practices of one or more traders (whether generally or in respect of a particular trade, business or professional sector or one or more commercial practices) who agree, commit or undertake to abide or be bound by such rules or standards;

“commercial practice” means any conduct (whether an act or omission), course of conduct or representation by the trader in relation to a consumer transaction, including any such conduct or representation made or engaged in before, during or after the consumer transaction;

“consumer” means a natural person (whether in the State or not) who is acting for purposes unrelated to the person’s trade, business or profession;

消費者交易：意指推銷或提供商品予消費者之行為。

違法：相對於法令規定，包括未能遵循法規之要求。

指令：意指歐盟於2005年5月11日通過與修正之相關指令與規定，包括「國內市場中有關企業對消費者不公平商業行為」指令（2005/29/EC），84/450/EEC、97/7/EC、98/27/EC、2002/65/EC等指令，與(EC) No. 2006/2004等規定。

處長：意指消費者事務處之首長。

頒佈：意指符合2005年解釋條例或根據其授權所發布的法律或執行命令。

成立日期：意指根據本法第6條授權，由部長指定之日期。

現行法規：意指以下法規中，有關消費者事務處處長之法定功能移轉於國家消費者署者（根據本法第37條）。

(a) 根據1998年愛爾蘭食品安全局法制訂之有關食物的立法。

(b) 到目前為止，在工作排程一第1部分所記載之法規及這些法規的執行命令。

“consumer transaction” means a promotion or supply of a product to a consumer;

“contravene”, in relation to a provision, includes fail to comply with the provision;

“Directive” means Directive No. 2005/29/EC of the European Parliament and of the Council of 11 May 2005' concerning unfair business-to-consumer commercial practices in the internal market and amend-ing Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No. 2006/2004 of the European Parliament and of the Council;

“Director” means the Director of Consumer Affairs;

“enactment” means an Act (within the meaning of the Interpretation Act 2005) or any instrument made under a power conferred by an Act (within that meaning);

“establishment day” means the establishment day appointed under section 6;

“existing enactments” means the following enactments, to the extent to which those enactments confer functions on the Director which are transferred to the Agency pursuant to section 37:

- (a) food legislation, within the meaning of the Food Safety Authority of Ireland Act 1998;
- (b) the enactments specified in Part 1 of Schedule 1 and any instruments made under those enactments for the time being in force; and

- (c) 到目前為止，在工作排程一第2部分所記載，根據1972年歐洲共同體法授權制訂之法規。

會計年：意指以每年12月31日為最後一日的12個月的週期。國家消費者署成立的第一年，其會計年度意指該署成立之日起到該年的12月31日止。

貨品：意指任何本質上或記載上之動產或個人所有物，包括：

- (a) 船舶、航空器或其他載運工具。
- (b) 牲畜。
- (c) 礦物、木材或農作物，無論是在土地之上或之下者。
- (d) 瓦斯天然氣、電力或水。
- (e) 電腦軟體。
- (f) 票證或其他可證明權利之證據，用以證明在特定時間、特定地點參與活動或使用交通運輸設備之權利。
- (g) 任何以代替金錢支付為目的而製作之憑單、贈券或其他文件，得用以支付全部或部分之商品價金或交換商品。
- (h) 任何記載之利益（現在或未來、既得的或偶得的），或伴隨貨品而產生的義務。

貨品或服務：意指貨品或服務任一，或二者兼具。

(c) the regulations made under the European Communities Act 1972 for the time being in force specified in Part 2 of Schedule 1;

“financial year” means a period of 12 months ending on 31 December in any year and, in the case of the first financial year of the Agency, means the period commencing on the establishment day and ending on 31 December in the year in which the establishment day falls;

“goods” means real or personal property of any nature or description, and includes—

- (a) ships, aircraft or other vehicles,
- (b) animals,
- (c) minerals, trees or crops, whether on, under or attached to land or not,
- (d) gas, electricity or water,
- (e) computer software,
- (f) tickets or like evidence of a right to be in attendance at a particular place at a particular time or times or a right of transportation,
- (g) any voucher, coupon or other document or thing intended to be used as a substitute for money in the payment, in whole or in part, for a product or otherwise exchanged for a product, and
- (h) any description of interest (present or future, vested or contingent) or obligation arising out of or incidental to goods;

“goods or services” means goods or services or both;

買賣要約：意指企業經營者在對消費者交易過程中所為，包括

(a) 展示說明產品的特性與價格。

(b) 其他促使消費者決定購買該商品之行為。

部長：意指「企業、貿易和勞工部」的首長。

規定：意指由部長根據授權制訂之規則。

商品：意指貨品或服務。

公共團體：意指以下之組織：

(a) 不適用公司法，根據其他法規成立或授權成立之委員會或權利主體。

(b) 根據公司法成立之公司，

(i) 其股份全部為政府所持有，或

(ii) 其首長為政府所任命者。

(c) 根據公司法成立之公司，其股份全部為本項(a)款所成立之權利主體，或(b)款成立之公司所持有者。

交易：意指以相互可接受之方式，以採購、取得或以任何方式（包括收受、擔保取得、租借、取得佔有、支配或佔用）獲得商品或權利者，但不包括

“invitation to purchase” means a representation by the trader in a consumer transaction that—

- (a) indicates characteristics of the product and includes its price, and
- (b) enables the consumer to purchase the product;

“Minister” means the Minister for Enterprise, Trade and Employment;

“prescribed” means prescribed by regulations made by the Minister;

“product” means goods or services;

“public body” means—

- (a) a board, authority or other body, other than a company under the Companies Acts, established by or under statute;
- (b) a company under the Companies Acts in which all the shares are held—
 - (i) by or on behalf of a Minister of the Government, or
 - (ii) by directors appointed by a Minister of the Government;
- (c) a company under the Companies Acts in which all the shares are held by a board, authority or body referred to in paragraph (a) or by a company referred to in para-graph (b);

“purchase” means to buy, obtain or acquire by any method and includes accept, receive, be vested with, lease, take possession, control or occupation of, and agree to do any of

徵收。

相關政府（relevant State）：意指根據1993年歐洲共同體法（修正案），簽訂歐洲經濟區域協定（EEA Agreement）之政治體。

相關法規條例：意指

- (a) 現行已頒佈法規。
- (b) 到目前為止，根據1970年商標法和任何根據商標法頒佈的執行命令。
- (c) 1958年價格法中第92條有關規定，及根據第92條第1項第(a)到(e)款所制訂且仍在效期中的施行命令。
- (d) 根據本法第93條第1項第(a)到(c)款所制訂之規範。
- (e) 到目前為止，本法和根據本法所為的任何執行命令。

表現展示之行為包括：

- (a) 由企業經營者所為，任何以口語、書面，視覺性、描述性或以其他方式所為的商業性質的溝通、行銷或廣告。
- (b) 出具任何約定條款、或任何形式的契約、通知或其他同性質的文件，該等約款或文件為企業經營者所使用、或據以與消費者進行交易行為者。

those things (but does not include expropriate);

“relevant State” means a state that is a contracting State to the EEA Agreement within the meaning of the European Communities (Amendment) Act 1993;

“relevant statutory provisions” means—

- (a) existing enactments,
- (b) the Merchandise Marks Act 1970 and any instruments made under that Act for the time being in force,
- (c) certain provisions of the Prices Act 1958 referred to in section 92 and the enactments specified in subsection (1)(a) to (e) of that section to the extent to which they remain in force for the purposes of this Act,
- (d) the enactments specified in subsection (1)(a) to (c) of section 93, and
- (e) this Act and any instrument made under this Act for the time being in force;

“representation” includes—

- (a) any oral, written, visual, descriptive or other representation by a trader, including any commercial communication, marketing or advertising, and
- (b) any term or form of a contract, notice or other document used or relied on by a trader in connection with a consumer transaction;

服務：意指為了賺取或獲得報償的目的而提供、或以免付費方式提供之任何服務或設備，包括但不限：

- (a) 為了以下目的提供之服務或設備：
 - (i) 銀行、保險、補助、貸款、信用交易或融資貸款。
 - (ii) 休閒娛樂、文化活動、教學導覽、遊戲或提供餐飲。
 - (iii) 住宿、運輸、旅遊、停泊或儲存保管。
 - (iv) 對人類、動物或其他事物的照顧。
- (b) 參與俱樂部或組織，或任何由俱樂部或組織所提供之服務或設備。
- (c) 任何被授與或被提供之權利、利益、優待、恩惠或技能，但不包括根據雇用契約而提供之服務。

供應：與提供貨品或服務予消費者相關之事項，包括：

- (a) 販賣、租借，提供管道供抵押、保全或其他指派服務，提供彩券或其他可取得報償之射倖性服務。
- (b) 提供或同意供應，或為了供應目的而出示或展示。

“services” means any service or facility provided for gain or reward or otherwise than free of charge, including, without limitation—

- (a) services or facilities for—
 - (i) banking, insurance, grants, loans, credit or financing,
 - (ii) amusement, cultural activities, entertainment, instruction, recreation or refreshment,
 - (iii) accommodation, transport, travel, parking or storage, or
 - (iv) the care of persons, animals or things,
- (b) membership in a club or organisation or any service or facility provided by the club or organisation, and
- (c) any rights, benefits, privileges, obligations or facilities that are, or are to be provided, granted or conferred in the course of services,

but does not include services provided under a contract of employment;

“supply”, in relation to the supply of goods or services to a consumer, includes—

- (a) sell, lease, take by way of mortgage or other security, assign, award by chance or otherwise effect a disposition of,
- (b) offer or agree to supply or expose or display for supply;

企業經營者：意指

- (a) 為了與他人進行交易、建立商業貿易或專業關係而進行活動之人。與
- (b) 代表前述之人而進行活動之人。

交易決定：意指與消費者交易有關係，任何由消費者所為之決定，而不論該決定是否、如何、或根據什麼條件而為或不為以下任一款事項：

- (a) 採買商品。
- (b) 全額或部分支付商品款項。
- (c) 購買後對商品的保管或退回。
- (d) 商品之處理。
- (e) 實施與商品有關之契約權利。

志願團體：意指

- (a) 法人團體。
 - (b) 其他未立案之社群組織。
有別於公共團體。
- (2) 本法所稱之一般消費者，意指根據指令定義並且決定適用範圍，與企業經營者提供之特定商業行為或商品有關係之相對人。
- (a) 如果商業行為或商品是直接涉及特定的消費者族群，其表述方式應改為「特定族群的消費者」。
 - (b) 如果商業行為或商品因為其本質特別容易導致消費者經濟行為的曲解，且指向明確可辨識的

“trader” means—

- (a) a person who is acting for purposes related to the person’s trade, business or profession, and
- (b) a person acting on behalf of a person referred to in paragraph (a);

“transactional decision” means, in relation to a consumer transaction, any decision by the consumer concerning whether, how or on what terms to do, or refrain from doing, any of the following:

- (a) purchase the product;
- (b) make payment in whole or in part for the product;
- (c) retain or return the product after its purchase;
- (d) dispose of the product;
- (e) exercise a contractual right in relation to the product;

“voluntary body” means—

- (a) a body corporate, or
- (b) an unincorporated body of persons,
other than a public body.

(2) In this Act, “the average consumer” has the meaning assigned to it in the Directive, and when applied in relation to a particular commercial practice or product of a trader—

- (a) if the commercial practice or product is directed at a particular group of consumers, the expression shall be read as “the average member of that group”, and
- (b) if the commercial practice or the product is a practice or product that would be likely to materially distort

族群團體，可合理期待企業經營者可預見其精神上或身體上的虛弱、年紀或易受騙的特質者，其表述方式應改為「脆弱的消費者族群」。

- (3) 本法所使用之文字或表達方式應與指令之文字做相同意義之解釋。
- (4) 法院應以使指令有效之態度解釋本法規定，且基於此目的，法院應同時參照指令條文之內容與其前言。
- (5) 雖然指令第3條第10項已有規範，但根據1981年商品檢驗標示法第5條、第99條第6A項，本法第3編適用於貴金屬標示標準相關的商業行為。

第三條 施行細則與授權

- (1) 部長得制訂與任何本法規定有關之施行細則。
- (2) 除了根據第1條或第6條制訂的命令外，根據本法所制訂的每一個施行細則或命令應在制訂後送交國會審議。在規則或命令被送交後的21天內，如果國會通過廢除的決定，則該規則或命令應即失去效力，但先前已經生效之事項仍然有效。

the economic behaviour only of a clearly identifiable group of consumers whom the trader could reasonably be expected to foresee as being particularly vulnerable because of their mental or physical infirmity, age or credulity, the expression shall be read as “the average member of that vulnerable group”.

- (3) A word or expression that is used in this Act and is also used in the Directive shall have in this Act the same meaning as it has in the Directive.
- (4) A court shall construe this Act in a manner that gives effect to the Directive, and for this purpose the court shall have regard to the provisions of the Directive, including its preambles.
- (5) Notwithstanding Article 3(10) of the Directive but subject to sections 5 to 6A (inserted by section 99) of the Hallmarking Act 1981, Part 3 applies to commercial practices relating to indications of the standard of fineness of articles of precious metal.

3.—

- (1) The Minister may make regulations in relation to any matter referred to in this Act as prescribed or to be prescribed.
- (2) Every regulation or order (other than an order under section 1 or 6) made under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation or order is passed by either such House within the next 21 days on which that House has sat after the regulation or order is laid before it,

- (3) 根據本條規定授權制訂之規則，其範疇包括得在相關規則中制訂條款
 - (a) 以執行歐洲共同體條約之條款，
 - (b) 與以共同體機制通過的法律及其相關事項。

第四條 相關法規的廢止

- (1) 根據工作排程2所列的每一個法規，將被第3欄所列之法規取代廢除。
- (2) 1996年愛爾蘭國家標準局法第20條第5項第b款，被1887到1978年商標法修正與刪除。
- (3) 以下法令將被廢除：
 - (a) 1984年（為穩定汽車零售利潤）價格管制命令（執行命令編號：1984年/第223號）。
 - (b) 1997年（降低柴油與汽油零售價格）消費者資訊命令（執行命令編號：1997年/第179號）。

第五條 經費來源

部長執行本法所產生之行政費用，應經過財務部部長批可後，由國會編列經費支付。

the regulation or order shall be annulled accordingly, but without prejudice to the validity of anything previously done under it.

- (3) The power to make regulations under this section includes the power to make provision in such regulations to give effect to—
- (a) a provision of the treaties of the European Communities, or
 - (b) an act adopted by an institution of those Communities which regulates any of the matters to which this Act applies.

4.—

- (1) Each enactment specified in Schedule 2 is repealed to the extent specified in column (3) of that Schedule.
- (2) Section 20(5)(b) of the National Standards Authority of Ireland Act 1996 is amended by deleting “the Merchandise Marks Acts 1887 to 1978, and”.
- (3) The following are revoked:
 - (a) the Prices (Stabilisation of Profit Margins of Retailers of Motor Cars) Order 1984 (S.I. No. 223 of 1984);
 - (b) the Consumer Information (Diesel and Petrol) (Reduction in Retail Price) Order 1997 (S.I. No. 179 of 1997).

5.—

The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of monies provided by the Oireachtas.

第二編 國家消費者署

第一章 組織

第六條 成立日

部長應以命令指定本法成立之日期。

第七條 成立目的

- (1) 本法成立時，應有一已成立之團體，名為「國家消費者署」，根據本法之授權執行其功能。

- (2) 國家消費者署應為一長久、持續的法人團體，持有官章，並應有以下之權力：
 - (a) 以法人名義提起訴訟或被訴。
 - (b) 經財政部長之核准同意，得取得、持有、處置土地或從不動產中獲取利益。

 - (c) 經財政部長之核准同意，得取得、持有、處置其他財產。

- (3) 根據本法，國家消費者署應獨立行使其職權。

PART 2 National Consumer Agency

Chapter 1 The Agency

6.—

The Minister shall by order appoint a day to be the establishment day for the purposes of this Act.

7.—

- (1) On the establishment day there shall stand established a body to be known as an Ghníomhaireacht Náisiúnta Tomhaltóirí or, in the English language, the National Consumer Agency and in this Act referred to as the Agency, to perform the functions conferred on it by this Act.
- (2) The Agency shall be a body corporate with perpetual succession and an official seal and shall have power—
 - (a) to sue, and may be sued, in its corporate name,
 - (b) to acquire, hold and dispose of land or an interest in land, with the approval of the Minister given with the consent of the Minister for Finance, and
 - (c) to acquire, hold and dispose of any other property, with the approval of the Minister given with the consent of the Minister for Finance.
- (3) Subject to this Act, the Agency shall be independent in the performance of its functions.

第八條 組織功能

- (1) 國家消費者署的功能包括：
 - (a) 提升和保護消費者的利益和福利。
 - (b) 執行相關法規條例，包括為對違法行為根據簡易訴訟程序提起訴訟或告發。
 - (c) 鼓勵遵循相關法規條例。
 - (d) 根據相關法規條例，對疑似違法案例進行調查。
 - (e) 當國家消費者署合理相信個案違法，且根據相關法規條例有起訴的理由時，得酌情決定將相關案件轉送檢察機關。
- (2) 本條規定和本編其他規定，不得違背本法第94條有關中央銀行和愛爾蘭金融服務當局權力競合時對特定功能歸屬判斷之規定。
- (3) 在不違背第1項通則規定之情況下，為達到本法設置之功能，國家消費者署
 - (a) 得（當應部長要求時，為「應」）對部長、其他政府單位首長或任何州郡首長提出其認為適當的法案修正建議，或對公共事務、其他任何對消費者保護與福利有影響的公共政策建議。

8.—

- (1) The functions of the Agency are—
 - (a) to promote and protect the interests and welfare of consumers,
 - (b) to enforce the relevant statutory provisions, including by the prosecution of offences, by way of summary proceedings,
 - (c) to encourage compliance with the relevant statutory provisions,
 - (d) to investigate instances of suspected offences under any of the relevant statutory provisions,
 - (e) at its discretion, to refer cases to the Director of Public Prosecutions where the Agency has reasonable grounds for believing that an indictable offence under any of the relevant statutory provisions has been committed.
- (2) This section and the other provisions of this Part are without prejudice to section 94 (respecting the concurrent vesting in the Central Bank and Financial Services Authority of Ireland of certain functions under this Act).
- (3) Without prejudice to the generality of subsection (1), in performing its functions under this Act, the Agency—
 - (a) may, and shall when requested by the Minister, advise and, as appropriate, make recommendations to the Government, the Minister, any other Minister of the Government or any Minister of State, in relation to any proposals for legislative change, or any other policy matters, concerning, or which would be likely to impact

- (b) 得（當應部長要求時，為「應」）在經過對相關人士的諮詢後，對部長、其他政府單位首長或任何州郡首長提交其認為適合的、有關消費者保護與福利之法規修正案，或新法訂之建議。

- (c) 應對政府、部長、其他政府單位首長、任何州郡首長、公共團體、其他與本法第21條事務相關之團體、或其他國家消費者署認為或對消費者保護和服務有影響之組織提供建議。

- (d) 應促進、扶植消費者團體與其代表間的聯繫、互動、資訊交換與諮詢。

- (e) 應與其他同功能性質的被授權單位合作，不論在境內或境外，並承擔相關執法責任，促進消費者保護和福利。

- (f) 應鼓勵發展爭端交易解決機制，做為消費者發生交易紛爭時的處理方式。

- on, consumer protection and welfare,
- (b) may, and shall when requested by the Minister, and after consultation with such persons as it considers appropriate having regard to the proposals to be submitted, submit to the Minister, any other Minister of the Government or any Minister of State any proposals it considers appropriate for amendment of any enactment, or for new enactments, concerning consumer protection and welfare,
 - (c) shall advise and, as appropriate, make recommendations to the Government, the Minister, any other Minister of the Government, any Minister of State, any public body or any prescribed body within the meaning of section 21 in relation to any matter concerning, or which the Agency considers would be likely to impact on, consumer protection and welfare,
 - (d) shall foster and promote contacts, co-operation and the exchange of information with and shall consult with consumer groups and representatives,
 - (e) shall co-operate with other competent authorities whether in the State or elsewhere charged with responsibility for the enforcement of laws relating to consumer protection and welfare or the promotion of consumer protection and welfare,
 - (f) shall promote the development of alternative dispute resolution procedures as a means of resolving disputes arising out of consumer transactions,

- (g) 應進行或委託進行研究，調查、分析與國家消費者署功能執行有關事項，並以其認為適當的方式，公布相關的研究或調查成果。
- (h) 應促進公共意識，從事引導大眾資訊報導的活動，以達到教育、告知消費者有關消費者保護與福利事項之目的。
- (i) 應主動提供，或當部長、其他政府單位首長、政府部門、任何公共團體（其組織運作與本法授權處理之事務相關者）、學校或訓練機構提出要求時，提供教育訓練、舉辦與消費者保護和福利意識提升有關之活動，提供資訊和建議等。
- (j) 為了執行前款(g)到(i)規定之目的，國家消費者署得在其認為適當的情形下，以財務或其他方式，支持與消費者保護和福利事項有關之志願團體舉辦之活動。
- (k) 應根據本法第88條檢視和審核行為守則。
- (l) 應根據本法第90條起草和公布對企業經營者行為規範之指引。
- (m) 應促進和鼓勵由企業經營者或其團體建立品質保證機制，不論是一般性或特別性的服務。此機制成立的目的在：

- (g) shall conduct or commission research, studies and analysis on matters relating to the functions of the Agency and, as it considers appropriate, publish in the form and manner that the Agency thinks fit, such findings as it considers appropriate,
- (h) shall promote public awareness and conduct public information campaigns for the purpose of educating and advising consumers in relation to consumer protection and welfare,
- (i) shall promote educational initiatives and activities relating to consumer information and awareness and advise, when requested, the Minister or any other Minister of the Government, Departments of State or any public body whose activities are concerned with matters relating to any of the purposes of this Act, and any educational or training institution,
- (j) for the purposes of performing its functions under paragraphs (g) to (i), may, through the provision of financial or other resources, support the activities relating to consumer protection and welfare of such voluntary bodies as the Agency considers appropriate,
- (k) shall review and approve codes of practice in accordance with section 88,
- (l) shall prepare and publish guidelines to traders in accordance with section 90,
- (m) shall promote and encourage the establishment by a trader or traders, whether generally or in respect of

- (i) 確保和提升對消費者所提供之服務品質和可信度。
 - (ii) 使消費者得據以辨識達到品質要求的企業經營者。
 - (n) 為執行指令之規定，根據本法第37條，移轉現行有關法令之權限予國家消費者署。
- (4) 為執行其功能之必要，國家消費者署應有全部的權力。
- (5) 國家消費者署得授與代表權，將其功能授權給署內任何成員（包括執行長），以適當方式、以國家消費者署之名義執行之。
- (6) 本條規定或本法中其他之規定並不賦予國家消費者署任何責任，要求國家消費者署調查企業經營者是否有違反與本法第3編規定有關之事項，但國家消費者署得基於消費者利益，自行考量是否為之。

第九條 法規檢視

- (1) 部長得諮詢國家消費者署，聽取與消費者保護和福利相關事項的立法建議。

a particular service or services, of quality assurance schemes, that is to say schemes the purpose of which is—

- (i) to maintain and improve the quality and reliability of the service or services provided to consumers, and
 - (ii) to enable consumers to identify traders who meet the requirements of the scheme concerned,
- (n) shall perform the functions assigned to the Director under the existing enactments and transferred to the Agency pursuant to section 37.
- (4) The Agency shall have all such powers as are necessary or expedient for the performance of its functions.
 - (5) The Agency may delegate the performance of any of its functions to any member of the Agency or to any member of its staff, including the chief executive, duly authorised in that behalf by the Agency.
 - (6) Nothing in this section or any other provision of this Act imposes a duty on the Agency to consider whether to investigate a matter relating to Part 3 that is referred to it by a trader but the Agency may, in the case of a matter so referred to it, consider whether to do so (and, accordingly, may proceed to investigate the matter) where it is satisfied the matter may affect the interests and welfare of consumers.

9.—

- (1) The Minister may consult the Agency regarding proposals for legislation relating to consumer protection and welfare.

- (2) 國家消費者署之職權應包括：
 - (a) 持續檢視相關法令規章。
 - (b) 不定時提交部長或政府其他部會首長，就與其權責有關之法規命令，針對其可能影響消費者保護和福利之部分提出任何修正建議，制訂或廢除相關執行命令。
 - (c) 受部長指揮，著手進行檢視相關法規條例。
 - (d) 受部長指揮，協助進行草案之立法準備工作。
- (3) 在提交建議給部長和政府其他部會首長前，如涉及個案，國家消費者署應盡可能在其客觀條件許可下，諮詢其他適當之人選。

第十條 組織成員

- (1) 國家消費者署應由以下成員組成：
 - (a) 1名主席。
 - (b) 12名成員。
- (2) 組織應依據職權，從成員中任命執行長。
- (3) 執行長以外的國家消費者署成員，由部長任命具有經驗

- (2) The Agency shall—
 - (a) keep under review the relevant statutory provisions,
 - (b) submit, from time to time, to the Minister or such other Minister of the Government having responsibility for any other statutory provisions relating to, or which impact on, consumer protection and welfare any proposals that it considers appropriate relating to any of the relevant statutory provisions or any other statutory provisions or for making or revoking any instruments under those provisions,
 - (c) undertake such reviews of the relevant statutory provisions as the Minister may direct, and
 - (d) assist in the preparation of such draft legislation as the Minister may direct.
- (3) Before submitting proposals to the Minister or any other Minister of the Government, as the case may be, the Agency shall consult any other person who, it appears to the Agency, is appropriate in the circumstances to be consulted or whom the Minister or the other Minister of the Government, as the case may be, directs is to be consulted.

10.—

- (1) The Agency shall consist of the following members:
 - (a) a chairperson; and
 - (b) 12 ordinary members.
- (2) The chief executive shall, for the duration of his or her appointment, be an ex officio member of the Agency.
- (3) The members of the Agency (other than the chief executive)

或有能力處理消費者事務、執行國家消費者署功能者任之。相關成員並應自國家消費者署成立之日起，儘速讓組織開始運作。

- (4) 部長應確保國家消費者署成員的組成維持男女性別之均等，以平衡兩性對相關經驗之感受與關注焦點之差異。
- (5) 成員薪資應由國家消費者署在其可動用的財源內支出；其酬勞和經費之補助，由部長視情況決定，並取得財務部部長之同意。
- (6) 根據第5項規定，國家消費者成員應有辦公室，其工作環境與條件得由部長決定。
- (7) 國家消費者署成立之日起一週年，及其後續的每一個週年，應有2名非擔任主席和執行長的成員應予離職。
- (8) 每年根據第7項規定應離職的成員，應根據其被任命之日期排序，以在辦公室年資最久者優先離退。當成員被任命之日起，該成員根據第7項即被課予辭職的義務，除非其他成員同意並經由多數決同意，否則應予離職。
- (9) 除了執行長以外之成員，其服務年資不應連續超過10年。

- shall, as soon as practicable after the establishment day, be appointed by the Minister, and shall be persons who, in the opinion of the Minister, have experience of or shown capacity in matters relevant to the functions of the Agency.
- (4) The Minister shall, in so far as is practicable and having regard to the relevant experience of the persons concerned, ensure an equitable balance between men and women in the composition of the Agency.
 - (5) A member of the Agency shall be paid by the Agency, out of monies at its disposal, such remuneration (if any) and allowances for expenses incurred by him or her as the Minister, with the consent of the Minister for Finance, may from time to time determine.
 - (6) Subject to subsection (5), a member of the Agency shall hold office on such terms and conditions as the Minister may determine.
 - (7) On the anniversary of the establishment day and on each subsequent anniversary of the establishment day, 2 members of the Agency (other than the chairperson and the chief executive) shall retire from office.
 - (8) The members to retire under subsection (7) in any year shall be those who have been longest in office since their last appointment, and where there are members whose appointment was made on the same day and who are obliged to retire under subsection (7), the members to retire shall, unless those members otherwise agree, be determined by lot.
 - (9) A member of the Agency (other than the chief executive)

- (10) 任何人如果有以下情事，不應擔任國家消費者署成員，若已經為成員者，應予辭職：
- (a) 經法院宣告破產。
 - (b) 正與債權人協商債務者。
 - (c) 違反與公司有關之規定並經法院判決有罪者。
 - (d) 涉及詐欺或不忠實的行為並經法院判決有罪者，不論是否與公司有關。
 - (e) 曾根據1990年公司法第150條發表聲明，或其所為，根據前述公司法第VII編規定，被視為屬於應取消資格命令之範疇。
 - (f) 根據部長之判斷，有重要的利益衝突者，部長得要求其辭職。
- (11) 國家消費者署成員得在任何時間、以辭職信向部長提出辭呈。該辭呈應從信中所載明之離職日期開始生效。如果部長收到信之日期在該日期後者，以部長收信日起生效。
- (12) 如果部長認為國家消費者署成員有以下情事之一者，部長得在任何時間請該成員離職：
- (a) 該成員因為健康因素無法有效勝任工作。
 - (b) 該成員犯有特定不正當的行為。
 - (c) 對部長而言，離職的請求對維持國家消費者署組織

shall not serve for more than 10 consecutive years.

- (10) A person shall be disqualified for holding and shall cease to hold office as a member of the Agency if he or she—
- (a) is adjudicated bankrupt,
 - (b) makes a composition or arrangement with his or her creditors,
 - (c) is convicted of an indictable offence in relation to a company,
 - (d) is convicted of an offence involving fraud or dishonesty, whether or not in connection with a company,
 - (e) has a declaration under section 150 of the Companies Act 1990 made against him or her or is subject or is deemed to be subject to a disqualification order by virtue of Part VII of that Act, or
 - (f) has a conflict of interest of such significance that, in the opinion of the Minister requires that he or she should not hold or should cease to hold such office.
- (11) A member of the Agency may at any time resign from office by letter addressed to the Minister and the resignation shall take effect on the date specified in the letter or the date the letter is received by the Minister whichever is later.
- (12) The Minister may at any time remove a member of the Agency from office if, in the Minister's opinion—
- (a) the member has become incapable through ill-health of effectively performing the duties of the office,
 - (b) the member has committed stated misbehaviour, or
 - (c) the removal appears to the Minister to be necessary for

功能的有效運作是明顯且必要的。

(13)根據第9項規定，國家消費者署成員之任期係因時間屆至而終止者，應重新遴選並經過再次的任命程序。

(14)根據第12條第3項造成的成員空缺，國家消費者署得不補足之。

(15)如果國家消費者署成員死亡、辭職、退休、不適任、或因為其他因素離職，或被部長請求離職，部長得因為不同的考量，任命新的成員以填補空缺；因此被任命的新成員應以填補該任期為原則。

(16)若國家消費者署成員出現空缺，部長應採取步驟盡速填補之。

第十一條 主席遴選

(1) 部長應任命國家消費者署中一名成員擔任主席。

(2) 主席任期一任為五年。

(3) 主席於任期中失去成為國家消費者署成員之資格時，同時失去擔任主席之資格。

(4) 主席於任期中得隨時以書面向部長辭去職務。除非在生效日前另以書面撤銷辭職的意思表示，否則辭呈應於國家消費者署通知部長相關情事後所召開的第一個會議日起生效。

the effective performance of the functions of the Agency.

- (13) Subject to subsection (9), a member of the Agency whose period of membership expires by the passage of time shall be eligible for re-appointment as a member of the Agency.
- (14) Subject to section 12(3), the Agency may act notwithstanding any vacancy or vacancies in its membership.
- (15) If a member of the Agency dies, resigns, retires, becomes disqualified or otherwise ceases to hold office or is removed from office, the Minister may appoint a person to be a member of the Agency to fill the vacancy so occasioned and the person so appointed shall be appointed in the same manner as the member who occasioned the vacancy.
- (16) Where a vacancy occurs, the Minister shall take steps to fill it as soon as practicable.

11.—

- (1) The Minister shall designate a member of the Agency as chairperson.
- (2) The term of office of the chairperson of the Agency shall be 5 years.
- (3) Where the chairperson of the Agency ceases during his or her term of office as chairperson to be a member of the Agency, he or she shall also then cease to be chairperson of the Agency.
- (4) The chairperson of the Agency may at any time resign his or her office as chairperson by letter sent to the Minister, and the resignation shall, unless it is previously withdrawn in writing, take effect at the commencement of the meeting of

- (5) 除非立即死亡或根據本條第3項或第4項被撤銷擔任主席之資格，國家消費者署主席得使用辦公室，直到其做為成員之任期失效為止。如果被重新任命為成員，應重新經過主席遴選程序並經過再次的任命。

第十二條 會議召集與流程

- (1) 國家消費者署應根據其行使功能之需要，盡可能召集會議。
- (2) 部長得在徵詢主席意見後，更改國家消費者署第一次會議召集的日期、時間與地點。
- (3) 召開國家消費者署會議的法定最低人數應為5人。
- (4) 在國家消費者署會議中：
 - (a) 國家消費者署之主席如果出席，應擔任該次會議的主席。
 - (b) 如果國家消費者署主席長時間不出席會議，或該職務長期處於有空缺之狀態，出席的成員應選出一位成員擔任會議主席。
- (5) 每一位出席會議的國家消費者署成員，包括會議主席，都有投票權。
- (6) 在國家消費者署會議中，對相關議題的投票結果，應由出席成員之多數決定之。如果票數相同時，會議主席應

the Agency held next after the Agency has been informed by the Minister of the resignation.

- (5) The chairperson of the Agency shall, unless he or she sooner dies or otherwise ceases to be chairperson by virtue of subsection (3) or (4), hold office until the expiration of his or her period of membership of the Agency and, if he or she is re-appointed as a member of the Agency, he or she shall be eligible for re-appointment as chairperson of the Agency.

12.—

- (1) The Agency shall hold such and as many meetings as may be necessary for the performance of its functions.
- (2) The Minister may, in consultation with the chairperson of the Agency, fix the date, time and place of the first meeting of the Agency.
- (3) The quorum for a meeting of the Agency shall be 5.
- (4) At a meeting of the Agency—
 - (a) the chairperson of the Agency shall, if present, be the chairperson of the meeting, and
 - (b) if and so long as the chairperson of the Agency is not present or if the office of chairperson is vacant, the members of the Agency who are present shall choose one of their number to be the chairperson of the meeting.
- (5) Each member of the Agency (including the chairperson of the meeting concerned) present at a meeting shall have a vote.
- (6) At a meeting of the Agency, a question on which a vote is required shall be determined by a majority of votes of the

進行第二次投票，或投下其決定票。

- (7) 根據本法，國家消費者署應律定固定的工作規範，或排定日常工作程序。

第十三條 委員會

- (1) 國家消費者署得組織委員會，執行以下功能：
- (a) 協助或提供國家消費者署建議，在與組織功能有關之任何事務上。至於何類事務應成立委員會，由國家消費者署視情況決定之。
 - (b) 經國家消費者授權執行之任務。
- (2) 委員會之組成應設有一位主席。委員會之成員數目得由國家消費者署自行決定之，並得包括非國家消費者署成員之人，或該署之職員。
- (3) 委員會主席和其成員應由國家消費者署任命之。
- (4) 在任命委員會成員時，國家消費者署應：
- (a) 考量必要的資格和經驗，以適當、有效地發揮委員會功能。
 - (b) 考量性別的平衡。

members of the Agency present and voting on the question and, in the case of an equal division of votes, the chairperson of the meeting shall have a second or casting vote.

- (7) Subject to this Act, the Agency shall regulate, by standing orders or otherwise, the procedure and business of the Agency.

13.—

- (1) The Agency may establish committees—
- (a) to assist and advise the Agency on matters relating to any of its functions or on such matters as the Agency may from time to time determine, or
 - (b) to perform such functions of the Agency as may be delegated by it from time to time.
- (2) A committee shall consist of a chairperson and such number of other members as the Agency may determine and may include persons who are not members of the Agency or of its staff.
- (3) The chairperson and other members of a committee shall be appointed by the Agency.
- (4) The Agency, when appointing a member of a committee, shall—
- (a) have regard to the range of qualifications and experience necessary for the proper and effective discharge of the functions of the committee,
 - (b) have regard to the desirability of an equitable balance between men and women in the composition of the committee,

- (c) 是否固定其擔任委員會成員之期間。
- (d) 是否固定其任期。
- (5) 委員會成員參與委員會是否有償，得由國家消費者署決定，並應取得部長與財務部部長之同意。
- (6) 國家消費者署得在任何時間請委員會成員離開該委員會。
- (7) 國家消費者署得隨時解散委員會。
- (8) 國家消費者署得制訂規範，制訂委員會之工作流程與程序，也可授權由委員會自訂工作流程與程序。
- (9) 在成員有空缺之情況下，委員會仍得根據國家消費者署之授權進行運作。

第十四條 執行長

- (1) 國家消費者署應根據本法設置執行長。
- (2) 根據第3項規定，執行長應由國家消費者署任命、並經部長同意。部長亦得行使其同意權，根據國家消費者署提供的理由，決定執行長的任免。
- (3) 國家消費者署成立之日前應舉行執行長資格之競選，成功的候選人得被國家消費者署指定，經部長同意後任之。
- (4) 執行長
 - (a) 應根據書面服務契約，在期限內履行職責；契約期

- (c) fix the member's period of membership, and
- (d) fix the terms of his or her membership.
- (5) The members of a committee may be paid by the Agency such fees as the Agency may determine, subject to the consent of the Minister and the Minister for Finance.
- (6) A member of a committee may be removed at any time from membership of the committee by the Agency.
- (7) The Agency may at any time dissolve a committee.
- (8) The Agency may regulate the procedure and business of a committee but, subject to any such regulation, a committee may regulate its own procedure and business.
- (9) A committee may act notwithstanding a vacancy or vacancies in its membership.

14.—

- (1) There shall be a chief executive officer of the Agency who shall be known, and is referred to in this Act, as the chief executive.
- (2) The chief executive shall, subject to subsection (3), be appointed by the Agency with the approval of the Minister and may, with the approval of the Minister, be removed from office for stated reasons by the Agency.
- (3) Where a competition to appoint a chief executive is held prior to the establishment day the successful candidate may be appointed by the Minister as the chief executive designate of the Agency.
- (4) The chief executive—
 - (a) shall hold office under a written contract of service

限不得超過5年，但得更新。相關權利義務，包括薪資報酬、開銷津貼、與退休給付等，應盡可能詳載於契約內容；前述有關契約內容，應由國家消費者署視情況決定，由部長核可、取得財務部部長之同意後，

- (b) 由國家消費者署在其可動用的財源內負責之。
- (5) 由於該職務為有償，執行長不應在未得到國家消費者署同意、部長核可前，佔據任何辦公室或佔住其他職缺、或在任何企業中任職。
- (6) 除非在會議投票之場合，否則執行長應受國家消費者署對其成員之管理規定拘束之，並應遵循國家消費者署對其成員任何合法的指示，以適當的執行其職務。
- (7) 執行長應在國家消費者署成立之日起立即上任，並且執行職務直到國家消費者署根據本條第2項規定任命新的執行長之日止。
- (8) 執行長在其辭職、調職或退休後12個月內，不應擔任其他政府官員，或受聘擔任顧問，以避免其有可能利用或不當揭露其於擔任執行長職位中取得的資訊。

- (which contract may be renewed) for such period, not being more than 5 years, as is specified in the contract, subject to such terms and conditions (including terms and conditions relating to remuneration, allowances for expenses and superannuation) as are so specified, being terms and conditions which are determined from time to time by the Agency with the approval of the Minister given with the consent of the Minister for Finance, and
- (b) shall be paid out of monies at the disposal of the Agency.
- (5) The chief executive shall not hold any other office or occupy any other position in respect of which emoluments are payable, or carry on any business, without the consent of the Agency and the approval of the Minister.
- (6) The chief executive is subject to the control of the members of the Agency and, except as regards voting at meetings of the Agency, is required to comply with any lawful directions given by those members with respect to the carrying out of the chief executive's functions.
- (7) The person who, immediately before the establishment day, holds the position of chief executive designate of the Agency shall, on the establishment day, become the chief executive and shall hold such office until such time as the Agency appoints a chief executive under subsection (2).
- (8) A person who was the chief executive shall not, for a period of 12 months following his or her resignation, removal or retirement from office, hold any other office or employment or act as a consultant where he or she is likely

(9) 儘管有本條第8項規定，執行長仍得從事以下工作：

- (a) 就任其他政府官員、或受聘僱提供其他公共服務，或於其他公共團體任職。
- (b) 擔任國家消費者署、部長或其他政府首長之顧問。在前述限制期間中。

第十五條 執行長之功能

- (1) 執行長應負責例行性管理職員之工作、經營監督國家消費者署業務，且應執行其他根據本法授權，或由國家消費者署決定授權之角色功能。
- (2) 執行長得為執行本法之目的，為所有必須的行為和為緊急事務之處理。
- (3) 執行長應就與國家消費者署業務執行有關之事項，對國家消費者署提供建議，且應對組織所為之任何行為提供改進建議。
- (4) 執行長應對國家消費者署的執行績效與組織政策的履踐負責。
- (5) 執行長應提供國家消費者署相關資訊，包括財務資訊、與執行長自身執行業務績效相關之資訊等。國家消費者

to use or disclose information acquired by him or her in the performance of his or her functions as chief executive.

- (9) Notwithstanding subsection (8), a person who was the chief executive shall not be precluded from—
- (a) holding any office or employment in the Civil Service or any public body, or
 - (b) acting as a consultant to the Agency, the Minister or any other Minister of the Government,
- during the period referred to in that subsection.

15.—

- (1) The chief executive shall carry on, manage and control generally the staff, administration and business of the Agency and shall perform such other functions as may be conferred on him or her by or under this Act or as may be determined by the Agency.
- (2) The chief executive may do all such acts or things as are necessary or expedient for the purposes of the exercise of his or her functions under this Act.
- (3) The chief executive shall advise the Agency in relation to the performance of the functions of the Agency and shall make any proper proposals to the Agency on any matter relating to the activities of the Agency.
- (4) The chief executive shall be responsible to the Agency for the performance of his or her functions and the implementation of the Agency's policies.
- (5) The chief executive shall provide the Agency with such information, including financial information, in relation to

署亦得要求其提供之。

- (6) 根據本條第7項，執行長得執行其認為適合自為、或適合由國家消費者署職員進行之相關業務，並根據執行長之權限進行授權。
- (7) 執行長職務之代行：
 - (a) 即使缺席或其職位有空缺，執行長的功能仍得被執行，由國家消費者署視情況指定國家消費者署職員或成員代為執行。
 - (b) 根據前項規定被指定之國家消費者署職員或成員，應有與執行長相同的權力、權利和義務，且本法對於執行長的每一條規定都應適用於該員。

第十六條 出席公共審計委員會

- (1) 不論眾議院是否有要求，執行長之績效應受眾議院公共審計委員會之檢視，撥付經費之帳戶並應定期對審計官與稽核長提出報告，並提供以下證據予委員會查核：
 - (a) 定期之交易紀錄報表，被要求紀錄之任何帳冊、或其他依法應被審計官與稽核長稽核事項資料的保存。

the performance of his or her functions as the Agency may require.

- (6) Subject to subsection (7), the chief executive may perform such of his or her functions as he or she may deem proper through or by any member of staff of the Agency duly authorised by the chief executive in that behalf.
- (7)
 - (a) The functions of the chief executive may be performed in his or her absence or when the position of chief executive is vacant by such member of the staff of the Agency as may from time to time be designated for that purpose by the Agency.
 - (b) A member of staff of the Agency designated under paragraph (a) shall have all the powers, rights and duties conferred on the chief executive by this Act and each reference in this Act to the chief executive shall be deemed to include a reference to such member of staff.

16.—

- (1) The chief executive shall, whenever he or she is so required by the committee of Dáil Éireann established under the Standing Orders of Dáil Éireann to examine and report to Dáil Éireann on the appropriation accounts and reports of the Comptroller and Auditor General, give evidence to that committee on—
 - (a) the regularity and propriety of the transactions recorded or required to be recorded in any book or other record of account subject to audit by the Comptroller and Auditor

- (b) 國家消費者署資源使用狀況及其效益。
 - (c) 為了評估業務執行效益的目的，由國家消費者署操作、使用之系統或程序。
 - (d) 其他任何對國家消費者署之運作發生影響力之事務，被記載於審計官與稽核長根據1993年審計官和審計長法修正案第11條第2項所為之特別報告中者，或其他一般性報告中與前述a、b、c項應提交於眾議院委員會之資訊相關者。
- (2) 根據前條規定行使職權時，執行長不應對任何政府政策績效、政府部門或相關政策執行標的有關事項提出質疑或發表評論。

第十七條 出席其他國會委員會

執行長應為以下之行為：

- (a) 不論何時為國會任一院指定之委員會要求時，執行長應就其包括與消費者保護與福利政策調查有關業務進行說明。
- (b) 不論何時為國會兩院之聯席委員會要求時，執行長應出席該聯席會議，就相關消費者政策執行狀況進

- General which the Agency is required by or under statute to keep,
- (b) the economy and efficiency of the Agency in the use of its resources,
 - (c) the systems, procedures and practices employed by the Agency for the purpose of evaluating the effectiveness of its operations, and
 - (d) any matter affecting the Agency referred to in a special report of the Comptroller and Auditor General under section 11(2) of the Comptroller and Auditor General (Amendment) Act 1993 or in any other report of the Comptroller and Auditor General (in so far as it relates to a matter specified in paragraph (a), (b) or (c)) that is laid before Dáil Éireann.
- (2) In the performance of his or her duties under subsection (1), the chief executive shall not question or express an opinion on the merits of any policy of the Government or a Minister of the Government or on the merits of the objectives of such a policy.

17.—

The chief executive shall, whenever required to do so by—

- (a) a committee appointed by either House of the Oireachtas, the business of which committee includes examination of policy relating to consumer protection and welfare, or
- (b) a committee appointed jointly by both Houses of the Oireachtas, the business of which committee includes

行說明。

並討論國家消費者署相關業務活動之執行。

第十八條 歐盟議會、愛爾蘭國會或地方議會之成員

(1) 作為國家消費者署成員，執行長或其職員成員得：

- (a) 經提名成為參議院委員。
- (b) 經遴選成為國會任一院委員，或成為歐盟議會成員。
- (c) 根據1997年歐盟國會選舉法第19條，透過推選進入國會。

(d) 經推選或增補成為地方議會之成員時之處理原則：

- (i) 若其為國家消費者署成員或執行長，當事人應終止其國家消費者署成員或執行長之身分。
- (ii) 若其為國家消費者署職員，由國家消費者署聘僱、位居第二線時，國家消費者署於其被提名、競選或經推選、當選成為地方議會成員期間，不應再行給付、當事人亦不應再支領任何定期性的酬勞或津貼，直到其作為歐盟議會、愛爾蘭國會或地方議會成員之狀態終止時。

examination of such policy.

attend before such committee to discuss the general activities of the Agency.

18.—

- (1) Where a member of the Agency, the chief executive or a member of the staff of the Agency is—
 - (a) nominated as a member of Seanad E' ireann, or
 - (b) elected as a member of either House of the Oireachtas or to be a member of the European Parliament, or
 - (c) regarded pursuant to section 19 of the European Parliament Elections Act 1997 as having been elected to that Parliament, or
 - (d) elected or co-opted as a member of a local authority, he or she shall thereupon—
 - (i) in the case of a member of the Agency or the chief executive, cease to be a member of the Agency or the chief executive, as the case may be, and
 - (ii) in the case of a member of the staff of the Agency, stand seconded from employment by the Agency and shall not be paid by, or entitled to receive from, the Agency any remuneration or allowances for expenses in respect of the period commencing on such nomination or election, or when he or she is so regarded as having been elected or on such election or co-option, as the case may be, and ending when he or she ceases to be a member of such House, a representative of such Parliament or

- (2) 國家消費者署成員有前項規定之情事時，根據本法第36條，其任職於其他組織之期間，將禁止納入作為國家消費者署退職金期間之計算。

- (3) 在前項規定期限中，若具有以下身份之一者，應該被解除其作為國家消費者署成員、執行長或職員之身分：
 - (a) 愛爾蘭國會議員。

 - (b) 歐盟議會成員。

 - (c) 地方議會議員。

- (4) 本條所稱之地方議會，意指根據2001年地方政府法而成立的地區性議會。

第十九條 對成員的補償

- (1) 當國家消費者署認為，本條規定適用範圍內之人員已經以誠信原則，根據組織功能分配做好其分內工作時，國家消費者署應當視其權限、契約約款、任期條件等，與部長商議後，補償該人員因業務執行而導致被他人提出申訴、或為其他權利主張要求造成的損失。

a member of a local authority.

- (2) Without prejudice to the generality of subsection (1), that subsection shall be read as prohibiting the reckoning of a period therein mentioned as service with the Agency for the purposes of any superannuation benefits payable under section 36 or otherwise.
- (3) A person who is for the time being—
 - (a) entitled under the Standing Orders of either House of the Oireachtas to sit therein,
 - (b) a member of the European Parliament, or
 - (c) entitled under the standing orders of a local authority to sit as a member thereof,shall, while he or she is so entitled or is such a member, be disqualified from becoming a member of the Agency, the chief executive or a member of the staff of the Agency.
- (4) In this section “local authority” means a local authority for the purposes of the Local Government Act 2001.

19.—

- (1) Where the Agency is satisfied that a person to whom this section applies has discharged his or her duties in pursuance of the functions of the Agency in good faith, the Agency may, in the manner and to the extent and subject to the terms and conditions that the Agency may determine from time to time in consultation with the Minister, indemnify that person against all actions or claims however they arise in respect of the discharge by him or her of his or her duties.

(2) 本條規定適用於以下成員：

- (a) 國家消費者署成員。
- (b) 委員會成員。
- (c) 國家消費者署職員，包括執行長。

(d) 根據第26條對國家消費者署提供服務之人。

(e) 被授權的公職人員。

第二十條 發展策略與工作計畫

(1) 國家消費者署成立後、最遲不超過3個月內，應立即準備並提交部長其未來3年的發展策略藍圖；其後並應每3年提交一次。

(2) 發展策略藍圖之內容應包括以下事項：

- (a) 詳細說明主要目標、產出物，和為達到前項目標與產出效果之組織策略，並包括對資源應用的說明。
- (b) 根據需求，確保達到國家消費者署資源應用的最適效益。
- (c) 除了第一次的規劃說明外，發展策略規劃的內容應包括對前次策略效能與產出結果的檢視。
- (d) 工作說明：列明消費者署將用以評估自身效能的指標建議，包括財務與非財務的指標。

(e) 與部長間互動的策略與部長指示辦理情形。

- (2) This section applies to—
 - (a) a member of the Agency,
 - (b) a member of a committee,
 - (c) a member of staff of the Agency, including the chief executive,
 - (d) a person whose services are provided to the Agency under section 26, and
 - (e) an authorised officer.

20.—

- (1) As soon as practicable after the establishment day, and thereafter at least 3 months before each third anniversary of the establishment day, the Agency shall prepare and submit to the Minister a strategy statement for the following 3 year period.
- (2) A strategy statement shall—
 - (a) specify the key objectives, outputs and related strategies (including the use of resources) of the Agency,
 - (b) have regard to the need to ensure the most beneficial, effective and efficient use of the Agency's resources,
 - (c) except for the first strategy statement, include a review of the outcomes and effectiveness of the preceding strategy statement,
 - (d) specify the manner in which the Agency proposes to assess its performance in respect of the objectives referred to in paragraph (a), taking account of relevant performance indicators (financial and non-financial),
 - (e) be prepared in the form and manner that the Minister

- (f) 其他任何由部長視情況所為之指示事項。
- (3) 為準備前述發展策略藍圖，國家消費者署得諮詢任何合適之人。
- (4) 國家消費者署根據本條第1項規定將發展策略藍圖遞交給部長後，部長應立即製作影本，分送國會各院，並應以國家消費者署認為合適的方式對大眾公開。
- (5) 在每個政府財政年度開始前至少2個月，國家消費者應準備並提交部長有關工作計畫與分配，其內容應包括：
- (a) 組織在該年度如何達到策略藍圖所設定目標的方式。
- (b) 根據工作目標與可支配的資源，擬定年度工作的優先順序
- (c) 其他部長視需要，透過第6項規定之指導方針所要求之事項。
- (6) 部長得視情況，對國家消費者署發布指導方針，就工作計畫之規劃內容、方向進行規範，國家消費者署應遵照該指導方針編制其工作計畫。

- may from time to time direct, and
- (f) include any other matters that the Minister may from time to time direct.
- (3) When preparing the strategy statement, the Agency may consult such persons as it considers appropriate.
 - (4) As soon as practicable after a strategy statement has been submitted to the Minister under subsection (1), the Minister shall cause a copy of the strategy statement to be laid before each House of the Oireachtas and the strategy statement shall be published in the form and manner that the Agency considers appropriate.
 - (5) The Agency shall prepare and submit to the Minister, at least 2 months before the commencement of each financial year, a work programme relating to the discharge of its functions, including—
 - (a) having regard to the strategy statement, the objectives of the Agency for that year and its strategy for achieving those objectives,
 - (b) the priorities of the Agency for that year, having regard to those objectives and its available resources, and
 - (c) any other matters that the Minister may from time to time specify when issuing directions or guidelines under subsection (6).
 - (6) The Minister may, from time to time, issue directions or guidelines to the Agency concerning the preparation of the work programme and the Agency shall comply with those directions and prepare the work programme in accordance with those guidelines.

第二十一條 和特定團體的合作

- (1) 本條規定實施後，國家消費者署應立即和每個經指定的團體展開協商，為了以下功能與任務達成之目的，簽訂合作協議。
 - (a) 促進國家消費者署和經指定團體間的合作，以提升各該團體與消費者保護和福利推動有關事項之組織績效。
 - (b) 防止國家消費者署和經指定團體間工作之重疊。
 - (c) 使國家消費者署得以透過經指定之團體蒐集消費者意見。
 - (d) 就消費者保護和福利推動相關議題，進行聯合性的研究計畫。
- (2) 根據前項規定與國家消費者署簽約之團體，不需為同一。
- (3) 合作協議的內容應包括：
 - (a) 簽約任一方應協助他方強化資料蒐集之能力。
 - (b) 簽約方對另一方之要求，與評估相關合作事項績效之條件、情境。

21.—

- (1) As soon as practicable after the commencement of this section, there shall be entered into between the Agency and every one of the prescribed bodies one or more agreements for the purposes of—
 - (a) facilitating co-operation between the Agency and the prescribed bodies in the performance of their respective functions in so far as they relate to issues of consumer protection and welfare,
 - (b) avoiding duplication of activities by the Agency and any of the prescribed bodies,
 - (c) enabling the Agency to be consulted in relation to any decisions by prescribed bodies which affect consumers,
 - (d) where appropriate, conducting joint studies or analysis of matters relating to consumer protection or issues of concern to consumers,and each such agreement that is entered into is referred to in this section as a “co-operation agreement”.
- (2) It shall not be necessary for the purposes of subsection (1) that the same prescribed bodies be party to each agreement entered into with the Agency in pursuance of that subsection.
- (3) A co-operation agreement shall include provisions—
 - (a) enabling each party to furnish to another party information in its possession if the information is required by that other party for the purpose of the performance by it of any of its functions,
 - (b) enabling each party to forbear to perform any of its

- (c) 要求雙方應相互提供諮詢，確保對特定議題的認知相同，相關業務並與消費者保護與福利之推動相關。

- (d) 確保契約任一方不至因此合作協議而有以下任一情事：
 - (i) 根據本法或其他法規命令涉入官司訴訟，不論是民事或刑事。
 - (ii) 若有違反本法或其他法令情事時，根據本法第73條或第75條行使任何權利。

- (4) 合作協議的形式不限，得根據不同簽約對象所關注的焦點而異。
- (5) 合作協議簽訂後1個月內，國家消費者署應將合作協議的影本，提供予部長和主管經指定團體之部會首長存查。其後協議內容有變動者，亦同。

- functions in relation to a matter in circumstances where it is satisfied that another party is performing functions in relation to that matter,
- (c) requiring each party to consult with any other party before performing any functions in circumstances where the respective exercise by each party of the functions concerned involves the determination of issues of consumer protection and welfare that are identical to one another or are within the same category of such an issue, being a category specified in the co-operation agreement, and
 - (d) ensuring that no person is the subject of—
 - (i) proceedings (whether civil or criminal) under this Act or any other enactment, or
 - (ii) the exercise of any power under section 73 or 75, in respect of an alleged contravention of a provision of this Act or any other enactment, by more than one of the parties.
- (4) A co-operation agreement may be varied by the parties concerned.
- (5) The Minister and, where relevant, the Minister or Ministers of the Government with responsibility for the prescribed body concerned shall each be furnished by the Agency with a copy of every co-operation agreement (including any variation of the agreement) that has been made within 1 month after the agreement (or the variation of it) has been made.

- (6) 合作協議或其後的任何變動、對部長和主管經指定團體之部會首長之通知，應以書面方式為之。國家消費者署在簽署合作協議後，應以雙方同意之方式對外公佈。

- (7) 前述通知應敘明該協議影本內容之主旨、重點、正本存放備查地點，若該協議需以付費方式取得時，應載明申購地點、申購方式與價金（價金不得超過製作成本之外的合理費用，可包括郵資）。

- (8) 任何法規不應以妨礙合作協議發生效力的角度進行解讀，包括本條第9項規定。

- (9) 根據合作協議之內容，如果契約任一方根據第3項第a款提供資料者，應被視為二手資訊的提供，不適用其他法規條例中有關資訊揭露應為當事人第一手提供之規定。

- (10) 國家消費者署或經指定之團體若有未能遵守合作協議情

- (6) A co-operation agreement, or any variation made to it, shall be in writing and, as soon as practicable after the agreement or variation has been made and furnished to the Minister or Ministers of the Government with responsibility for the prescribed body concerned, notice of its making shall be published by the parties in such manner as they think fit.
- (7) Such a notice shall state that a copy of the agreement concerned (including the agreement as varied) may be inspected at such place, or by such means as is specified in the notice and that a copy of the agreement may be purchased from the parties in such manner as is so specified (and a copy of the agreement shall, accordingly, be made available for such inspection and be made available for such purchase (at a cost not exceeding the reasonable cost of making a copy or, where appropriate, such cost and the amount of any postage involved).
- (8) Without prejudice to subsection (9), nothing in any enactment shall be read as preventing the provisions of a co-operation agreement from having effect in accordance with their terms.
- (9) If information is furnished by one party to another party pursuant to a provision of a co-operation agreement of the kind referred to in subsection (3)(a), the provisions of any enactment concerning the disclosure of that information by the first-mentioned party shall apply to the second-mentioned party with respect to that information.
- (10) A failure by the Agency or a prescribed body to comply with

事發生時，因此協議授權對外所為之行為不因此而無效。

(11) 「經指定之團體」之定義與範疇。

(a) 本條規定所稱之「經指定之團體」包括：

(i) 愛爾蘭財稅局。

(ii) 由部長指定之團體。

(b) 在指定由其他政府部門主管之團體為本條之「經指定之團體」前，部長應與該部會首長協商。

(c) 在指定某團體為本條之「經指定之團體」前，部長應考量各該團體的組織功能與過往活動是否與消費者保護與福利有關。

(12) 本條所稱之契約方，意指合作協議簽訂之對造。

第二十二條 年度工作報告

(1) 在每個政府財政年度結束後不超過6個月的期限內，國家消費者署應製作書面報告，就其年度活動績效向部長進行報告（簡稱「年度工作報告」），部長在取得年度工作報告後，應立即製作影本，送交國會兩院。年度工作報告並應對外公佈。

a provision of a co-operation agreement shall not invalidate the exercise by it of any power.

(11)

(a) In this section “prescribed body” means each of the following:

(i) the Irish Financial Services Regulatory Authority;

(ii) a body prescribed by the Minister.

(b) Before prescribing a body for which another Minister of the Government has responsibility, the Minister shall consult with that other Minister of the Government.

(c) In prescribing a body for the purposes of this section the Minister shall have regard to its functions and activities in so far as those functions and activities relate to consumer protection and welfare.

(12) In this section “party” means a party to a co-operation agreement and a reference to another party (whether that expression or the expression “the other party” is used) shall, where there are 2 or more other parties to the agreement, be construed as a reference to one or more of those other parties or each of them, as appropriate.

22.—

(1) The Agency shall, as soon as practicable, but not later than 6 months, after the end of each financial year make a report in writing to the Minister (in this section referred to as the “annual report”) of its activities during that year, and, before the annual report is published, the Minister shall as soon as practicable after receipt by him or her of the annual report

- (2) 如部長曾有指示，年度工作報告之內容應根據部長指示之形式製作、或根據其要求提供相關資訊。
- (3) 如果認為適合或經部長要求，國家消費者署得視情況，對部長進行其他工作報告。
- (4) 除了根據第3項於年度工作報告中提供的資訊外，若經部長要求，國家消費者署應提供其他工作績效資訊，或提供任何與組織功能改善有關之建議。

第二十三條 審計與稽核

- (1) 部長得視情況要求國家消費者署提交收支評估表，國家消費者署應依部長指定的形式、期間提交任何其要求之資訊，並說明相關收支狀況，包括未來在特定年限間可能的績效改善計畫。
- (2) 國家消費者署應以財務部部長同意、部長核可的方式，以適當的、符合會計慣例的方式製作與保存以下相關的帳目資訊：
 - (a) 國家消費者署所有的金錢收入與支出。
 - (b) 國家消費者署所有財產、資產和負債，包括帳戶的收益和支出表單。如有特別帳戶者，應依部長之指

cause copies of the annual report to be laid before each House of the Oireachtas.

- (2) An annual report shall include information in such form and regarding such matters as the Minister may direct.
- (3) The Agency may, from time to time, make such other reports to the Minister relating to its functions as it considers appropriate or as the Minister may require.
- (4) In addition to the information provided by the Agency in its annual report and in reports made pursuant to subsection (3), the Agency shall provide the Minister with such information in relation to the performance of its functions, or with advice on any matter relating to those functions, or both as the Minister may from time to time request.

23.—

- (1) The Agency shall submit estimates of income and expenditure to the Minister in such form, in respect of such periods and at such times as may be required by the Minister and shall furnish to the Minister any information which the Minister may require in relation to those estimates, including proposals and future plans relating to the performance by the Agency of its functions over a specified period of years.
- (2) The Agency shall keep in such form as may be approved by the Minister with the consent of the Minister for Finance all proper and usual books or other records of account of—
 - (a) all monies received or expended by the Agency, and
 - (b) all property, assets and liabilities of the Agency, including an income and expenditure account and a balance

示提供該特別帳戶資訊。

- (3) 在會計年度中之任何時間，只要經部長要求，執行長和其他國家消費者署公務員應准許任何經部長授權之人檢視相關帳戶資訊，或協助其完成任何的稽查工作。相關費用由國家消費者署負責，費用標準得由部長訂之。
- (4) 會計年度終止後最晚不超過3個月內，國家消費者署應根據本條規定製作相關帳戶之會計報表，由執行長簽名，提交給審計長和稽核長。
- (5) 審計長和稽核長的稽核報告，連同帳戶會計報表影本，應由國家消費者署提交給部長。部長在收到後應立即（不超過3個月）製作影本，分送國會兩院備查。

第二十四條 部長的預算決定權

部長得視情況對國家消費者署的預算支用狀況提出建議，並在取得財務部部長同意前提下，根據相關法規條例賦予其之功能運作績效，決定國家消費者署之預算規模與支出可核決項目。

sheet and, in particular, shall keep such special accounts (if any) as the Minister may from time to time direct.

- (3) The chief executive and the other officers of the Agency shall, whenever so requested by the Minister, permit any person appointed by the Minister to examine the books or other records of account of the Agency in respect of any financial year or other period and shall facilitate any such examination, and the Agency shall pay such fee as may be fixed by the Minister.
- (4) Accounts kept in pursuance of this section, signed by the chief executive, shall be submitted by the Agency to the Comptroller and Auditor General for audit as soon as practicable, but not later than 3 months, after the end of the financial year to which the accounts relate.
- (5) When so audited, a copy of the accounts together with a copy of the report of the Comptroller and Auditor General thereon shall be presented by the Agency to the Minister who shall, as soon as practicable but not later than 3 months thereafter, cause copies of them to be laid before each House of the Oireachtas.

24.—

The Minister may from time to time advance to the Agency out of monies provided by the Oireachtas such amount or amounts as the Minister may, with the consent of the Minister for Finance, determine for the purposes of expenditure by the Agency in the performance of its functions under any of the relevant statutory provisions.

第二十五條 利益的揭露

(1) 執行長、委員會委員、成員與職員、經授權的公務員、顧問、提供諮詢服務或從事其他與國家消費者署業務相關工作之人，如果與國家消費者署有金錢上的利益或其他有形、無形的可預期利益，或其他任何可能因其身份而為不同考量之事物者，相關人士應為以下之行為：

- (a) 事前向國家消費者署揭露相關利益的內容與本質。
- (b) 不影響或不試圖影響國家消費者署對相關議題或事件所為之決定
- (c) 不參與該事件之討論。
- (d) 如果涉及利益者為執行長、委員會委員、經授權的國家消費者署職員者，在會議討論過程中應離開會議，不參與會議之討論或投票，亦不應執行本法因其身份賦予之特殊權限。

(2) 為了本條規定執行之目的，在無損於第1項一般性規定下，任何人如有以下情事應被視為有可預期的利益：

- (a) 與某人有親戚關係；為企業或其他組織團體之被提名人或成員，該企業或組織與相關討論中的議題有利害關係者。
- (b) 某人或某人的親戚與雇主間有合作伙伴關係，該雇主與相關討論中的議題有利害關係者。

25.—

- (1) Where the chief executive, a member of the Agency or of a committee, a member of the staff of the Agency, an authorised officer or a consultant, adviser or other person engaged by the Agency has a pecuniary interest or other beneficial interest in, or material to, any matter which is to be considered by the Agency, he or she shall—
 - (a) disclose to the Agency the nature of the interest in advance of any consideration of the matter,
 - (b) neither influence nor seek to influence a decision relating to the matter,
 - (c) take no part in any consideration of the matter,
 - (d) if he or she is the chief executive or a member of the Agency or of a committee or a member of the staff of the Agency, withdraw from the meeting for so long as the matter is being discussed or considered and neither vote nor otherwise act as such chief executive or member in relation to the matter.
- (2) For the purposes of this section, but without prejudice to the generality of subsection (1), a person shall be regarded as having a beneficial interest if in each of the following cases:
 - (a) the person, any connected relative of the person or a nominee of either of them is a member of a company or any other body which has a beneficial interest in, or material to, any matter referred to in that subsection;
 - (b) the person or any connected relative of the person is in partnership with or is in the employment of a person

- (c) 某人或某人的親戚參與任何的活動，或為契約的任一方（不論該契約是否被執行），其內容涉及相關討論中的議題者。
 - (d) 任何親戚有可能因此獲得有形或無形的利益者。
- (3) 如果關係遙遠或地位無足輕重，無法合理期待該人對討論結果、投票結果或其他可能影響決定之因素產生影響力者，即使有前述第2項之關係存在，該員仍不應因此被視為有預期利益。
- (4) 國家消費者署應自行決定是否就其成員未遵守第1項規定進行調查。此決定之作成與作成之時間點，並應作成紀錄並予以保留。
- (5) 根據第1項規定在相關會議中所為的利益揭露，與會議決議之結果，應一併作成紀錄。利害關係者若持續與會，不應計入其投票權，亦不應計入會議之法定最低人數。

- who has a beneficial interest in, or material to, any such matter;
- (c) the person or any connected relative of the person is a party to any arrangement or agreement (whether or not enforceable) concerning land to which any such matter relates;
 - (d) any connected relative has a beneficial interest in, or material to, any such matter.
- (3) For the purposes of this section a person shall not be regarded as having a beneficial interest in, or material to, any matter by reason only that he or she or any company or other person or any other body mentioned in subsection (2) has an interest which is so remote or insignificant that it cannot reasonably be regarded as likely to influence a person in considering or discussing, or in voting on, any question in respect of the matter or in performing any function in relation to that matter.
- (4) The Agency shall determine any question as to whether a course of conduct, if pursued by a person, would be a failure by him or her to comply with subsection (1), and particulars of the determination shall be recorded in the minutes of the meeting at which the determination is made.
- (5) If a disclosure is made under subsection (1) at a meeting of the Agency, particulars of the disclosure shall be recorded in the minutes of the meeting concerned, and for so long as the matter to which the disclosure relates is being dealt with by the meeting, the person by whom the disclosure is made

- (6) 若部長認為國家消費者署違反第1項規定，部長得以其認為適合的方式，請該員離職。任何人之離職若係因為違反本條第1項規定者，自其離職時起，應被視為不再有資格出任國家消費者署成員。
- (7) 任何人因為違反本條第1項而有第6項規定適用之餘地時，國家消費者署應諮詢部長意見後，自行決定適當的處分，包括終止服務契約。
- (8) 本條中所稱之「有親戚關係者」，意指與該本人有關係之配偶、父母、兄弟、姊妹、小孩或小孩的配偶、合夥關係等。

第二十六條 締結契約和聘任顧問的權力

國家消費者署得視情況，在特定時間、為了特定議題、為了增加組織功能績效之需要時，得提供特定的條件，為以下其認為適合之處分：

- (a) 與特定人士簽訂契約。
- (b) 涉及顧問或諮詢者，其薪資應由國家消費者署在其可動用的財源內支出。

第二十七條 辦公之房舍

為了提供服務、發揮組織功能之需要，國家消費者署經過

shall not be counted in the quorum for the meeting.

- (6) Where the Minister is satisfied that a member of the Agency has contravened subsection (1), the Minister may, if he or she thinks fit, remove that member from office and, where a person is removed from office pursuant to this subsection, the person shall thenceforth be disqualified from being a member of the Agency.
- (7) Where a person other than a person to whom subsection (6) applies contravenes subsection (1), the Agency, in consultation with the Minister, shall decide the appropriate action to be taken in relation to the person, including the termination of a contract of service or a contract for services with the person.
- (8) In this section “connected relative”, in relation to a person, means a spouse, partner, parent, brother, sister, child or the spouse of a child of the person.

26.—

The Agency may from time to time as it considers necessary for the performance of its functions for such period and subject to such terms and conditions as the Agency considers appropriate—

- (a) enter into contracts with persons, and
- (b) engage consultants or advisers,

and any sums thereby payable by the Agency to such persons, consultants or advisers shall be paid by the Agency out of monies at its disposal.

27.—

The Agency may, for the purposes of providing premises

部長和財政部部長的同意，得以採購、租用、借用之方式取得辦公房舍。

第二十八條 印信

- (1) 國家消費者署自成立之日起，應立即備妥其組織印信。
- (2) 國家消費者署之印信應有以下經授權者之簽名：
 - (a) 國家消費者署主席或其他經授權暫代主席職位者。
 - (b) 執行長或其他經授權暫代執行長職位之國家消費者署職員或成員。
- (3) 司法告示之收受應加蓋國家消費者署之印信。由國家消費者署所為之執行命令，亦同。蓋有國家消費者署印信之收發文，除非能證明其為假，否則應視為真，得直接做為證據。
- (4) 任何對自然人（非對法人團體）所為之契約或指引，不一定需要蓋印信，也得由代表國家消費者署或其授權之人據以執行之。

第二十九條 借貸關係

為了組織功能運作之目的，國家消費者署在得到部長和財政部部長同意、並由其決定相關借款條件後，得向外借錢。借

necessary for the performance of its functions, lease, equip and maintain offices and premises subject to the consent of the Minister and the Minister for Finance.

28.—

- (1) The Agency shall, as soon as may be after the establishment day, provide itself with a seal.
- (2) The seal of the Agency shall be authenticated by the signature of—
 - (a) the chairperson of the Agency or another member of the Agency authorised in that behalf by it, or
 - (b) the chief executive or any other member of the staff of the Agency authorised in that behalf by it.
- (3) Judicial notice shall be taken of the seal of the Agency and an instrument purporting to be an instrument made by the Agency and to be sealed with its seal (purporting to be authenticated in accordance with subsection (2)) shall be received in evidence and shall be deemed to be such instrument without further proof unless the contrary is shown.
- (4) Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not require to be under seal may be entered into or executed on behalf of the Agency by any person generally or specially authorised in that behalf by the Agency.

29.—

The Agency may borrow money (including money in a currency other than the currency of the State) for the purpose of per-

貸的形式，不限於本國貨幣。

第三十條 被授權任命的官員

- (1) 為了執行法規條例所賦予之任務的全部或一部，國家消費者署得以書面、固定的期限任命一位或多位人士，包括國家消費者署之職員或成員，作為經授權的官員。
- (2) 根據1978年消費者資訊法第16條被授權、在本法第37條組織功能移轉前已上任的官員，如有再授權之需要，應經過國家消費者署根據前項任命程序重新任命之。
- (3) 每一位根據本條規定被授權任命的官員，應發給授權任命狀。被授權官員在行使任何職權時，應依受其影響民眾的要求，提供任命狀影本予民眾。
- (4) 根據本條規定授權任命的官員，有以下情事之一者，其授權應予終止：
 - (a) 國家消費者署廢止該任命者。
 - (b) 任命附有期限，超過該期限者。
 - (c) 若其授權係因國家消費者署職員或成員之身分而任命者，其身份消失時。
- (5) 被授權官員得根據相關法規條例，要求取得與調查事務相關的任何資訊：

forming any of the functions of the Agency, subject to the consent of the Minister and the Minister for Finance and any conditions they may determine.

30.—

- (1) The Agency may appoint in writing such and so many persons, including members of the staff of the Agency, to be authorised officers for the purposes of all or any of the relevant statutory provisions and such appointment may be specified to be for a fixed period.
- (2) An authorised officer under section 16 of the Consumer Information Act 1978 holding office immediately before the commencement of section 37 shall continue in office as if appointed under subsection (1).
- (3) Every authorised officer appointed under this section shall be furnished with a warrant of appointment and shall, when exercising any power conferred on him or her by this section, if requested by a person affected, produce the warrant of appointment or copy of it to that person.
- (4) An appointment under this section as an authorised officer shall cease—
 - (a) if the Agency revokes the appointment,
 - (b) if the appointment is for a fixed period, on the expiry of that period, or
 - (c) if the person appointed ceases to be a member of staff of the Agency.
- (5) An authorised officer may, for the purpose of obtaining any information which may be required in relation to a matter

- (a) 在合理的時間要求進入任何場所，當其有合理的理由相信任何企業經營者或商家，或任何與企業經營者或商家有關的活動之進行有問題，需要進入該處所進行搜索或查驗者。
- (b) 為了日後調查之必要，當其有合理的理由相信紀錄的保全確有必要時，對處所或對特定資料進行全部或一部之保全工作。
- (c) 要求進行相關交易、買賣或活動，或出資聘僱他人完成交易或活動之人，就業務或活動產生的紀錄要求提供查閱。如果該紀錄被保存之形式不是可閱讀的形式，在合理情況下，經授權的官員得要求其重製，以可閱讀的形式提供查閱。
- (d) 從處所中取得任何紀錄之副本或摘錄訊息，包括當資訊處於不可閱讀的形式時，取得可持久保存形式的資訊。
- (e) 為了後續進一步的檢查，在合理情況下，根據地方法院之書面命令，移除和保留相關紀錄一段時間。

under investigation under any of the relevant statutory provisions—

- (a) at all reasonable times enter any premises on, at or in which there are reasonable grounds to believe that any trade or business or any activity in connection with a trade or business is being, or has been, carried on, or that records in relation to that trade, business or activity are kept, and search and inspect the premises and any records that are on, at or in that premises,
- (b) secure for later inspection any, or any part of any, premises on, at or in which such records are kept or there are reasonable grounds for believing that such records are kept,
- (c) require any person who carries on such trade, business or activity or any person employed in respect of such trade, business or activity to produce to the authorised officer such records and where such records are kept in a nonlegible form to reproduce them in a legible form or to give to him or her any information as the authorised officer may reasonably require in relation to such records,
- (d) inspect and take copies of or extracts from any such records on, at or in the premises, including in the case of information in a nonlegible form, copies of or extracts from such information in a permanent legible form,
- (e) remove and retain such records for such periods as may be reasonable for further examination, subject to a war-

- (f) 要求任何人提供經授權官員合理要求之任何與企業經營者、企業或其行為、聘僱行為有關之資訊。

- (g) 要求任何人提供經授權官員合理要求之其他與企業經營者，企業有關之資訊。

- (h) 要求任何人提供在其持有的資訊設備中任何可能的資訊或紀錄，或提供合理的協助，以回復相關資訊設備中已暫時刪除的資料。

- (i) 在任何合理時間，要求任何與企業經營者、商業活動有關之受雇人提供在其控制下，與相關交易、商業活動有關的任何資訊或紀錄。

rant being issued for that purpose by a judge of the District Court,

- (f) require any such person to give to the authorised officer any information which the authorised officer may reasonably require in regard to such trade, business or activity or in respect of the persons carrying on such trade, business or activity or employed in connection with such trade, business or activity,
- (g) require any such person to give to the authorised officer any other information which the authorised officer may reasonably require in respect of such trade, business or activity,
- (h) require any person by or on whose behalf data equipment is or has been used or any person having charge of, or otherwise concerned with the operation of, the data equipment or any associated apparatus or material, to afford the authorised officer all reasonable assistance in relation to it and assist in the retrieval of information connected with the operation of such data equipment, apparatus or material,
- (i) summon, at any reasonable time, any other person employed in connection with such trade, business or activity to give to the authorised officer any information which the authorised officer may reasonably require in relation to such trade, business or activity and to produce to the authorised officer any records which are in the control of that other person.

(6) 為了根據相關法規條例進行調查所需之目的，當經授權的官員有合理理由相信該址與企業經營者或任何商業交易活動有關，或為了查驗該址所存放商品的目的，得要求進入任何住居所，並得要求：

(a) 以付費方式或參與競標，取得任何商品。

(b) 為了調查目的，以不同方式確認商品的價格或其他相關資訊。

(7) 除非得到佔有者的同意，或取得地方法院根據本法第10條核發的搜索令狀，否則經授權的官員不應進入私人住居所。

(8) 經授權的官員根據本條規定行使其職權時，除非已獲法院許可，否則不應進入辦公場所、或對車輛為搜索行為。

(9) 根據本條任命授權的官員，根據本法執行職務時，得要求其他有主管監督權之官員隨行。

(10) 如果地方法院法官同意經授權官員所展示之資訊，有合

- (6) An authorised officer may, for the purpose of obtaining any information which may be required in relation to a matter under investigation under the relevant statutory provisions, at all reasonable times enter any premises, at which there are reasonable grounds to believe that any trade or business or any activity in connection with a trade or business is, or has been, carried on and inspect any goods on the premises and may—
 - (a) on paying or making tender of payment therefor, take any of the goods, or
 - (b) confirm by such other method as appropriate the price at which the goods are on offer or any other information relating to the goods for the purpose of an investigation.
- (7) An authorised officer shall not, other than with the consent of the occupier, enter a private dwelling unless he or she has obtained a warrant from the District Court under subsection (10) authorising such entry.
- (8) Where an authorised officer in the exercise of his or her powers under this section is prevented from entering any premises an application may be made under subsection (10) authorising such entry.
- (9) An authorised officer appointed under this section, when exercising any powers conferred on an authorised officer by this Act, may be accompanied by such other authorised officers or members of the Garda Síochána or both as he or she considers necessary.
- (10) Without prejudice to the powers conferred on an authorised

理理由懷疑有更多為調查需要之資訊存放於特定處所或場址時，得視情況核發1個月有效期間的搜索令狀，授權官員進入特定場所進行調查。

- (11) 任何人偽稱、假冒其為經國家消費者署授權的官員身份者，構成犯罪，適用簡易程序，並依本法第5編第4章處以罰金與刑罰。
- (12) 任何人有以下之行為者，構成犯罪，適用簡易程序，並應依本法第5編第4章處以罰金與刑罰：
 - (a) 妨礙經授權的官員根據本法執行其職務。
 - (b) 無合理理由，拒絕遵從經授權官員根據本法所為的要求或指示。
 - (c) 假裝遵從官員要求，但卻提供偽造或有誤導性的資訊。

officer by or under any provision of this section, if a judge of the District Court is satisfied on the sworn information of an authorised officer that there are reasonable grounds for suspecting that there is information required by an authorised officer under this section held on or at any, or any part of any, premises, the judge may issue a warrant authorising an authorised officer (accompanied by such other authorised officers or members of the Garda Síochána or both as provided for in subsection (9) at any time or times within one month from the date of issue of the warrant, on production if so requested of the warrant, to enter the premises, using reasonable force where necessary, and exercise all or any of the powers conferred on an authorised officer under this section.

(11) A person who falsely represents himself or herself as an authorised officer commits an offence and is liable on summary conviction to the fines and penalties provided in Chapter 4 of Part 5.

(12) A person who—

- (a) obstructs or impedes an authorised officer in the exercise of a power under this section,
- (b) without reasonable excuse, does not comply with a request or requirement of an authorised officer under this section, or
- (c) in purported compliance with such a requirement gives information that is false or misleading in a material respect,

- (13) 國家消費者署或經授權的官員根據本條規定，得持有、保有相關帳冊、文件、紀錄，或製作備份；除非經過相關人等之同意，持有期間自取得之日起算，不得超過14日。
- (14) 商品被供應的廣告在公開刊載時，未包括製造者或代理商的商號與地址資訊者，經國家消費者署或經授權的官員要求，發行廣告商應於12個月內將前述資訊提供予國家消費者署。
- (15) 拒絕或迫於根據國家消費者署或經授權官員之指示，提供前項資訊之廣告商，構成犯罪，應依簡易程序判決，並依本法第5編第4章規定課處罰金與刑罰。

commits an offence and is liable on summary conviction to the fines and penalties provided in Chapter 4 of Part 5.

- (13) Where the Agency or an authorised officer proposes to retain, pursuant to this section, books, documents or records for a period longer than 14 days after the date on which they were seized or obtained by the authorised officer, the Agency or that officer shall, before the expiry of that period of 14 days, or such longer period with the consent of the person hereafter mentioned, furnish, on request, a copy of the books, documents or records to the person who it appears to the Agency or officer is, but for the exercise of the powers under this section, entitled to possession of them.
- (14) Where an advertisement in relation to the supply or provision of any product is published and does not include the name and address of the person who procured such publication or his or her agent, the publisher of the advertisement shall, if the Agency or an authorised officer so requests within 12 months of the publication of the advertisement, give to the Agency or the authorised officer, the name and address of such person or his or her agent.
- (15) A person who fails to comply with a request under subsection (14) or, in purported compliance with such a request, gives information that is false or misleading in a material respect, commits an offence and is liable on summary conviction to the fines and penalties provided in chapter 4 of Part 5.

(16)本條所稱

“場所”指任何地方或交通工具。

“紀錄”指包括且含以下列方式呈現者。

(a) 磁片、錄音帶、錄影帶或其他包括電子裝置之將資訊、聲音、訊息收錄在可複製成為可聽讀形式之裝置。

(b) 影片、影帶或其他可將影像收錄在可看形式之電子裝置。

(c) 照片及相關之紀錄本影本，包括

(i) 如前揭(a)之錄音紀錄

(ii) 如前揭(b)之仍可複製影像

(iii) 如前揭(a)(b)之得錄音及複製者

“交通工具”系指任何可載運人貨物之工具，且可在陸地、水中或空中行走者，包括

(16) In this section—

“premises” means any place or vehicle;

“records” includes, in addition to a record in writing—

(a) discs, tapes, sound-tracks or other devices, including electronic devices, in which information, sounds or signals are embodied so as to be capable (with or without the aid of some other instrument) of being reproduced in legible or audible form,

(b) films, tapes or other devices, including electronic devices, in which visual images are embodied so as to be capable (with or without the aid of some other instrument) of being reproduced in visual form,

(c) photographs,

and a reference to copies of records includes—

(i) in the case of records falling within paragraph (a) only, transcripts of the sounds or signals embodied in them,

(ii) in the case of records falling within paragraph (b) only, still reproductions of the images embodied in them, and

(iii) in the case of records falling within both paragraphs (a) and (b), such transcripts together with such still reproductions;

“vehicle” means any conveyance in or by which any person or thing, or both, is transported which is designed for use on land, or in water or in the air, or in more than one of those ways, and includes—

- (a) 交通工具的一部份
- (b) 尚未具功能性之交通工具

- (c) 將容器設計成可運輸者

- (d) 作成交通工具之拖車

第三十一條 與違法有關的資訊揭露

- (1) 除了其他法律有規定，與違法有關的資料得由團體或以下所列之人揭露予國家消費者署、國家消費者署成員、或經授權的國家消費者署職員與官員。

- (a) 公平法主管機關
- (b) 北愛爾蘭公共服務團體成員。
- (c) 主管企業違法事件強制執行單位之首長。
- (d) 負責國家稅收單位之官員。
- (e) 愛爾蘭中央銀行與財政服務局。

- (f) 其他部長在經過與其他部會首長之協商後指定者。

- (2) 除了本法第32條，若執行長以為相關資訊疑似與違法事件有關者，得將相關訊息揭露予以下所列之人：

- (a) part of a vehicle,
- (b) an article designed as a vehicle but not capable of functioning as a vehicle,
- (c) a skip or other container designed for use or used for carriage on a vehicle,
- (d) a trailer designed for use or used with a vehicle.

31.—

(1) Notwithstanding any other law, information which, in the opinion of—

- (a) the Competition Authority,
- (b) a member of the Garda Síochána,
- (c) the Director of Corporate Enforcement,
- (d) an officer of the Revenue Commissioners,
- (e) the Central Bank and Financial Services Authority of Ireland, or
- (f) such other person as may be prescribed after consultation by the Minister with any other Minister of the Government appearing to the Minister to be concerned,

may relate to the commission of an offence under any of the relevant statutory provisions may be disclosed by the body or other person referred to in any of paragraphs (a) to (f) to the Agency, a member of the Agency or a member of staff of the Agency or an authorised officer.

(2) Notwithstanding section 32, information, which in the opinion of the chief executive may relate to the commission of an offence which is not an offence under the relevant

- (a) 公平法主管機關
- (b) 北愛爾蘭公共服務團體成員。
- (c) 主管企業違法事件強制執行單位之首長。
- (d) 負責國家稅收單位之官員。
- (e) 愛爾蘭中央銀行與財政服務局。

- (f) 其他部長在經過與其他部會首長之協商後指定者。

第三十二條 未經授權資訊揭露之禁止

- (1) 除非經國家消費者署授權，或經過國家消費者署職員以組織名義代為授權，或根據法律要求，否則任何人不得揭露其在執行以下業務時所知悉、取得的機密資訊：
 - (a) 國家消費者署成員或委員會委員。
 - (b) 執行長。
 - (c) 經授權的國家消費者署職員。
 - (d) 擔任國家消費者署顧問或提供諮詢者，或受聘僱提供顧問與諮詢服務者。
 - (e) 經授權任命的官員。
 - (f) 從事與國家消費者署業務相關之職業者。
- (2) 第1項規定不應適用於以下狀況：
 - (a) 國家消費者署成員、委員會委員、執行長或經授權的國家消費者署職員，根據本法執行其業務時，為強化其效能需要所為之談話。

statutory provisions, may be disclosed to—

- (a) the Competition Authority,
- (b) a member of the Garda Síochána,
- (c) the Director of Corporate Enforcement,
- (d) an officer of the Revenue Commissioners,
- (e) the Central Bank and Financial Services Authority of Ireland, or
- (f) such other person as may be prescribed after consultation by the Minister with any other Minister of the Government appearing to the Minister to be concerned.

32.—

- (1) A person shall not, unless authorised by the Agency or by a member of the staff of the Agency duly authorised in that behalf so to do, or required by law, disclose confidential information obtained by him or her in his or her capacity, or while performing duties as—
 - (a) a member of the Agency or of a committee,
 - (b) the chief executive,
 - (c) a member of the staff of the Agency,
 - (d) a consultant or adviser engaged by the Agency or an employee of such a consultant or adviser,
 - (e) an authorised officer, or
 - (f) a person engaged by the Agency in any other capacity.
- (2) Subsection (1) shall not apply to—
 - (a) a communication made by a member of the Agency or of a committee, the chief executive, a member of staff of the Agency or an authorised officer, in the performance

- (b) 國家消費者署成員、委員會委員、執行長或經授權的國家消費者署職員、官員向北愛爾蘭公共服務團體成員揭示的，經懷疑可能與違法有關的資訊。
-
- (3) 任何人違反第1項規定者，構成犯罪，依簡易程序定罪，並根據本法第5編第4章規定課處罰金與刑罰。
 - (4) 第1項規定不適用於以報告方式向以下單位所為之資訊揭露：
 - (a) 向國家消費者署或向其委員會報告相關個案。
 - (b) 由國家消費者署自行、或由委員會代表國家消費者署向部長進行報告。
 - (5) 任何人得根據第6項規定，對違反第1項規定而造成其受損害或傷害之人，向1到數個適合的法院提起訴訟程序，要求以下之救濟：

of any of his or her functions under this Act, being a communication the making of which was necessary for the performance by the member, chief executive, member of staff of the Agency or authorised officer of any such function, or

- (b) the disclosure by a member of the Agency or of a committee, the chief executive, a member of staff of the Agency or an authorised officer to any member of the Garda Síochána of information which, in the opinion of the member or chief executive or member of staff of the Agency or authorised officer, may relate to the commission of an offence (whether an offence under this Act or not).
- (3) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to the fines and penalties provided in Chapter 4 of Part 5.
- (4) Nothing in subsection (1) shall prevent the disclosure of information by means of a report made—
 - (a) to the Agency or a committee, as the case may be, or
 - (b) by or on behalf of the Agency or a committee to the Minister.
- (5) A person who suffers loss or harm as a result of a contravention of subsection (1) shall be entitled to bring proceedings against the person referred to in subsection (6) in any court of competent jurisdiction seeking one, or more than one as appropriate, of the following reliefs in respect of that loss or harm:

- (a) 禁止命令或宣告聲明。
 - (b) 損害賠償。
- (6) 第5項規定得提起訴訟之人，包括：
- (a) 違反第1項規定，但不具國家消費者署成員、委員會委員、執行長或經授權的國家消費者署職員或官員身份者。
 - (b) 具國家消費者署成員、委員會委員、執行長或經授權的國家消費者署職員、官員之身分者若違反第1項規定，告訴人在訴訟程序中得請求者包括：
 - (i) 根據第5a項規定，向違法之行為人發禁止命令。
 - (ii) 根據第5b項規定，向國家消費者署請求損害賠償。
- (7) 根據第5項規定所採取的訴訟程序，其法律基礎為侵權行為。
- (8) 本條規定所稱之「機密資訊」，指具有機密、特殊之性質，或具有特別分類或標示之資訊，包括個案之資訊。

第三十三條 對1997年資訊自由法之修正

增修1997年資訊自由法部分條文文字，納入有關「國家消費者署」與「2007年消費者保護法」文字。

- (a) relief by way of injunction or declaration;
- (b) damages.
- (6) The person mentioned in subsection (5) is—
 - (a) if the person who contravened subsection (1) is other than a member of the Agency or a member of staff of the Agency or an authorised officer, that person,
 - (b) if the person who contravened subsection (1) is a member of the Agency or a member of staff of the Agency or an authorised officer and the relief sought, or to the extent that the relief sought, in the proceedings is—
 - (i) relief referred to in subsection (5)(a), that person,
 - (ii) relief referred to in subsection (5)(b), the Agency.
- (7) An action under subsection (5) shall be regarded as an action founded on tort.
- (8) In this section “confidential information” includes information that is expressed by the Agency or a committee, as the case may be, to be confidential either as regards particular information or as regards information of a particular class or description.

33.—

On the establishment day, the Freedom of Information Act 1997 is amended by inserting—

- (a) in paragraph 1(2) of the First Schedule, “the National Consumer Agency,” and
- (b) in Part I of the Third Schedule at the end thereof—
 - (i) in column (2), “Consumer Protection Act 2007”, and

第二章 組織成員 Staff of Agency

第三十四條 成員之組成

- (1) 根據本法第35條，國家消費者署在取得財務部部長同意、部長批准的情況下，得
 - (a) 任命一位或多位人士進入本團體成為會員；且
 - (b) 決定該名成員在組織內的等級、及每個等級之成員數目
- (2) 根據本法第35條，組織、組織成員的服務條件與約款，包括薪資與組織可支配之額度，在取得財務部部長同意後，由部長裁決。

第三十五條 特定成員之移撥

- (1) 國家消費者署成立後24個月內，部長得經執行長要求，以書面命令，移撥原受國務院或公共機構聘僱之員工予國家消費者署，但仍以取得該雇員同意移轉聘僱關係者為限。

- (ii) in column (3), “Section 32” opposite the mention in column (2) of the Consumer Protection Act 2007.

Chapter 2 Staff of Agency

34.—

- (1) Subject to section 35, the Agency may, with the approval of the Minister given with the consent of the Minister for Finance—
- (a) appoint such and so many persons to be members of the staff of the Agency as it may from time to time determine, and
 - (b) determine the grades of such staff of the Agency and the number of staff in each grade.
- (2) Subject to section 35, the terms and conditions of service, including terms and conditions relating to remuneration and allowances for expenses (which shall be paid by the Agency out of monies at its disposal), of the members of the staff of the Agency shall be such as the Agency may from time to time, with the approval of the Minister given with the consent of the Minister for Finance, determine.

35.—

- (1) On the request of the chief executive made within 24 months after the establishment day, the Minister may, by direction in writing, transfer to the Agency the employment of a person who is employed in a Department of State or by

- (2) 執行長提出前述請求，應先取得組織內部之同意。
- (3) 除非得到經認可的貿易團體或該雇員隸屬之工會集體協商後同意接受者，根據本條規定移轉聘僱關係之雇員，移撥後之雇用條件不應低於移撥前已適用於該雇員之約款。
- (4) 根據本條規定移轉聘僱關係之雇員，如果和組織間發生任何紛爭係導因於移撥前之契約約款者，部長應負責裁決該紛爭。
- (5) 根據本條規定移轉聘僱關係之雇員，該雇員先前在國務院或公共機構之工作應與下列為執行國會法案目的而存在之服務有關：
 - (a) 1967到2003年裁員補償法
 - (b) 2001年（部分工時）受僱者保護法
 - (c) 2003年（定期契約）受僱者保護法
 - (d) 1973 到2005年最小通知和聘僱條件法

a public body, but only if the person has agreed to have that employment transferred to the Agency.

- (2) The chief executive may make such a request only with the concurrence of the Agency.
- (3) The conditions of employment of a person whose employment is transferred under this section are to be no less favourable than those applicable to the person immediately before the transfer, except in so far as a collective agreement negotiated with a recognised trade union or staff association of which the person is a member expressly provides otherwise.
- (4) If any dispute arises between a person whose employment is transferred under this section and the Agency as to the conditions of employment applicable to the person immediately before the transfer, the Minister shall determine the dispute.
- (5) If a person's employment is transferred under this section, the person's previous service with a Department of State or public body is to be counted as service for the purposes of the following Acts of the Oireachtas:
 - (a) the Redundancy Payments Acts 1967 to 2003;
 - (b) the Protection of Employees (Part-Time Work) Act 2001;
 - (c) the Protection of Employees (Fixed-Term Work) Act 2003;
 - (d) the Minimum Notice and Terms of Employment Acts 1973 to 2005;

- (e) 1977到2005年不公平免職法
 - (f) 1994年和2001年聘僱條件資訊提供法

 - (g) 1997年工時法
 - (h) 1998年與2006年父母照護假法
 - (i) 2001年照護假法
- (6) 本法所稱之「經認可的貿易團體或工會」意指經國家消費者署認可，為了談判員工薪資、雇用條件或工作條件目的而存在之貿易團體或工會。

第三十六條 退職金

- (1) 國家消費者署在取得財務部部長同意、部長批准的情況下，得制訂規範，就依本法第34條任命、依第35條移轉聘僱關係之員工之退職事項制訂相關規範。

- (2) 國家消費者署在取得財務部部長同意、部長批准的情況下，得就組織認為應納入適用之員工，制訂退職金及相關福利機制（以下簡稱退職福利機制）並執行之。

- (3) 組織得就不同等級之員工設計不同的退職福利機制，但機制適用之期間和條件應為固定，組織並應確認該機制財務狀況之維持。

- (e) the Unfair Dismissals Acts 1977 to 2005;
 - (f) the Terms of Employment (Information) Acts 1994 and 2001;
 - (g) the Organisation of Working Time Act 1997;
 - (h) the Parental Leave Acts 1998 and 2006;
 - (i) the Carer's Leave Act 2001.
- (6) In this section “recognised trade union or staff association” means a trade union or staff association recognised by the Agency for the purposes of negotiations which are concerned with the remuneration or conditions of employment or the working conditions of employees.

36.—

- (1) The Agency may, with the approval of the Minister given with the consent of the Minister for Finance, make such provision as it considers appropriate in relation to the superannuation of persons appointed under section 34 or transferred to the Agency under section 35.
- (2) The Agency may, with the approval of the Minister given with the consent of the Minister for Finance, make a scheme or schemes for the granting of superannuation benefits to or in respect of the members of staff of the Agency as the Agency thinks fit, and shall carry out such a scheme in accordance with its terms.
- (3) A superannuation scheme shall fix the time and conditions of retirement for all persons to or in respect of whom superannuation benefits are payable under the scheme, and different times and conditions may be fixed in respect of

- (4) 國家消費者署在取得財務部部長同意、部長批准的情況下，得根據情況，以後來之機制修正或取代原先之機制並執行之。
- (5) 根據本法第35條移轉聘僱關係之員工，其退職金及所享有之福利不應低於其移轉前之條件。
- (6) 除非取得財務部部長同意、部長批准，組織不應在退職福利機制中附加獎懲條款。
- (7) 本退職福利機制應包括申訴機制，處理組織根據本機制規範所為之決定。
- (8) 雇員於第35條移轉聘僱關係期間，若根據本條規定設計之退職福利機制尚未正式施行，但該雇員根據其轉職前之退職福利機制已處於得請領給付階段者，由國家消費者署負責給付，其前後年資並應與合併。

different classes of persons.

- (4) The Agency may, with the approval of the Minister given with the consent of the Minister for Finance, make a scheme amending or revoking a superannuation scheme, and shall carry out such a scheme in accordance with its terms.
- (5) Superannuation benefits granted under this section to persons transferred to the Agency under section 35, and the terms and conditions relating to those benefits, shall not be less favourable to those persons than those to which they were entitled immediately before they were transferred under the said section 35.
- (6) Superannuation benefits shall not be granted by the Agency to or in respect of any member of the staff of the Agency, nor shall any other arrangement be entered into by the Agency for the provision of such benefits to such person, except in accordance with a superannuation scheme or, if the Agency, with the approval of the Minister given with the consent of the Minister for Finance, sanctions the granting of such benefits, in accordance with that sanction.
- (7) A superannuation scheme shall provide for an appeal from a decision relating to superannuation benefits payable under the scheme.
- (8) Where at any time during the period between his or her transfer under section 35 and the coming into operation of a scheme under this section, a superannuation benefit falls due for payment to or in respect of a person who was transferred under section 35, the benefit shall be calculated and paid

(9) 部長應將退職福利機制計畫送交國會兩院審議後實施。如果國會任一院決定廢除此機制者，該決定通過後21日內，本機制失去效力，但機制失效前組織根據本機制所為之任何行為，仍推定有效。

(10) 本法所稱之「退職金及相關福利」，包括退職金、撫卹金、遣散費和其他終止雇用關係時可容許之給付項目。

“養老退休金制度”係指在第(2)或(4)款下之養老退休金。

第三章 業務之移轉

第三十七條 組織功能之移轉

(1) 國家消費者署成立之日起，由國家消費者署根據本條第二項移轉之權限負責執行相關行政與商業服務。

by the Agency in accordance with the scheme or such provisions in relation to superannuation as applied to the person immediately before his or her transfer under the said section 35, and for that purpose that person's pensionable service with the Agency and previous pensionable service shall be aggregated.

(9) The Minister shall cause a superannuation scheme to be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the scheme is passed by either such House within the next 21 days on which that House has sat after the scheme is laid before it, the scheme shall be annulled accordingly but without prejudice to the validity of anything previously done under the scheme.

(10) In this section—

“superannuation benefits” means pensions, gratuities and other allowances payable to or in respect of a person on ceasing to be a member of the staff of the Agency;

“superannuation scheme” means a superannuation scheme made under subsection (2) or (4).

Chapter 3 Transfer of Functions, etc.

37.—

(1) The administration and business in connection with the exercise, performance or execution of any of the functions transferred by subsection (2) are transferred to the Agency

- (2) 根據既有法規賦予消費者事務處處長的職權，於國家消費者署成立之日起移轉於該團體。
- (3) 根據2005年法律文件闡釋法，政府其他法規或任何與前項功能移轉有關之執行命令（包括執照或證書的給予、提名、同意或授權）內容中，若有指涉消費者事務處處長與其職員者，應從國家消費者署成立之日起，變更為國家消費者署。
- (4) 任何由消費者事務處處長所為或授權之行為，開始著手於國家消費者署成立前者，得由國家消費者署在成立日後，根據本條第2項規定，持續執行或完成之。
- (5) 國家消費者署成立日前已存在、未結案之任何以消費者事務處處長為被告或告訴人之訴訟，在消費者事務處相關職權已根據第2項規定移轉於國家消費者署後，做為被告或告訴人的權利義務亦應移轉於國家消費者署，由國家消費者署擔任被告或告訴人。

第三十八條 契約效期之持續

- (1) 具有持續性質的債券、保證或其他有價證券，由消費者事務處處長取得或發行，在國家消費者署成立日前已有

- on the establishment day.
- (2) The functions vested in the Director by or under the existing enactments are transferred to the Agency on the establishment day.
 - (3) References to the Director and the office of the Director contained in any Act (within the meaning of the Interpretation Act 2005) or instrument (including a licence or certificate granted, nomination made or consent or authorisation given thereunder) relating to any functions transferred by subsection (2) shall, on and after the establishment day, be read as references to the Agency.
 - (4) Anything commenced before the establishment day by or under the authority of the Director may, in so far as it relates to functions transferred by subsection (2) to the Agency, be carried on or completed on or after that day by the Agency.
 - (5) Where immediately before the establishment day, any legal proceedings are pending to which the Director is a party or the prosecutor and the proceedings have reference to any functions transferred to the Agency by subsection (2), the name of the Agency shall, in so far as the proceedings relate to functions transferred by subsection (2), be substituted in those proceedings for that of the Director or added in those proceedings and those proceedings shall not abate by reason of such substitution.

38.—

- (1) Every bond, guarantee or other security of a continuing nature made or given by the Director to any person or by any

效存在者，或任何書面的契約或協議，在國家消費者署成立日前已有效存在但未必被全部執行者，在國家消費者署成立後，仍持續有效。相關權利義務應被解釋為移轉於國家消費者署，由國家消費者署擔任契約當事人。

- (2) 所有由消費者事務處處長授予或發行之文件，包括證書、許可、任命、同意或授權，效期發生於國家消費者署成立日前者，在消費者事務處相關業務根據第37條移轉於國家消費者署後，解釋上視同由國家消費者署所授予或發行，於該文件所載效期中持續有效。

第三十九條 資產與責任的移轉

- (1) 自本法成立生效日起，以下資產應隨著組織功能的移轉，相應、沒有更動地移轉於國家消費者署：
 - (a) 成立日前由消費者事務處處長所持有或掌管之所有權利和資產。
 - (b) 成立日前所有對消費者事務處處長已經產生、尚未履行之責任。包括：
 - (i) 財產，動產、不動產、租賃或孳息，信託、抵押或質借。

person to the Director that is in force immediately before the establishment day, and every contract or agreement in writing made between the Director and any person that is in force but is not fully executed and completed immediately before the establishment day shall continue in force on and after that day and shall be construed and have effect as if the name of the Agency was substituted therein for the Director.

- (2) Every document (including any certificate, licence, nomination, consent or authorisation) granted or made by the Director in the exercise of a function transferred by section 37 that is in force immediately before the establishment day shall continue in force on and after that day as if it had been granted or made by the Agency and shall be construed and have effect accordingly.

39.—

- (1) With effect from the establishment day the following are transferred to the Agency:
 - (a) all rights and property and rights relating to such property held or enjoyed immediately before that day by the Director; and
 - (b) all liabilities incurred before that day by the Director which had not been discharged before that day; and, accordingly, without any further conveyance, transfer or assignment—
 - (i) the said property, real and personal, shall, on that day, vest in the Agency for all the estate, term or interest for which, immediately before that day, it

(ii) 所有權利。

(iii) 所有債務。

- (2) 所有金錢、股票、持份、證券等以消費者事務處處長之名所持有者，在移轉於國家消費者署後，應更改持有者名稱。
- (3) 所有權利和義務根據本條規定移轉者，在成立日後，執行權利或提起訴訟之當事人，應以國家消費者署為主張之對象。但國家消費者署不需就前述組織移轉情節，對相關當事人另為告知之通知。
- (4) 國家消費者署不應在未取得部長同意前，處分根據本條規定移轉、取得之不動產或任何財產上的利益。

第四十條 與其他局處首長有關之規定

- (1) 記載於工作排程3第1部份之法規，將根據該工作排程內容修改之。
- (2) 記載於工作排程3第2部份之執行命令，將根據該工作排程內容修改之。

was vested in the Director, but subject to all trusts and equities affecting the property and capable of being performed,

(ii) those rights shall, on and from that day, be enjoyed by the Agency, and

(iii) those liabilities shall, on and from that day, be liabilities of the Agency.

(2) All monies, stocks, shares and securities transferred to the Agency by this section which, immediately before the establishment day, are in the name of the Director, shall, upon the request of the Agency, be transferred into its name.

(3) Every right and liability transferred to the Agency by this section may, on or after the establishment day, be sued on, recovered or enforced by or against the Agency in its own name and it shall not be necessary for the Agency to give notice of the transfer to the person whose right or liability is transferred by this section.

(4) The Agency shall not, without the consent of the Minister, dispose of any part of any land or any interest therein transferred to or vested in the Agency under this section.

40.—

(1) The Acts of the Oireachtas specified in Part 1 of Schedule 3 are amended as indicated in that Schedule.

(2) The instruments specified in Part 2 of Schedule 3 are amended as indicated in that Schedule.

第三編 商業行為規範

第一章 不公平商業行為

第四十一條 一般禁止規定

- (1) 企業經營者不應從事不公平商業行為。
- (2) 商業行為如果有以下情事，將被認定為不公平之商業行為：
 - (a) 行為違反以下一款或兩款事由（專業應有之注意義務程度）者。
 - (i) 一般商業行為之誠信原則。
 - (ii) 從消費者角度得合理期待應有之技術標準與注意義務。
 - (b) 並且可能導致以下結果：
 - (i) 與一般消費者對該產品所重視之特性有關，導致對消費者知情判斷能力之損害。
 - (ii) 且消費者若知其情事將不為該交易決定。
- (3) 根據前項規定判斷商業行為是否公平時，應審酌整體事實脈絡，並將環境因素與行為特性一併納入考量。

PART 3 Commercial Practices

Chapter 1 Unfair Commercial Practices

41.—

- (1) A trader shall not engage in an unfair commercial practice.
- (2) A commercial practice is unfair if it—
 - (a) is contrary to one or both of the following (the requirements of professional diligence):
 - (i) the general principle of good faith in the trader's field of activity;
 - (ii) the standard of skill and care that the trader may reasonably be expected to exercise in respect of consumers,
and
 - (b) would be likely to—
 - (i) cause appreciable impairment of the average consumer's ability to make an informed choice in relation to the product concerned, and
 - (ii) cause the average consumer to make a transactional decision that the average consumer would not otherwise make.
- (3) In determining whether a commercial practice is unfair under subsection (2), the commercial practice shall be considered in its factual context, taking account of all of its features and the circumstances.

第二章 誤導之商業行為

第四十二條 一般禁止規定

- (1) 企業經營者不應致力於進行誤導性的商業行為。
- (2) 在不違背1981年商品檢驗標示法修正案（根據本法第99條）的原則下，本法第43到46條所指涉之情境應被認定屬被誤導之商業行為。

第四十三條 虛偽的、故意讓人誤解或詐欺性的資訊

- (1) 行為屬於誤導性的商業行為，如果該行為涉及提供與本條第三項任何一款有關之虛假資訊，且一般消費者有可能因該資訊的提供而為交易之決定。
- (2) 行為屬於誤導性的商業行為，如果該行為與本條第三項任何一款有關，並可能導致一般消費者被詐欺或產生錯誤想法，消費者若知其情事將不為交易決定者。
- (3) 以下各款事由，為前兩項規定判斷之依據。
 - (a) 商品既有的性質；
 - (b) 商品主要的特性，包括但不限：
 - (i) 地理性或商業性之出產地；
 - (ii) 可利用性，包括但不限其在特定時間、地點或

Chapter 2 Misleading Commercial Practices

42.—

- (1) A trader shall not engage in a misleading commercial practice.
- (2) Without prejudice to the amendments of the Hallmarking Act 1981 made by section 99, sections 43 to 46 specify the various circumstances in which a commercial practice is misleading.

43.—

- (1) A commercial practice is misleading if it includes the provision of false information in relation to any matter set out in subsection (3) and that information would be likely to cause the average consumer to make a transactional decision that the average consumer would not otherwise make.
- (2) A commercial practice is misleading if it would be likely to cause the average consumer to be deceived or misled in relation to any matter set out in subsection (3) and to make a transactional decision that the average consumer would not otherwise make.
- (3) The following matters are set out for the purposes of subsections (1) and (2):
 - (a) the existence or nature of a product;
 - (b) the main characteristics of a product, including, without limitation, any of the following:
 - (i) its geographical origin or commercial origin;
 - (i i) its availability, including, without limitation, its

特定價格之可利用性；

- (iii) 質量、重量或體積；
- (iv) 達到特定目的之效能；
- (v) 可期待從該商品得到的結果；
- (vi) 商品當時可知對消費者造成的風險；
- (vii) 商品之使用方法，或先前之歷史；
- (viii) 商品之構成物、混合物、零件成分或配件；

- (ix) 對商品的描述，包括但不限等級、標準、式樣、狀況或商品的模型；

- (x) 對消費者提供之售後服務；

- (xi) 消費者申訴案件之處理方式；

- (xii) 商品之運送、提交或供應之方法或日期；與產品有關者，其加工之方法或日期；

- (xiii) 對該商品進行之測試或檢驗之結果，與相關物理之特性；
- (xiv) 與服務有關者，其履行方式與成效；
- (c) 商品的價格，價格計算的方式，或特殊定價的優勢；

- (d) 與商品有關之任何零組件、替換品、服務或維修之需求；

- availability at a particular time or place or at a particular price;
- (iii) its quantity, weight or volume;
- (iv) its benefits or fitness for purpose;
- (v) the results to be expected from it;
- (vi) the risks it presents to consumers;
- (vii) its usage or prior history;
- (viii) its composition, ingredients, components or accessories;
- (ix) the specifications of the product, including, without limitation, the grade, standard, style, status or model of the product;
- (x) the after-supply customer assistance available to consumers in relation to the product;
- (xi) the handling of consumer complaints in relation to the product;
- (xii) the method or date of—
 - (I) the product's delivery, supply or provision, or
 - (II) in the case of goods, the product's manufacture;
- (xiii) the results and material features of tests or checks carried out on the product;
- (xiv) in relation to a service, its execution or performance;
- (c) the price of the product, the manner in which that price is calculated or the existence or nature of a specific price advantage;
- (d) the need for any part, replacement, servicing or repair in relation to the product;

- (e) 第三方對商品的認同、（直接或間接）贊助或保證，其存在及其範疇或性質；
 - (f) 企業經營者的本質、責任或權利，包括但不限：
 - (i) 企業經營者的註冊資訊、資格、身份或地位；
 - (ii) 企業經營者所屬團體或與其他企業之關連性；
 - (iii) 企業經營者得享有之
 - (I) 任何屬於個體的、商業的或智慧財產權之存在、範疇或性質；
 - (II) 或企業經營者獲得之任何權利的讓授、區分、批可或（直接或間接）贊助之存在、範疇或性質。
 - (g) 企業經營者的承諾範圍；
 - (h) 企業經營者之行為動機；
 - (i) 企業經營者供應鍊的性質；
 - (j) 消費者的合法權利（不論有無契約存在），或與該權利得主張之時間、方式、條件有關之事項；
- (4) 第二項被判斷為誤導性的商業行為如涉及資訊的供應時，即使該資訊客觀上為真，企業經營者亦不能在任何程序中以之為防禦之主張。
- (5) 根據本條第一項或第二項規定判斷是否為誤導性之商業行為時，應審酌整體事實脈絡，並將環境因素與行為特性一併納入考量。
- (6) 企業經營者有以下情事時，是否為誤導性商業行為之判斷可不受前項規定限制：

- (e) the existence, extent or nature of any approval or sponsorship (direct or indirect) of the product by others;
 - (f) the nature, attributes or rights of the trader, including, without limitation, the following:
 - (i) the trader's identity, qualifications, assets or status;
 - (ii) the trader's affiliation or connection with others;
 - (iii) the existence, extent or nature of—
 - (I) any industrial, commercial or intellectual property rights the trader may have, or
 - (II) any award, distinction, approval or sponsorship (direct or indirect) the trader has or has received;
 - (g) the extent of the trader's commitments;
 - (h) the trader's motives for the commercial practice;
 - (i) the nature of the trader's supply process;
 - (j) the legal rights of a consumer (whether contractual or otherwise) or matters respecting when, how or in what circumstances those rights may be exercised.
- (4) If the commercial practice in subsection (2) involves the provision of information, it is not a defence in any proceeding to show that the information is factually correct.
- (5) In determining whether a commercial practice under subsection (1) or (2) is misleading, the commercial practice shall be considered in its factual context, taking account of all of its features and the circumstances.
- (6) Without limiting subsection (5)—

- (a) 如果商業行為涉及展示，或不不論是透過廣告、行銷或以其他方式製造消費者印象，該商品之前曾以不同的價格或特定的條件提供時，是否為誤導性商業行為之判斷應將該商品之前是否公開販售，在該推銷行為前是否以誠信原則在相同地點、以相同價格、合理的一段時間內販售該商品等因素納入考量。
 - (b) 如果商業行為涉及展示，或不不論是透過廣告、行銷或以其他方式製造消費者印象，該商品由企業經營者提供之價格將低於製造商、產品供應商所建議之價格時，是否為誤導性商業行為之判斷應將製造商、產品供應商所建議之價格是否符合誠信原則納入考量。
- (7) 商品的製造或生產涉及一個以上國家時，該商品的地理性生產地之判斷，應以該商品在何處實際完成組裝或加工程序並進而完成新品，或雖未完成新品但已達生產過程中成品可展示之重要階段，以最具有經濟效益者為考量。

第四十四條 行銷或廣告時對商品及商品製造者、競爭者之混淆

- (1) 涉及行銷或廣告之商業行為如果有以下情形者，屬於誤導性的商業行為。

- (a) if the commercial practice involves a representation or creates an impression (whether in advertising, marketing or otherwise) that a product was previously offered at a different price or at a particular price, consideration shall be given to whether the product was previously offered openly and in good faith at that price and at the same place for a reasonable period of time before the representation was made, and
 - (b) if the commercial practice involves a representation or creates an impression (whether in advertising, marketing or otherwise) that a product is being offered by a trader at or below a price recommended by the manufacturer, producer or supplier of the product (other than the trader), consideration shall be given to whether that recommended price was one recommended in good faith by that manufacturer, producer or supplier.
- (7) In determining the geographical origin of goods the manufacture or production of which involves more than one country, consideration shall be given to where the goods underwent their last substantial and economically justified processing or working (in a place equipped for that purpose), resulting in the manufacture of new goods or representing an important stage of the manufacture or production.

44.—

- (1) A commercial practice involving marketing or advertising is misleading if it would be likely to cause the average consumer—

- (a) 造成一般消費者對商品經銷商、製造商與其競爭者之混淆；或造成一般消費者對企業名稱、商標，或對其他可供區別企業經營者之特性之混淆。

且

- (b) 如果消費者明知將不為該交易之決定。

- (2) 根據前項規定判斷是否為誤導性之商業行為時，應審酌整體事實脈絡，並將環境因素與行為特性一併納入考量。

第四十五條 企業經營者未遵從相關法令之行為規範

- (1) 行為屬於誤導性的商業行為，如果：
 - (a) 根據企業經營者應受拘束之法規、命令，該行為已涉及表現代理，但為企業經營者所容忍；
 - (b) 前款情事如果為消費者知悉，將導致一般消費者不為該交易之決定；且
 - (c) 企業經營者未能根據法令履行對消費者的既定承諾。
- (2) 根據前項規定判斷是否為誤導性之商業行為時，應審酌整體事實脈絡，並將環境因素與行為特性一併納入考量。
- (3) 本條所稱「根據法令對消費者的既定承諾」，不僅只是

- (a) to confuse—
 - (i) a competitor’s product with the trader’s product, or
 - (ii) a competitor’s trade name, trade mark or some other distinguishing feature or mark with that of the trader,and
 - (b) to make a transactional decision that the average consumer would not otherwise make.
- (2) In determining whether a commercial practice is misleading under subsection (1), the commercial practice shall be considered in its factual context, taking account of all of its features and the circumstances.

45.—

- (1) A commercial practice is misleading if—
- (a) it involves a representation that the trader abides, or is bound, by a code of practice,
 - (b) the representation referred to in paragraph (a) would be likely to cause the average consumer to make a transactional decision that the average consumer would not otherwise make, and
 - (c) the trader fails to comply with a firm commitment in that code of practice.
- (2) In determining whether a commercial practice is misleading under subsection (1), the commercial practice shall be considered in its factual context, taking account of all of its features and the circumstances.
- (3) For the purposes of this section, a firm commitment in a

宣示性質的，更包括可真實執行的承諾。

第四十六條 隱瞞、遺漏產品成分資訊

(1) 行為屬於誤導性的商業行為，如果企業經營者遺漏告知或隱藏產品成分資訊，而該資訊為一般消費者認為重要，且若知其情事將導致消費者不為該交易之決定者。

(2) 行為屬於誤導性的商業行為，如果

(a) 企業經營者

(i) 以不清楚、不容易理解、含糊或過時的方式提供產品成分資訊，

(ii) 或其商業意圖不能明顯從外觀辨別，

且

(b) 該行為或意圖為一般消費者所知將不為該交易之決定者。

(3) 除非商業行為之內涵已明顯為消費者所知悉，否則買賣的要約應包含以下各款「產品成分資訊」的提供。

(a) 產品主要特性；

code of practice is one that is not merely aspirational but is capable of being verified.

46.—

- (1) A commercial practice is misleading if the trader omits or conceals material information that the average consumer would need, in the context, to make an informed transactional decision (“material information”) and such practice would be likely to cause the average consumer to make a transactional decision that the average consumer would not otherwise make.
- (2) A commercial practice is misleading if—
 - (a) the trader—
 - (i) provides material information referred to in subsection (1) in a manner that is unclear, unintelligible, ambiguous or untimely, or
 - (ii) fails to identify the commercial intent of the practice (if such intent is not already apparent from the context),and
 - (b) such practice would be likely to cause the average consumer to make a transactional decision that the average consumer would not otherwise make.
- (3) If a commercial practice is or includes an invitation to purchase, each of the following constitutes material information for the purposes of this section, unless already apparent to the consumer in the context of the commercial practice:
 - (a) the main characteristics of the product, to an extent

- (b) 企業經營者的聯絡地址、商號與註冊資訊；如果企業經營者在交易行為中為其他企業的代理商，被代理商號的聯絡地址與註冊資訊。

- (c) 商品價格（包括稅款）或計價方式，如果因商品的本質讓價格無法事前合理的被計算出。

- (d) 任何與商品運輸、遞送或郵寄相關之費用，或消費者應負擔費用之聲明，如果該費用事前無法合理的被計算出。

- (e) 與商品性能或付費方式、運送方式有關之消費者申訴處理方式，且相關處理方式或資訊應符合以下標準：
 - (i) 企業經營者得合理期待消費者瞭解的專業的標準和注意義務。
 - (ii) 企業經營者方所為的行為符合一般誠信原則。

- (f) 消費者撤銷契約或取消交易的權利。

- appropriate to the medium and the product;
- (b) the geographical address of the trader, the identity of the trader (such as his or her trading name) and, if the trader is acting in a consumer transaction as an agent of another trader, the geographical address and the identity of that other trader;
 - (c) the price of the product (inclusive of taxes) or, if the nature of the product is such that the price cannot reasonably be calculated in advance, the manner in which the price is calculated;
 - (d) any freight, delivery or postal charges that apply in relation to the product or, if such charges cannot reasonably be calculated in advance, a statement of the fact that such charges will apply and be payable by the consumer;
 - (e) the handling of consumer complaints in relation to the product or the arrangement for payment, delivery or performance, if such handling or arrangement does not meet or accord with—
 - (i) the standard of skill and care that the trader may reasonably be expected to exercise in respect of consumers, or
 - (ii) the general principle of good faith in the trader's field of activity;
 - (f) if applicable, the legal rights of a consumer (whether contractual or otherwise) to withdraw from or cancel the consumer transaction.

- (4) 第3項所稱之「產品成分資訊」，是本法附加的要求，並不取代其他根據法律（包括本法其他規定）要求，企業經營者應對消費者提供的資訊。
- (5) 根據本條規定決定一個商業行為是否為誤導性商業行為時，應審酌整體事實脈絡，並將環境因素與行為特性一併納入考量，包括：
- (a) 根據所傳播媒介，商品可取得的時間和空間。
 - (b) 為期讓消費者得知產品成分資訊，企業經營者所採取之任何方式。

第四十七條 違法之效果

企業經營者涉及本法第43條第1項或第2項任何一項之誤導性商業行為，將被認定為違法。相關案件得循公訴程序或循簡易程序定罪，並根據本法第5編第4章規定課處罰金與刑罰。

第四十八條 提供多重付費方式時附加費用之禁止

- (1) 本條規定所稱之「現金」，意指法定貨幣。「付費方式」，意指用以下任一支付工具付款：
- (a) 現金
 - (b) 信用卡
 - (c) 轉帳卡；

- (4) The material information set out in subsection (3) is in addition to and not instead of any other information that the trader is required by law to provide to a consumer, including, without limitation, any information required to be provided by regulations under this Act.
- (5) In determining whether a commercial practice is misleading under this section, the commercial practice shall be considered in its factual context, taking account of all of its features and the circumstances, including—
 - (a) the space or time available in any communications medium used, and
 - (b) any measures taken by the trader to make the material information available to consumers by other means.

47.—

A trader who engages in any misleading commercial practice described in section 43(1) or (2) commits an offence and is liable on conviction on indictment or on summary conviction, as the case may be, to the fines and penalties provided in Chapter 4 of Part 5.

48.—

- (1) In this section—
 - “cash” means cash that is legal tender;
 - “relevant method”, in relation to payment, means each of the following methods of payment—
 - (a) cash,
 - (b) credit card,
 - (c) direct debit,

- (d) 其他經部長同意認可的付款方式。
- (2) 本條所稱之「企業經營者的明示」，意指企業經營者直到真正接受該項商品付款前，在任何階段對商品相關付費方式資訊的提供與說明。
- (3) 若
 - (a) 企業經營者已明示該項商品的買賣可接受二擇一、或更多不同的付費方式，或
 - (b) 根據企業經營者的慣例與產品特性有其他替代性的付費方式時，
企業經營者不應以付費方式的差異為理由，附加任何費用在任何人之上。
- (4) 為達到本法第3項規範之目的：
 - (a) 不限於前項規定所列情況，如果消費者利用企業經營者提供的多種付費方式之一支付商品價金時，其應付款項將高於以另外的付費方式付款時，企業經營者應被視為附加了額外費用。

- (d) any other method or methods of payment prescribed by the Minister.
- (2) In this section a reference to a representation includes a reference to a representation made at any stage up to the time the trader accepts payment in respect of the product concerned.
- (3) Where—
 - (a) a trader makes a representation that the trader will accept payment in respect of a product by any one of 2 or more different relevant methods, or
 - (b) it is the practice of a trader to accept payment in respect of a product by different relevant methods,the trader shall not impose an additional charge on any person by reason of the person's making payment in respect of the product by one of the relevant methods (to which the foregoing representation relates or as regards which the foregoing practice exists) as distinct from another of them.
- (4) For the purposes of subsection (3)—
 - (a) without limiting any of the other means by which that subsection may be contravened, a trader shall be deemed to impose an additional charge, by reason of the person concerned making payment as mentioned in that subsection, if the price charged by the trader in respect of the product concerned is, where one of the relevant methods of payment is used by that person, greater than the price that would be so charged were that person to use another of them,

- (b) 但企業經營者的明示或慣例若不止與主要的付費方式有關，亦與其他付費方式有關者，該明示或慣例將被認為與是否成立本法第3項之判斷無關。且
 - (c) 企業經營者可以證明其因接受某付費方式，而導致比接受其他付費方式更高的花費時，亦同。
- (5) 企業經營者違反本條第3項規定者，依本法第5編第4章規定處以罰金或課與刑罰。
- (6) 根據本條規定進行訴訟時，被告若能證明在不同特定情境下，根據商品特性而願接受的付費方式確實將有所差異時，除非有其他反證，否則應假定被告所稱之實務慣例確實存在。

第四十九條 其他附加費用作為價金之一部分

- (1) 當企業經營者的實務慣例，

(a) 不論是提供單一付費方式附加相同的特定費用

- (b) if the representation or practice referred to in that subsection relates not only to relevant methods of payment but to one or more other methods of payment as well, that fact is immaterial, and
 - (c) it is immaterial that the trader can show that any expenses incurred by the trader in accepting payment by one of the relevant methods are greater than those incurred by the trader in accepting payment by another of them.
- (5) A trader who contravenes subsection (3) commits an offence and is liable on summary conviction to the fines and penalties provided in Chapter 4 of Part 5.
- (6) In proceedings for an offence under this section, where evidence is given that on a particular occasion the defendant accepted payment in respect of the product concerned by a relevant method which was different from that which the defendant accepted in respect of the product on another occasion in the period of 12 months preceding the first-mentioned occasion (and that previous method is also a relevant method), then it shall be presumed, until the contrary is proved, that a practice existed on the part of the defendant to accept payment in respect of the product by those foregoing methods.

49.—

- (1) Where it is the practice of a trader to accept payment in respect of a product—
- (a) by only one relevant method and to impose a charge on

或

(b)提供不同付費方式，附加相同的特定費用。

企業經營者應確保其代理人或代表人，在交易過程中清楚說明商品的價錢包含了前述之附加費用。

(2) 如果企業經營者同時接受其他非本條規定之付費方式，且有前項之實務慣例時，亦同。

(3) 企業經營者違反本條第1項規定者，依本法第5編第4章規定處以罰金或課與刑罰。

(4) 如果個案有本條第1項情況，第1項規定不能作為阻撓構成「表現展示」之理由：

(a) 標示單一價格。價格標示已說明，所有費用已包含在前述價錢中。

(b) 標示總價。

(5) 本條規定所稱之「相關方式」，其含意同第48條之「付

a person for the person's making payment in respect of the product by that method, or

- (b) by different relevant methods and to impose on a person the same charge for the person's making payment in respect of the product by any of those methods,

the trader shall ensure that any representation made by the trader, or on the trader's behalf, in relation to the price payable in respect of the product, states clearly that price as a single amount inclusive of the foregoing charge.

- (2) For the purposes of subsection (1), it is immaterial that the trader also accepts payment in respect of the product concerned by one or more methods of payment that are not relevant methods of payment and the reference in that subsection to the practice of a trader to accept payment in respect of a product by only one relevant method shall be read accordingly.
- (3) A trader who contravenes subsection (1) commits an offence and is liable on summary conviction to the fines and penalties provided in Chapter 4 of Part 5.
- (4) In a case falling within paragraph (a) or (b) of subsection (1), nothing in that subsection prevents the inclusion in any representation referred to in that subsection of—
 - (a) an indication that the single price stated is inclusive of a charge for making payment by the method concerned or, as the case may be, any of the methods concerned, or
 - (b) an indication of the amount of such charge.
- (5) In this section 'relevant method', in relation to payment, has

費方式」。

第五十條 消費者資訊之規定 Consumer information regulations.

(1) 根據本條第5項，部長得考量消費者利益，對商品的等級、種類與其他附隨的任何資訊予以標示，並對以下事項制訂管理規則：

(a) 商品使用方式，或等級、種類之說明。

(b) 標示之方式與內容：

(i) 郵戳、印記、標籤和標記，以說明商品之使用方式。

(ii) 當商品係由企業經營者提供給消費者時，應附隨於商品的資訊。或

(iii) 與前二款規定有關之任何資訊。

(c) 要求應提供商品標示之企業經營者，應根據以下任一款規定提供相關資訊：

(i) 根據(b) (i)規定標示郵戳、印記、標籤和標記。

(ii) 根據(b) (ii)規定標示商品的內容資訊。

(iii) 根據前項第一、二款規定應為之行為。

且

(d) 未遵從(b) 或(c)項規定標示商品之等級或種類者，其管理規則或禁止供應之規定。

the same meaning as it has in section 48.

50.—

- (1) Subject to subsection (5), if the Minister considers it to be in the interest of consumers to have a product, or a class or type of product, marked with or accompanied by any information (or both), the Minister may make regulations—
 - (a) prescribing the product or class or type of product,
 - (b) prescribing—
 - (i) any stamps, marks, tags and labels for use on those products and the manner of their use, or
 - (ii) any information to accompany those products when they are supplied to consumers by traders, or
 - (iii) the matters referred to in both of the foregoing subparagraphs,
 - (c) requiring traders who supply a prescribed product, or a product of a prescribed class or type, to—
 - (i) stamp, mark, tag or label them in accordance with regulations made under paragraph (b)(i), or
 - (ii) have prescribed information under paragraph (b)(ii) accompany those products in the manner and form specified in the regulations, or
 - (iii) do the things referred to in both of the foregoing subparagraphs,

and
 - (d) regulating or prohibiting the supply of a prescribed product, or a product of a prescribed class or type, if any

- (2) 根據本條第5項，部長得考量消費者利益，對不同種類、等級的商品在進行廣告宣傳時予以規範：
 - (a) 標示商品，包括其等級、種類等資訊。
 - (b) 如部長認為必要或適當時，得要求負責行銷或廣告之企業經營者為以下任一款或二款之行為：
 - (i) 在廣告中，根據規定之格式與內容提供詳細的商品資訊。
 - (ii) 在廣告中詳列消費者得取得商品資訊的方式。
- (3) 根據本條規定，部長得根據以下情事制訂不同的管理規則：
 - (a) 商品或企業經營者的種類或等級。
 - (b) 廣告商的種類或等級。
 - (c) 不同的客觀環境需求。
 - (d) 不同的地理區域。
- (4) 根據本條規定所制訂之管理規則得適用於全國，亦得適用於國內特定的地理行政區。
- (5) 部長得不根據本條規定制訂相關管理規則，除非其確信相關規範之內涵符合消費者之期待：

- regulation under paragraph (b) or (c) is not complied with.
- (2) Subject to subsection (5), if the Minister considers it to be in the interest of consumers that advertisements for a product, or a class or type of product, contain or refer to any information relating to those products (or do both those things), the Minister may make regulations—
 - (a) prescribing the product, or class or type of product, and that information, and
 - (b) requiring traders who market or advertise those products to do either or both of the following, as the Minister considers necessary or appropriate:
 - (i) include that information in their advertisements and to do so in the manner and form specified in the regulations;
 - (ii) specify in their advertisements the means by which that information may be obtained by a consumer.
 - (3) The Minister may make different regulations under this section for—
 - (a) different classes or types of products or traders,
 - (b) different classes or types of advertisements,
 - (c) different circumstances, and
 - (d) different geographical areas of the State.
 - (4) A regulation made under this section may apply to the whole State or to a specified geographical area of the State.
 - (5) The Minister may not make a regulation under this section unless the Minister is satisfied that in the context—

- (a) 一般消費者或許需要此郵戳、印記、標籤、標記或與其相關之資訊（統稱「原料資訊」），方能決定是否在經告知後進行該交易決定。且
 - (b) 若前述之原料資訊經保留、遺漏或隱匿，將導致一般消費者若明知將不為該交易之決定結果者。
- (6) 若部長根據本條第一項制訂與貴金屬標示標準有關之規定時，前項規定不適用之。

第五十一條 違反消費者資訊保護之效果

- (1) 供應商品之企業經營者違反第50條第1項標示規定者，構成犯罪。
- (2) 廣告商未能根據第50條第2項規定提供資訊者，發行或刊登廣告之企業主構成犯罪。
- (3) 企業經營主違反第1項或第2項規定者，依簡易程序定罪，並根據本法第5編第4章規定課處罰金與刑罰。

第三章 侵略性商業行為

第五十二條 一般禁止規定

企業經營者不應從事侵略性的商業行為。

第五十三條 對侵略性商業行為之規範

- (a) the average consumer would need the stamp, mark, tag, label or information in order to make an informed transactional decision (“material information”), and
 - (b) if such material information was withheld, omitted or concealed, it would be likely to cause the average consumer to make a transactional decision that the average consumer would not otherwise make.
- (6) Subsection (5) does not apply in respect of regulations that may be made under subsection (1) relating to indications of the standard of fineness of articles of precious metal.

51.—

- (1) A trader who supplies a product in contravention of a regulation under section 50(1) commits an offence.
- (2) If an advertisement fails to comply with any requirement of a regulation under section 50(2), any trader who publishes the advertisement or causes it to be published commits an offence.
- (3) A trader who commits an offence under subsection (1) or (2) is liable on summary conviction to the fines and penalties provided in Chapter 4 of Part 5.

Chapter 3 Aggressive Commercial Practices

52.—

A trader shall not engage in an aggressive commercial practice.

53.—

- (1) 商業行為如果涉及騷擾、強迫或不當影響，並可能導致以下結果者，將被認定屬「侵略性商業行為」：
 - (a) 行為或與銷售商品相關之行為已造成對一般消費者自由意志的顯著影響，且
 - (b) 導致一般消費者進而為交易之決定，但前述情形除去後，一般消費者若明知其情事將不為該交易之決定者。
- (2) 根據前項規定判斷是否為侵略性商業行為時，應審酌整體事實脈絡，並將環境因素與行為特性一併納入考量。
- (3) 不限於前述第2項，在判斷商業行為是否涉及騷擾、強迫或不當影響時，應將以下因素納入考量：
 - (a) 時間、地點、商業行為的性質與特性；
 - (b) 企業經營者是否使用威脅或辱罵性的語言，或有相關的行為；
 - (c) 企業在明知會影響消費者決定的情況下，以厄運或不幸的發生為由，導致消費者進而為交易之決定；
 - (d) 企業經營者以繁重的懲罰性約款或不相稱的非契約障礙阻止消費者終止契約、主張契約權利或退換貨；

- (1) A commercial practice is aggressive if by harassment, coercion or undue influence it would be likely to—
 - (a) cause significant impairment of the average consumer's freedom of choice or conduct in relation to the product concerned, and
 - (b) cause the average consumer to make a transactional decision that the average consumer would not otherwise make.
- (2) In determining whether a commercial practice is aggressive under subsection (1), the commercial practice shall be considered in its factual context, taking account of all of its features and the circumstances.
- (3) Without limiting subsection (2), in determining whether the commercial practice employs harassment, coercion or undue influence, the following shall be taken into account:
 - (a) the timing, location, nature or persistence of the commercial practice;
 - (b) the use of threatening or abusive language or behaviour by the trader;
 - (c) the exploitation of a consumer's misfortune or circumstance when the trader is aware that the consumer's judgment is impaired as a result of the gravity of the misfortune or circumstance, in order to influence the consumer's transactional decision;
 - (d) the imposition of onerous or disproportionate non-contractual barriers by the trader when the consumer wishes to terminate the contract, exercise a contractual right or

- (e) 企業經營者沒有法律上的基礎，或明知行為可能涉及違法，卻濫用契約約款對消費者採取訴訟程序。

- (4) 本條所稱之「不當影響」，意指開發或創造不對等的地位（不一定需要用到威脅或武力），以對消費者施加壓力，並且明顯限制消費者經告知後的選擇行為。

第五十四條 違反之效果

企業經營者之行為涉及第53條第1項規定者，構成犯罪，依公訴程序或簡易程序定罪，並根據本法第5編第4章規定課處罰金與刑罰。

第四章 禁止之商業行為

第五十五條 禁止之商業行為

- (1) 企業經營者不應從事以下任何一款之商業行為：
 - (a) 企業經營者同意、授權或承諾企業經營者所沒有的權利，或逾越同意、授權、承諾之範圍而為表現代理之行為。

- switch to another product or trader;
- (e) the use of threats by the trader to—
 - (i) take action or initiate proceedings against the consumer when the trader has no legal basis for taking such action or initiating such proceedings, or
 - (ii) do something unlawful.
 - (4) In this section, “undue influence” means exploiting a position of power in relation to a consumer so as to apply pressure (without necessarily using or threatening to use physical force) in a way that significantly limits the consumer’s ability to make an informed choice in relation to the trader’s product.

54.—

A trader who engages in any aggressive commercial practice described in section 53(1) commits an offence and is liable on conviction on indictment or on summary conviction, as the case may be, to the fines and penalties provided in Chapter 4 of Part 5.

Chapter 4 Prohibited Commercial Practices

55.—

- (1) A trader shall not engage in any of the following commercial practices:
 - (a) a representation that the trader has an approval, authorisation or endorsement that the trader does not have, or making such a representation when the trader is not

- (b) 企業經營者明知未被授權，卻簽署工作守則。
- (c) 企業經營者並未停業，卻終止營業或搬離營業場址。
- (d) 明知為同意、授權或承諾商品權利者並無同意、授權或承諾之權利，或屬逾越其被授權範圍者。
- (e) 陳述該商品可用以在射倖性比賽中促進勝利。
- (f) 虛偽陳述或製造消費者該商品的供應為合法之印象。
- (g) 虛偽陳述商品可治療疾病、官能障礙或畸形。
- (h) 虛偽陳述，以免費、不收費或其他相類似詞彙為商品做宣傳，但要求消費者支付取得授權或運送商品之必要、合理費用以外的任何費用。
- (i) 虛偽陳述企業經營者所為的商業行為已獲同意、授權或承諾。

in compliance with that approval, authorisation or endorsement;

- (b) a representation that the trader is signatory to a code of practice, if the trader is not;
- (c) a representation that the trader is about to cease trading or move premises, if the trader is not;
- (d) a representation that a product has an approval, authorisation or endorsement that it does not have, or making such a representation when the trader is not in compliance with that approval, authorisation or endorsement;
- (e) a representation that a product is able to facilitate winning in games of chance;
- (f) a representation that supply of a product is legal, if it is not, or creating such an impression;
- (g) a representation that a product is able to cure an illness, dysfunction or malformation, if it cannot;
- (h) a representation that describes a product as “gratis”, “free”, “without charge” or anything similar, if a consumer has to pay anything other than the necessary and reasonable cost of—
 - (i) responding to the representation, and
 - (ii) collecting the product or having it delivered;
- (i) a representation that a commercial practice of the trader has an approval, authorisation or endorsement that it does not have, or making such a representation when the trader is not in compliance with the approval, authorisation or endorsement;

- (j) 虛偽陳述，明知工作守則並未獲批准、授權或其他承諾，
- (k) 明知未獲必要的授權，公開展示與質量、標準、信賴或其他類似意義的標章、標誌或記號。
- (l) 企業經營者明知無能力供應、或無能力取得其他供應商協助，以特定的價格、條件進行交易，卻仍為買賣的要約；或為買賣的要約，但並沒有在合理的時間、或以合理的方式揭露商品的價格告與廣告的規模。（即所謂的「誘餌廣告」）。
- (m) 企業經營者為買賣之要約後，有以下情事者：
 - (i) 展示的商品樣本有缺陷。或
 - (ii) 有以下之行為：
 - (I) 拒絕對消費者展示或公開陳列商品。
 - (II) 拒絕接受消費者訂單。
 - (III) 雖然在合理期間內運送商品，但其意圖在推銷其他商品，即進行所謂的「掛羊頭賣狗肉」（誘餌廣告）的行為。
- (n) 不實廣告商品只在限定時間內、或只在限定時間內以特定的條件提供，剝奪消費者對商品有關資訊蒐集、瞭解、告知後選擇的可能性或時間。

- (j) a representation that a code of practice has an approval or other endorsement that it does not have;
- (k) displaying a quality, standard or trust mark or symbol, or some equivalent type of mark or symbol, without having obtained necessary authorisation to do so;
- (l) making an invitation to purchase a product without disclosing the existence of any reasonable grounds the trader may have for believing that the trader will not be able to supply, or procure another trader to supply, the product or an equivalent product at the price specified in the invitation, or to do so for a reasonable period of time or in reasonable quantities, having regard to the scale of any marketing or advertising of the product and the price specified (bait advertising);
- (m) making an invitation to purchase a product, then—
 - (i) demonstrating a defective sample of the product, or
 - (ii) refusing to—
 - (I) show or display the product to the consumer,
 - (II) take an order from the consumer for the product, or
 - (III) deliver the product to the consumer within a reasonable period of time,
 with the intention of promoting a different product (bait and switch);
- (n) making a false representation that a product is available only for a limited time, or on particular terms for a limited time, in order to elicit an immediate decision from

- (o) 企業經營者根據本條第二項對消費者提供售後服務時，非以銷售地所在州郡的官方語言，或以與消費者訂契約時所溝通的語言提供之。
- (p) 製造消費者印象，法律賦予消費者的權利反成為企業經營者用以宣傳作為其商品供應行為的特點。
- (q) 如果是企業經營者付費的宣傳活動，但卻故意混淆其付費性質，利用新聞媒體編輯過的內容，不論是以內容本身，或任何口述、書面、視覺或描述的表徵來宣傳商品。
- (r) 對消費者表示，商品成分的不正確是根源於該商品本質上的天然風險。
- (s) 以誤導方式或以近似商號方式宣傳商品，使消費者對該商品生產者或製造者的認知陷於錯誤。
- (t) 對消費者表示，商品等級的分類是基於市場條件，

a consumer, depriving the consumer of sufficient opportunity or time to make an informed choice in relation to the trader's product;

- (o) subject to subsection (2), providing after-supply service to a consumer in a language that is not an official language of the relevant State in which the trader is located, nor is it the language in which the trader and consumer communicated prior to the agreement to supply;
- (p) making a representation or creating an impression that a right given to consumers under an enactment is a distinctive feature of the trader's promotion or supply;
- (q) using editorial content in the media to promote a product (if a trader has paid for that promotion) if it is not made clear that the promotion is a paid promotion, whether in the content itself or in any oral, written, visual or descriptive representation in the promotion;
- (r) making a representation to a consumer that is materially inaccurate in respect of the nature and extent of risk to the consumer's personal security, or that of other members of the consumer's household, if the consumer does not purchase the trader's product;
- (s) promoting a product (similar to that of another manufacturer) in such a manner as to deliberately mislead or deceive a consumer into thinking that the product is manufactured by that manufacturer, when it is not;
- (t) making a representation to a consumer that is inaccurate

或基於相關原料取得的可能性，意圖誘使消費者以低於正常市場中的交易條件購買商品。

- (u) 交易或廣告形式係以運作、執行、促進競爭的方式為之，若事前言明有獎品，事後卻未提供或以合理、相同等價的方式為補償者。
- (v) 對消費者表示或製造印象，消費者已贏得獎品或其他類似利益，但有以下情事之一者：
 - (i) 實際上並沒有該獎品或其他類似利益。或
 - (ii) 要求消費者支付款項或喪失其他權利以取得該獎品。
- (w) 在出貨單、發票或其他類似性質的文件中將樣品費用納入，或增列消費者沒訂購的商品，要求消費者支付款項。
- (x) 對消費者表示或製造不實的印象：
 - (i) 企業經營者當時之行為並非為了營業或交易的目的而為之，但其實際上仍是在進行商業交易之行為。
 - (ii) 冒稱為消費者，掩飾其為企業經營者之身分。
- (y) 對消費者表示或製造印象，除了銷售地外，消費者在其他州郡仍可取得商品相關的售後服務，但實際上並未提供。

to a material degree in respect of market conditions, or in respect of the possibility of finding a product, with the intention of inducing the consumer to purchase a product at conditions less favourable than normal market conditions;

- (u) operating, running or promoting a competition or prize promotion without awarding the prizes described or reasonable equivalents;
- (v) making a representation or creating an impression that a consumer has won or will win a prize or other equivalent benefit, if—
 - (i) there is no prize or equivalent benefit, or
 - (ii) in claiming the prize, the consumer has to make a payment or incur a loss;
- (w) including in marketing material an invoice or any similar document seeking payment from a consumer for a product that the consumer has not ordered;
- (x) making a representation or creating an impression that the trader—
 - (i) is not acting for purposes related to the trader's trade, business or profession, when the trader is so acting, or
 - (ii) is acting as a consumer, when the trader is not;
- (y) making a representation or creating an impression that after-supply service in relation to a product is available in a relevant State other than the one in which the product is supplied, when it is not so available.

(2) 前項(1)(o)款中有關「售後服務使用的語言」之規定不適用於以下狀況：

- (a) 在供應契約成立之前，企業經營者已明確對消費者揭露有關售後服務提供時所使用之語言、或可提供的語言種類之訊息。
- (b) 如果企業經營者與消費者所在州郡的官方語言不同時，以在供應契約成立前，企業經營者和消費者溝通的語言為主要的語言。

(3) 企業經營者不應從事以下任一款商業行為：

- (a) 對消費者表示或製造印象，除非消費者完成簽約，否則不能離開該營業場所。
- (b) 消費者已為拒絕之表示，企業經營者拒絕離開或拒絕停止拜訪消費者的居所。有正當理由，或為法令容許，依法執行契約義務者不在此限。
- (c) 若已經消費者請求，卻堅持為以下行為者：
 - (i) 不請自來的持續推銷或嘗試溝通。或
 - (ii) 撥打、發送不請自來的行銷電話、傳真、電子郵件，或以其他電子方式、遠端遙控媒體撥打、發送前述訊息給消費者。有正當理由，或為法令容許，依法執行契約義務者不在此限。

- (2) Subsection (1)(o) does not apply in either of the following cases:
- (a) prior to the agreement to supply, the trader clearly discloses to the consumer the language or languages in which the after-supply service is available;
 - (b) the primary language in which the trader and consumer communicated prior to the agreement to supply is the official language of the relevant State in which the trader is located but is not the official language of the relevant State of the consumer.
- (3) A trader shall not engage in any of the following commercial practices:
- (a) making a representation or creating an impression that a consumer cannot leave the premises until a contract is formed;
 - (b) failing to comply with a consumer's request to leave the consumer's residence or to not return (except in circumstances and to the extent justified or permitted by or under law in order to enforce a contractual obligation);
 - (c) persistently failing to comply with a consumer's request to cease—
 - (i) communicating or initiating unwanted or unsolicited contact with, or
 - (ii) making or sending unwanted or unsolicited representations to, the consumer by telephone, fax, email or any other electronic means or remote media (except

- (d) 對消費者申訴與請求保險理賠時有以下任一款或二款兼具之行為：
 - (i) 不恰當的要求消費者檢具書面文件以驗證其請求。
 - (ii) 以勸阻消費者放棄申訴或主張契約權利的目的，在事件中持續性的拒絕回應消費者。

 - (e) 在廣告中，直接勸誘孩童
 - (i) 購買商品、或
 - (ii) 鼓勵孩童去說服父母或其他成年人購買商品。

 - (f) 在消費者未表示意願前，強迫性的要求消費者：
 - (i) 立即或分期付款購買該商品。
 - (ii) 對該商品負退還或安全保管責任。
 - (g) 明白地告知消費者，如果消費者不購買該商品，企業經營者的工作或生計將處於危險之中。
- (4) 前項第f款規定不適用於企業經營者根據歐盟2001年「以遠距通訊方式締結契約消費者保護規定」(Protection of Consumers in Respect of Contracts Made by

- in circumstances and to the extent justified or permitted by or under law in order to enforce a contractual obligation);
- (d) in relation to a consumer's claim on an insurance policy, doing either or both of the following:
 - (i) requiring the consumer to produce documents irrelevant to the validity of the claim;
 - (ii) persistently failing to respond to the consumer's correspondence on the matter, in order to dissuade the consumer from exercising contractual rights in respect of that claim;
 - (e) including in an advertisement a direct exhortation to children to—
 - (i) purchase a product, or
 - (ii) persuade a parent or adult to purchase the product for them;
 - (f) in relation to any product that a consumer does not solicit, demanding that the consumer—
 - (i) make immediate or deferred payment for the product, or
 - (ii) return or keep the product safe;
 - (g) explicitly informing a consumer that if the consumer does not purchase a product, the trader's job or livelihood will be in jeopardy.
- (4) Subsection (3)(f) does not apply in respect of a product provided by a trader in accordance with Regulation 9(3) of the European Communities (Protection of Consumers

Means of Distance Communication, Regulations 2001)第9條第3項提供商品之情形。(執行命令2001年第207號S.I. No. 207 of 2001)

第五十六條 違法效果

企業經營者違反第55條第1項或第3項規定者，構成犯罪，依公訴程序或簡易程序定罪，得根據本法第5編第4章規定課處罰金與刑罰。

第五十七條 價格明示規範

- (1) 若部長基於消費者利益認為適當時，得制訂規範，要求提供商品的企業經營者應根據規定的型式、或其他方式標示產品的價格、等級或種類。
- (2) 不限於前項規定，部長制訂規範時，得根據本項規定為以下之要求：
 - (a) 標示其他應支付之款項，或在組合性定價時，詳細標示各該單獨項目費用，包括應付的服務酬金或稅款。
 - (b) 公開展示價目表，組合性定價時，說明收費標準與涵蓋範圍。
 - (c) 禁止以高於公開展示的價格對消費者提供商品。
- (3) 根據本條規定，部長得根據產品、企業經營者的等級或種類制訂不同的規範。
- (4) 根據本條規定制訂之規範得適用於全國，也得限定僅適

in Respect of Contracts Made by Means of Distance Communication) Regulations 2001 (S.I. No. 207 of 2001).

56.—

A trader who contravenes section 55(1) or (3) commits an offence and is liable on conviction on indictment or on summary conviction, as the case may be, to the fines and penalties provided in Chapter 4 of Part 5.

57.—

- (1) If the Minister considers it to be in the interest of consumers, the Minister may make regulations requiring traders who supply a product, or a class or type of product, to display the price or charge to consumers of or for those products in any manner or form specified in the regulations.
- (2) Without limiting subsection (1), a regulation under this section may—
 - (a) require prices or charges, or any combination of prices and charges, to be displayed in a single amount and inclusive of any charges, fees or taxes payable,
 - (b) require the price or charge display, or combined price and charge display, to state the range of prices or charges for the products, and
 - (c) prohibit the supply of the products to consumers at any price greater than the price or charge so displayed.
- (3) The Minister may make different regulations under this section for different classes or types of products or traders.
- (4) A regulation made under this section may apply to the whole

用於特定的州郡。

- (5) 本條規定為本法第49條「其他附加費用作為價金之一部分」之額外規定。

第五十八條 違法不標示價格之效果

企業經營者違反第57條規定者，構成犯罪，依簡易程序定罪，並根據本法第5編第4章規定課處罰金與刑罰。

第五十九條 對雜貨零售商秤重設備之規定

- (1) 本條規定所稱之「雜貨零售商」，其定義同2002年競爭法第15A條之零售商。

- (2) 以秤重方式銷售食品給消費者的雜貨零售商應：

(a) 提供秤重之尺度標準或秤重之設備：

- (i) 在食品展示販售地營業場所中公開且明顯的地點。
- (ii) 為了健康或食品安全考量的目的，陳設地點應盡可能在食品展示販售地合理的範圍內。

(b) 在消費者付費前，允許任何購買或意圖購買者自行秤重，或以得目識設備量測結果的方式，觀察商家以秤重設備秤量食物重量的情形。

State or to a prescribed geographical area of the State.

- (5) This section is in addition to section 49 (respecting certain surcharges being stated as part of price).

58.—

A trader who contravenes a regulation under section 57 commits an offence and is liable on summary conviction to the fines and penalties provided in Chapter 4 of Part 5.

59.—

- (1) In this section, “grocery retailer” means a trader who is a retailer within the meaning of section 15A of the Competition Act 2002.
- (2) A grocery retailer who offers food for sale to consumers by weight (other than food packed for sale by its manufacturer or producer or by the person who supplied it for sale) shall—
- (a) provide a weighing scale, or weighing machine, that—
- (i) is in a public and prominent position on the premises where that food is sold, and
 - (ii) subject to health and food safety considerations, is as near as reasonably possible to where that food is on display for sale,
- and
- (b) allow any person purchasing, or about to purchase, such food to weigh it or observe its weighing on the weighing scale or weighing machine in a manner that allows the person to see the reading of the weight provided by the scale or machine and to be informed of the resultant

- (3) 雜貨零售商違反前項任一款規定者，構成犯罪，依簡易程序定罪，並根據本法第5編第4章規定課處罰金與刑罰。

第六十條 阻止讀取價格資訊

- (1) 企業經營者不應沒有合理理由，禁止或阻礙、干擾民眾為以下行為：
 - (a) 讀取經公開展示之價格，或與商品供應有關之價格資訊
 - (b) 為前述目的進入企業經營者提供該商品之所在。

- (2) 企業經營者違反前項任一款規定者，構成犯罪，依簡易程序定罪，並根據本法第5編第4章規定課處罰金與刑罰。

第六十一條 影響商品供應之緊急狀況

- (1) 如果依政府的觀點，商品的供應有不正常情形出現或可能出現時，政府得以命令（緊急命令）宣告此影響商品供應之緊急狀況的存在。
- (2) 政府得以其認為合適的方式，定義緊急命令涵蓋之商品範疇與種類。
- (3) 除非緊急命令的內容超過本條第4項或第5項規定，或被撤銷，否則該緊急命令的執行期間，以政府認為合適且載明於該命令中者為限。最長自該命令被公布之日起不

price before payment.

- (3) A grocery retailer who contravenes subsection (2)(a) or (b) commits an offence and is liable on summary conviction to the fines and penalties provided in Chapter 4 of Part 5.

60.—

- (1) A trader shall not, without reasonable cause, prevent a person from, or obstruct or interfere with that person in—
 - (a) reading the prices displayed on or in relation to products supplied by the trader, or
 - (b) entering premises for purposes described in paragraph (a), if those premises are where the trader supplies those products.
- (2) A trader who contravenes subsection (1)(a) or (b) commits an offence and is liable on summary conviction to the fines and penalties provided in Chapter 4 of Part 5.

61.—

- (1) If the Government are of the opinion that abnormal circumstances prevail or are likely to prevail in relation to the supply of a product, the Government may by order (“emergency order”) declare that a state of emergency affecting the supply of that product exists.
- (2) An emergency order may relate to one or more products and may define the products in such manner as the Government think fit.
- (3) Unless the term of an emergency order is extended under subsection (4) or (5) or the order is revoked, an emergency order—

超過6個月，並於命令所載期日最後一天的深夜失效。

- (4) 根據本條第5項規定，如果緊急命令執行（主命令）中，依政府的觀點，商品的供應有與該命令有關之不正常情形出現者，政府得以另一個命令（延期命令）延長主命令之執行期間。延長期限，以從該延期命令做成之日期起，不超過6個月。

- (5) 緊急命令根據前項規定延長執行期間，依政府的觀點，商品的供應有與該延期命令有關之不正常情形出現者，政府僅能再為一次延長期間之命令（最終延期命令）。延長期限，以從該最終延期命令做成之日期起，不超過6個月。

第六十二條 緊急狀況下調整價格的權力

- (1) 緊急命令根據本法第61條執行期間，政府得以命令要求企業經營者調降對消費者供應之商品價格。

- (2) 根據前項規定制訂之命令，其內容得包括以下規定：

- (a) remains in force for such term (not exceeding 6 months from the date that the order is made) that the Government think proper and specify in the order, and
 - (b) expires at the end of the last day of the term specified.
- (4) Subject to subsection (5), if an emergency order is in force (“principal order”) and the Government are of the opinion that abnormal circumstances continue to prevail in relation to the supply of a product to which the order relates, the Government may make one order (“extension order”) in relation to that product extending the term of the principal order as it relates to that product for a period not exceeding 6 months from the date that the extension order is made.
- (5) If during the extended term under subsection (4), the Government are of the opinion that abnormal circumstances continue to prevail in relation to the supply of the product to which the extension order relates, the Government may make only one more order (“final extension order”) in relation to that product extending the term of the principal order as it relates to that product for a period not exceeding 6 months from the date that the final extension order is made.

62.—

- (1) If an emergency order is in force in respect of a product under section 61, the Government may by order fix the maximum price at which that product may be supplied by a trader to consumers.
- (2) An order under subsection (1) may—

- (a) 限制命令的適用對象，如僅適用於特定等級或種類
的商品。
 - (b) 制訂詳細的條件，作為要求廠商實施固定價格上限
的依據；或根據不同的狀況，設定不同的最高管制
價格。
 - (c) 規範適用範圍，得適用於全國，或僅適用於提供不
同等級、種類商品的企業經營者上。
 - (d) 固定最高價格，或制訂價格計算依據。
 - (e) 其他任何政府認為有需要、有助於達成緊急命令實
施目的或有助於穩定緊急狀況之規定或補充事項，
包括限制管制商品銷售的單位、重量或容量。
- (3) 除非已先被廢止，否則根據本條規定制訂的命令，於其
依據之緊急命令期限終止時，失去其效力。

第六十三條 違反價格上限管制命令

企業經營者違反根據本法第62條制訂之命令，構成犯罪，
依公訴程序或簡易程序定罪，並得根據本法第5編第4章規定課
處罰金與刑罰。

- (a) limit the application of the order to a class or type of the product,
 - (b) specify conditions by reference to which a maximum price is fixed and may fix different maximum prices in relation to different conditions,
 - (c) apply to the whole State, to a particular geographical area in the State, or to the supply of the product by a particular class or type of trader,
 - (d) fix a maximum price by specifying it or by specifying the manner in which it is to be calculated, and
 - (e) provide for any incidental or ancillary matter (including a requirement that the product to which the order relates shall be sold only in specified units of weight, measure or volume) that the Government consider necessary or expedient to give full effect to any provision of the order or to secure compliance with it.
- (3) Unless previously revoked, an order made under this section expires on the expiration of the emergency order in respect of which it is made.

63.—

A trader who contravenes an order made under section 62 commits an offence and is liable on conviction on indictment or on summary conviction, as the case may be, to the fines and penalties provided in Chapter 4 of Part 5.

第四編 對多層次行銷之規範

第六十四條 定義

- (1) 本編所稱之「多層次行銷機制」，意指透過一個機制，以取得金錢、與金錢等值的報酬、或以取得金錢當做禮物為對價，行為人主要以介紹其他人加入該機制作為取得報償之機會，而非以提供商品交易的方式取得報酬者。
- (2) 前項規定應做如下解釋：
 - (a) 獲取報酬的機會，不需限制於介紹其他人加入該機制，也可包括被其他人介紹而加入該機制者。
 - (b) 機制不一定必須與商品的供應有關。

第六十五條 參與、建立、運作或推廣多層次行銷

- (1) 任何人不應故意地建立、運作、推廣或參與多層次行銷機制，或介紹或企圖介紹其他人加入該機制。
- (2) 任何人違反前項規定者構成犯罪。
- (3) 個案如根據本條規定或第71條的禁止命令提起訴訟程序時，檢舉者或告發者不需要證明以下之情事：

PART 4 Pyramid Promotional Schemes

64.—

- (1) In this Part, “pyramid promotional scheme” means a scheme by which a person gives consideration in money or money’s worth, or gives a gift in money or money’s worth, for an opportunity to receive compensation derived primarily from the introduction of other persons into the scheme rather than from the supply or consumption of a product.
- (2) The following apply in respect of subsection (1):
 - (a) the opportunity to receive compensation need not be limited to the person’s introduction of other persons into the scheme but may include their introduction by other persons;
 - (b) the scheme may but need not involve the supply of a product.

65.—

- (1) A person shall not—
 - (a) establish, operate or promote a pyramid promotional scheme,
 - (b) knowingly participate in such a scheme, or
 - (c) induce or attempt to induce another person to participate in such a scheme.
- (2) A person who contravenes subsection (1) commits an offence.
- (3) In proceedings for an offence under this section or for a prohibition order under section 71, it shall not be necessary

- (a) 獲取報酬的機會是否為合法可執行的權力。
 - (b) 個案中對價關係或禮物的給予，是否涉及國家公權力。
 - (c) 對價關係或禮物的給予，是否屬行為人為達到以下任一目的之唯一條件：
 - (i) 參與或被遴選加入該機制。
 - (ii) 根據該機制被遴選，或取得接受報償之機會。
 - (d) 任何報償的取得是否取自於政府。
 - (e) 任何取得報償的機會，是否與政府提供之補償有關。
 - (f) 任何被書面記錄下來的，根據機制所為之安排。
- (4) 根據本條規定或第71條的禁止命令提起訴訟程序時，所聲稱的多層次行銷機制如果涉及商品的供應，在判斷是否為「主要以介紹他人加入機制，換取獲得報償的機會」時，得將以下情形納入考量：
- (a) 比較各該機制在推廣時，強調將給予參與者的頭銜。

for the prosecution or the applicant, as the case may be, to prove—

- (a) that the opportunity to receive compensation was a legally enforceable right,
 - (b) that the consideration or gift given, as the case may be, was given within the State,
 - (c) that giving consideration or a gift was the only requirement a person had to satisfy in order to—
 - (i) participate or be eligible to participate in the scheme, or
 - (ii) be eligible or have opportunity to receive compensation under the scheme,
 - (d) that any compensation received was received within the State,
 - (e) that any opportunity to receive compensation was to be a receipt of such compensation within the State, or
 - (f) that any arrangements under the scheme were recorded in writing.
- (4) If, in proceedings for an offence under this section or for a prohibition order under section 71, the alleged pyramid promotional scheme involves the supply of a product, then the following may be considered (among other things) in determining whether the opportunity to receive compensation is derived primarily from the introduction of other persons into the scheme:
- (a) in respect of a promotion of the scheme, the emphasis given to a participant's entitlement to the product,

(b) 與市場中其他相同或同類商品的銷售相較，對價關係給予的範疇是否在該商品銷售關係中合理的範圍內。

(5) 觸犯本條規定者，依公訴程序定罪，並根據本法第五編第四章規定課處罰金與刑罰。

第六十六條 多層次傳銷機制合約屬無效合約

(1) 多層次傳銷機制者與他人簽訂之合約，如合約中要求簽約者付款或提供金錢以外等值物品，其約款自始不生效力，且不能據以在法院中主張金錢或等值物品的返還。

(2) 前項規定所稱之「多層次傳銷機制者」，意指以下之行為人：建立、運作或推廣多層次行銷機制，或誘惑、企圖誘惑他人參與該機制之人；其他以該機制授權名義對外進行活動者。

as compared to the emphasis given to compensation derived from the introduction of other persons into the scheme;

(b) the extent to which the consideration given bears a reasonable relationship to the product, by reference to the price of the same or a comparable product available elsewhere.

(5) A person guilty of an offence under this section is liable on conviction on indictment to the fines and penalties provided in Chapter 4 of Part 5

66.—

(1) An agreement between a scheme promoter and another person is, to the extent it requires or provides for payment of money or money's worth in respect of a pyramid promotional scheme, void and has no effect, and no action lies in any court for the recovery of such money or money's worth under or pursuant to such agreement.

(2) For the purposes of subsection (1), a "scheme promoter" means a person who establishes, operates or promotes a pyramid promotional scheme or who induces or attempts to induce others to participate in such a scheme, and includes any person acting on a scheme promoter's behalf.

第五編 訴訟程序、賠償與罰款

第一章 定義和訴訟程序之一般性規定

第六十七條 定義

本章所稱之「禁止行為」，意指以下之行為：

- (a) 根據第3章所為的任何不公平、誤導性或侵略性的商業行為。
- (b) 任何違反第48條第3項或第49條第1項之行為。
- (c) 任何違反第55條第1項或第3項、第59條第2項、或第60條第1項之行為。
- (d) 任何違反第65條第1項之行為。
- (e) 任何違反根據第50條或第57條制訂之規範，或根據第92條發布之命令之行為。
- (f) 任何違反根據第62條第1項發布之命令之行為，但排除第71條、第73條、第74條或第75條規定之行為。

第六十八條 授權之推定

根據本法所為的訴訟程序，應留意事實聲明的真實性。事實聲明的真實性如果不能經由為表現展示之人、或以表現展示者名義為行為者證明其被授權的可能性時，推定其授權非真。

PART 5 Proceedings, Remedies and Penalties

Chapter 1 Interpretation and General Matters related to Proceedings

67.—

In this Part “prohibited act or practice” means any of the following:

- (a) any unfair, misleading or aggressive commercial practice under Part 3;
- (b) any contravention of section 48(3) or 49(1);
- (c) any contravention of section 55(1) or (3), 59(2) or 60(1);
- (d) any contravention of section 65(1);
- (e) any contravention of a regulation under section 50 or 57 or an order referred to in section 92;
- (f) any contravention of an order under section 62(1), but subject to the exclusion of one or more of the foregoing provisions provided for in section 71, 73, 74 or 75.

68.—

If, in any proceedings under this Act, the truth of a factual claim in a representation is an issue and the trader who made the representation, or on whose behalf the representation was made, does not establish on the balance of probabilities that it is true, then the representation shall be presumed to be untrue.

第六十九條 廣告商

- (1) 本條規定所稱之「廣告商」，意指發行廣告之人。「違法廣告」意指：
 - (a) 以廣告方式進行的不公平、誤導或侵略性商業行為。或
 - (b) 該廣告之內容或性質有以下之情事之一：
 - (i) 為第55條第1項或第3項禁止的商業行為。
 - (ii) 違反第49條第1項。
 - (iii) 違反根據第50條第2項制訂之規範。
- (2) 受企業經營者委託發行違法廣告之廣告商，不適用本法第47條、第49條第3項、第51條第2項或第56條。若其能證明不知情、或無合理理由懷疑廣告內容有違反本法第41條第1項、第42條、第49條第1項、第50條第2項、第51條第2項、第52條、第54條、第55條第1項或第3項，或第56條時，不需負本法第74條有關消費者損害賠償之責任，
- (3) 接受或同意為企業經營者發行廣告之廣告商，應記錄企業經營者的名稱與地址，且保留紀錄至少2年，從廣告被刊登的最後一日起算。
- (4) 廣告商違反前項規定者，被視為犯罪，依簡易程序定罪，並得根據本法第4章規定課處罰金與刑罰。

69.—

(1) In this section:

“advertiser” means a person who publishes advertisements;

“contravening advertisement” means—

- (a) an unfair, misleading or aggressive commercial practice in the form of an advertisement, or
- (b) an advertisement that is—
 - (i) a prohibited commercial practice under section 55(1) or (3),
 - (ii) in contravention of section 49(1), or
 - (iii) in contravention of a regulation under section 50(2).

(2) An advertiser who publishes a contravening advertisement on behalf of a trader does not commit an offence under section 47, 49(3), 51(2) or 56 and is not liable under section 74 (respecting consumer’s right of action for damages) if the advertiser proves that the advertiser did not know and had no reason to suspect that its publication would be in contravention of section 41(1), 42, 49(1), 50(2), 51(2), 52, 54, 55(1) or (3) or 56.

(3) An advertiser who accepts or agrees to publish an advertisement for a trader shall—

- (a) make a record of the name and address of that trader, and
- (b) keep that record for not less than 2 years from the last day on which the advertisement is published.

(4) An advertiser who contravenes subsection (3) commits an offence and is liable on summary conviction to the fines and

第七十條 因為他人之作為或不作為導致之違法責任

- (1) 根據本法及其精神，若企業經營者所為之商業行為是否構成違法係取決於他人之作為或不作為時，該他人應同時對相關的商業行為負責，且該他人得成為被起訴與處罰之對象，不論該訴訟程序是否對企業經營者提起。

- (2) 依前項規定被判決有罪之他人，其罰金與刑罰的額度，與第4章對違法企業經營者課予之刑責相同。

第二章 民事訴訟

第七十一條 以禁止命令進行民事救濟

- (1) 本條所稱之「禁止行為」不包括違法第59條第2項（對雜貨零售商秤重設備之規定）或第60條第1項（阻止消費者讀取價格資訊）之規定者。

- (2) 任何人，包括國家消費者署或其他為了執行本項規定之目的而被指定公共團體，得請求巡迴審判法庭或高等法院對企業經者或其他涉及禁止行為之人發布禁止命令。

- (3) 根據前項所為之請求，應同時知會：

penalties provided in Chapter 4

70.—

- (1) If, in relation to a commercial practice of a trader, the trader commits an offence under this Act and its commission is due to the act or default of another person, that other person shall also be guilty of an offence and may be charged with and convicted of it whether or not proceedings for an offence are brought against the trader.
- (2) A person guilty of an offence under subsection (1) is liable on conviction to the same range of fines and penalties provided in Chapter 4 that the trader referred to in subsection (1) is or would be liable in respect of that offence.

Chapter 2 Civil Proceedings

71.—

- (1) In this section “prohibited act or practice” does not include a contravention of section 59(2) (respecting weighing facilities in grocery retail) or section 60(1) (respecting preventing the reading of prices).
- (2) Any person, including the Agency or any other public body that is prescribed for the purposes of this subsection, may apply to the Circuit Court or High Court for an order prohibiting a trader or person from committing or engaging in a prohibited act or practice.
- (3) An application under subsection (2) shall be on notice to—

- (a) 企業經營者、可能受命令拘束之人
 - (b) 國家消費者署，在提出申請者非國家消費者署之情形時。
- (4) 根據本條規定判斷申請案之成立時，法院應考量所有涉案當事人的利益，特別應考量公共利益。
 - (5) 根據本條規定申請禁止命令者非國家消費者署時，法院得暫不為決定，直到國家消費者署提供公聽的機會並提出證據。
 - (6) 如果法院根據客觀情況、考量所有參與者的利益（特別是公共利益）後，認為需要且適合時，法院得根據本條規定發出命令而不需要證明任何事實上的損失或損害，或企業經營者是否有任何故意或過失。
 - (7) 根據本條規定發布命令時，法院得附加條款，包括要求企業經營者或涉及禁止行為人自行付費刊登更正啟事，或為任何法院認為適當之行為。
 - (8) 根據本條規定對巡迴審判法庭提出之申請，應由巡迴審判法庭法官根據禁止行為作成地或涉及地之法律裁定之。

- (a) the trader or person against whom the order is sought, and
 - (b) the Agency, if the applicant is not the Agency.
- (4) In determining an application under this section, the court shall consider all interests involved and, in particular, the public interest.
- (5) If the applicant for an order under this section is not the Agency, the court may not make the order unless the Agency has been afforded an opportunity to be heard and adduce evidence.
- (6) If the court considers it necessary or appropriate in the circumstances, taking into account all interests involved and, in particular, the public interest, the court may make an order under this section without proof of any actual loss or damage or of any intention or negligence on the part of the trader.
- (7) In making an order under this section, the court may impose terms or conditions in the order that the court considers appropriate, including a requirement that the trader or person publish a corrective statement, at the trader's or person's own expense and in any manner the court considers appropriate, in respect of the matters the subject of the order.
- (8) An application under this section to the Circuit Court shall be made to the judge of the Circuit Court for the circuit in which the prohibited act or practice concerned is being committed or engaged in.

- (9) 巡迴審判法庭有權去聽取和決定申請案是否符合本條規定，與決定其是否適合處理該申請案。為了前述判斷之目的，巡迴審判法庭應考量禁止行為的本質和涵攝範圍，與執行命令的可預期成本。
- (10) 向巡迴審判法庭提出之申請案，如果案件在公聽程序過程中，法庭始認為不適合處理該案者，得在其認為合適的情況下，將該案移轉予高等法院。
- (11) 前項規定，不影響巡迴審判法庭在申請案作成時間點當時所為裁定的效力。
- (12) 根據第10項規定將移轉予高等法院處理時，根據訴訟程序的本質，高等法院應為程序命令，接手與該案相關之後續流程。
- (13) 企業經營者如無合理理由，不根據本條規定履行法院之命令者，將被視為犯罪，依公訴程序或簡易程序定罪，並得根據本法第4章規定課處罰金與刑罰。

- (9) The Circuit Court shall have jurisdiction to hear and determine an application under this section which it is satisfied it is appropriate for it to deal with as a court of local and limited jurisdiction and, for the purpose of the court's satisfying itself of that matter, the matters to which it shall have regard include—
- (a) the nature and extent of the prohibited act or practice concerned, and
 - (b) the estimated cost of complying with the order to which the application relates.
- (10) If, in relation to an application under this section to the Circuit Court, that court becomes of the opinion, during the hearing of the application, that it is not appropriate for the Circuit Court to deal with the application, it may, if it so thinks fit, transfer the application to the High Court.
- (11) Subsection (10) is without prejudice to the jurisdiction of the Circuit Court to determine an application under this section which, at the time of the making of the application, it was satisfied it had jurisdiction to deal with.
- (12) Where an application is transferred under subsection (10) to the High Court, the High Court shall be deemed to have made any order of a procedural nature that was made by the court from which it is so transferred in the proceedings in relation to the application.
- (13) A trader commits an offence who, without reasonable excuse, fails to comply with an order under this section and is liable on conviction on indictment or on summary

第七十二條 禁止命令與工作守則相背時之處理

- (1) 本條所稱「工作守則制訂者」，意指負責制訂或修訂工作守則，以監督企業經營者同意遵循或應受拘束之規章之人。
- (2) 如果工作守則內容或守則制訂者通過、或意圖通過任何被禁止之行為規範，國家消費者保護署得請求巡迴審判法庭或高等法院為禁止命令，禁止該制訂者之行為，或為撤銷命令，要求守則制訂者撤銷、修正該守則。
- (3) 國家消費者署根據第2項規定向法院提出請求者，不需要對守則制訂者另發通知。
- (4) 根據本條規定裁決申請時，法院應考量所有參與者的利益，特別應考量公共利益。
- (5) 根據第2項規定發布命令時，如果法院認為適當者，得附加條件或條款。
- (6) 本法第71條第8項到第12項若適用於根據本條規定提起的申請案時，相關文字應為以下修正：
 - (a) 第8項中之「禁止行為作成地或涉及地」，應改為「企圖通過被禁止的商業行為之工作守則制訂者的住居所所在地或執業所在地」。

conviction, as the case may be, to the fines and penalties provided in Chapter 4.

72.—

- (1) In this section, “code owner” means, in relation to a code of practice, any person responsible for formulating or revising the code or for monitoring compliance by those traders who agree, commit or undertake to abide or be bound by it.
- (2) If a code of practice or its code owner promotes any prohibited act or practice, the Agency may apply to the Circuit Court or High Court for an order prohibiting the code owner from such promotion or requiring the code owner to withdraw the code or amend it as the court considers necessary to prevent such promotion.
- (3) An application under subsection (2) shall be on notice to the code owner.
- (4) In determining an application under this section, the court shall consider all interests involved and, in particular, the public interest.
- (5) In making an order under subsection (2), the court may impose terms or conditions in the order that the court considers appropriate.
- (6) Subsections (8) to (12) of section 71 apply to an application under this section as they apply to an application under that section with the following modifications—
 - (a) the substitution in subsection (8) of “in which the code owner is promoting the prohibited act or practice concerned or in which the code owner resides or carries on

- (b) 第9項中之「法庭應考量禁止行為的本質和涵攝範圍」，應改為「法庭應考量禁止行為的本質和涵攝範圍、與企圖將該禁止行為納入工作守則行為人的本意」
- (7) 如無合理理由，未能遵守根據本條規定所發布之禁止命令之守則制訂者，將被視為犯罪，依公訴程序或簡易程序定罪，並得依本法第4章規定課處罰金與刑罰。

第七十三條 對國家消費者署的承諾

- (1) 本條規定所稱之「禁止的行為」，不包括違反第59條第2項（對雜貨零售商秤重設備）規定之行為，或違反第60條第1項有關阻止讀取價格資訊之規定者。
- (2) 如果國家消費者署有合理理由相信企業經營者有以下行為之一時，國家消費者署得接受企業經營者以簽名、書面、符合國家消費者署要求形式之方式所為的改善承諾：
- (a) 可能觸犯或涉及被禁止的行為。
 - (b) 正在觸犯或從事被禁止的行為。
 - (c) 已觸犯或已從事被禁止的行為。

any business or profession” for “in which the prohibited act or practice concerned is being committed or engaged in”, and

- (b) the substitution in subsection (9) of the following paragraph for paragraph (a): “(a) the nature and extent of the prohibited act or practice being promoted by the code of practice concerned or its code owner,”.
- (7) A code owner commits an offence who, without reasonable excuse, fails to comply with an order under this section and is liable on conviction on indictment or on summary conviction, as the case may be, to the fines and penalties provided in Chapter 4.

73.—

- (1) In this section “prohibited act or practice” does not include a contravention of section 59(2) (respecting weighing facilities in grocery retail) or section 60(1) (respecting preventing the reading of prices).
- (2) If the Agency has reason to believe that a trader—
 - (a) is committing or engaging in a prohibited act or practice,
 - (b) is about to commit or engage in a prohibited act or practice, or
 - (c) has committed or engaged in a prohibited act or practice,the Agency may accept from the trader a written undertaking that is signed by the trader in the form and which contains

- (3) 如果國家消費者署接受企業經營者根據本條所為之承諾，國家消費者署應公布此承諾，或讓此承諾被公開，或以其他國家消費者署認為合適的方式對大眾公布之。
- (4) 不限於第2項規定，承諾的內容應包括以下一項或多項的條件或約款：
 - (a) 承諾遵循本法或根據本法所制訂之行為規範。
 - (b) 承諾改正或戒除所犯或所從事的被禁止的行為。
 - (c) 承諾賠償消費者，包括償還金錢、返還任何在交易行為中從消費者處取得之財產或物品等。
 - (d) 承諾刊登廣告，對其所犯行為為矯正之說明，相關費用並由企業經營者自行負擔。
- (5) 如違反第2項規定之企業經營者為公共團體，對國家消費者署所為的承諾應由其首長、管理者、執行秘書或其他具管理權限者簽名以示負責。
- (6) 即使接受企業經營者所為之承諾，國家消費者署仍得決定是否根據本法第71條對企業經營者提起民事訴訟。
- (7) 除了本條第6項規定外，國家消費者署得根據第71條規

the terms and conditions the Agency determines are appropriate in the circumstances.

- (3) If the Agency accepts an undertaking from a trader under this section, the Agency shall publish the undertaking, or cause it to be published, in any form or manner the Agency considers appropriate.
- (4) Without limiting subsection (2), the undertaking may include one or more of the following terms and conditions:
 - (a) an undertaking to comply with the provision or provisions concerned of this Act or regulations under this Act;
 - (b) an undertaking to refrain from committing or engaging in any act or practice;
 - (c) an undertaking to compensate consumers or a class of consumers, including reimbursing any money or returning any other property or thing received from consumers in connection with a consumer transaction;
 - (d) an undertaking to publish or cause to be published, at the trader's expense, an advertisement containing a corrective statement relating to the prohibited act or practice.
- (5) If the trader under subsection (2) is a body corporate, the undertaking shall be signed by a director, manager, secretary or other officer of the trader.
- (6) The Agency may terminate proceeding against a trader under section 71 (respecting civil relief by way of prohibition orders) on the acceptance of an undertaking from the trader.
- (7) Despite subsection (6), the Agency may apply for an order

定請求法院對企業經營者核發禁止命令，如果企業經營者未能遵守與國家消費者署達成之承諾條件與約定事項。

- (8) 若國家消費者署有合理理由相信，企業經營者正在從事或已經完成違反工作排程4所列法規之行為時，可適用本條第2項到第5項規定處分之。

- (9) 如果企業經營者依據其與國家消費者署依本條第4項第c款達成之承諾，已對消費者進行補償，但消費者隨後根據本法第74條提起訴訟，並獲法院判決，要求企業經營者應負賠償責任者，已給付的補償金應視為企業經營者對消費者的損害賠償給付。

第七十四條 消費者的訴訟權利

- (1) 本條規定所稱之「禁止的行為」，不包括：

- (a) 第45條規範之誤導性的商業行為。

against a trader under section 71 if the trader fails to comply with the terms and conditions of an undertaking under this section.

- (8) Subsections (2) to (5) shall, with the following modifications and any other necessary modifications, apply in respect of any trader the Agency has reason to believe is contravening, is about to contravene or has contravened an enactment specified in Schedule 4, namely, the modifications that—
- (a) references in those subsections to a prohibited act or practice shall be read as references to a contravention of an enactment specified in that Schedule, and
 - (b) the reference in subsection (4)(a) to the provision or provisions concerned of this Act or regulations under this Act shall be read as a reference to the provision or provisions concerned of that enactment.
- (9) If compensation is paid to a consumer pursuant to an undertaking referred to in subsection (4)(c) and the consumer subsequently commences an action under section 74 and is awarded damages by the court in respect of the same prohibited act or practice, the compensation paid under the undertaking is deemed to be in satisfaction of so much of the awarded damages as is equal to the amount paid to the consumer under that undertaking.

74.—

- (1) In this section, “prohibited act or practice” does not include—
- (a) a misleading commercial practice described in section 45, or

- (b) 第65條第1項有關多層次傳銷機制之行為。
- (2) 消費者受禁止的行為造成侵害者，應有對以下之人提起訴訟以救濟損害的權利，得請求者並應包括懲罰性損害賠償：
- (a) 任何觸犯或從事禁止的行為之企業經營者。
- (b) 如果企業經營者為公共團體，其首長、管理者、執行秘書或其他具管理權限者，或提議為該禁止的行為者，或授權、同意進行或實際從事該被禁止的行為者。
- (3) 根據第4項規定，根據本條提起的訴訟應向地方法院、巡迴審判法庭或高等法院提出；法院若認為適合者，除了賠償對當事人造成的損失外，並得包括懲罰性損害賠償。
- (4) 如果案件涉及侵權並被提出於地方法院、巡迴審判法庭，除非得到對造對法院管轄權之同意，否則任何救濟（包括懲罰性損害賠償）之提出不應超過地方法院、巡迴審判法庭司法權的限制。
- (5) 根據本條規定，如果在任何訴訟行動中，被禁止的行為被證明係由公共團體所為者，除非有相反之證據，否則其首長、受雇且具有決定權限之管理者，或提議為該禁

- (b) a contravention of section 65(1) (respecting pyramid promotional schemes).
- (2) A consumer who is aggrieved by a prohibited act or practice shall have a right of action for relief by way of damages, including exemplary damages, against the following:
 - (a) any trader who commits or engages in the prohibited act or practice;
 - (b) if such trader is a body corporate, any director, manager, secretary or other officer of the trader, or a person who purported to act in any such capacity, who authorised or consented to the doing of the act or the engaging in of the practice.
- (3) Subject to subsection (4), an action under this section may be brought in the District Court, the Circuit Court or the High Court and such a court may, in that action, award such damages as the court considers appropriate, including exemplary damages.
- (4) If the action is brought in the District Court or the Circuit Court, any relief by way of damages, including exemplary damages, shall not, except by consent of the necessary parties in such form as may be provided for by rules of court, be in excess of the limit of jurisdiction of the District Court or the Circuit Court, as the case may be, in an action founded on tort.
- (5) Where in an action under this section it is proved that the act or practice complained of was done or engaged in by a body corporate it shall be presumed, until the contrary is proved,

止的行為者，或授權、同意進行或實際從事該被禁止的行為之人應被推定有罪。

第三章 法規遵循通知書

第七十五條 法規遵循通知書

- (1) 本條規定所稱的「禁止的行為」不包括違反根據第57條（價格明示）授權制訂的法規命令之行為。
- (2) 被國家消費者署授權的官員如果認為某人可能或已經從事犯罪、或涉及被禁止的行為、或有違反工作排程5所載之法規條例者，得以當面或以郵寄方式，送交警告通知與該人（稱為「法規遵循通知書」）。
- (3) 法規遵循通知書應由被國家消費者署授權的官員簽名並標註日期，請應包含以下內容：
 - (a) 對違法事項的陳述，包括其觸犯的法條，送交法規遵循通知書的理由與建議。
 - (b) 對該行為人的指示，包括矯正該行為的措施，或其他國家消費者署授權的官員認為有助於行為矯正的

that each (if any) director of the body and person employed by it whose duties included making decisions that, to a significant extent, could have affected the management of the body, and any other person who purported to act in any such capacity at the material time, consented to the doing of that act or the engaging in of that practice.

Chapter 3 Compliance Notices

75.—

- (1) In this section “prohibited act or practice” does not include a contravention of a regulation under section 57 (respecting price display regulations).
- (2) An authorised officer who is of the opinion that a person is committing or engaging in, or has committed or engaged in, a prohibited act or practice or is contravening or has contravened an enactment specified in Schedule 5 may serve, personally or by post, a written notice on that person (a “compliance notice”).
- (3) A compliance notice shall be signed and dated by the authorised officer and shall—
 - (a) contain a statement of the alleged contravention (identifying the relevant enactment), the opinion referred to in subsection (2) and the reasons for that opinion,
 - (b) direct the person to remedy the contravention or the matters occasioning that notice, including any other

方式（法規遵循指導與要求）。

- (c) 行為人必須完成法規遵循指導和要求的日期。
- (d) 行為人得在收到通知後14天內向地方法院提出申訴的說明。提供的資訊應包括：
 - (i) 申訴的形式與方式。
 - (ii) 根據第6項規定，知會國家消費者署的方式。
- (e) 如果申訴不根據本條規定時限之效果。
 - (i) 通知書的內容將被視為屬當事人所不爭執者。
 - (ii) 當事人將被視為接受通知書，並且同意其法規遵循指導與要求。
 - (iii) 任何拒絕或未能遵照其指導與要求為矯正行為者，將被視為犯罪，依簡易程序定罪，並得依本法第4章規定課處罰金與刑罰。
- (4) 根據第3項記載之日期不應早於申訴截止日期最後的日期。
- (5) 如果收到法規遵循通知書的行為人對通知書的內容有異議者，得在收到通知書後不超過14日內，以通知書記載

- requirement that the authorised officer considers appropriate in order to remedy the contravention or matter (the “compliance direction and requirements”),
- (c) specify the date by which the person is to comply with the compliance direction and requirements,
 - (d) contain a statement that the person may appeal the notice to the District Court within 14 days after service of the notice, including information specifying—
 - (i) the form and manner of such an appeal, and
 - (ii) the service address of the Agency for purposes of notifying the Agency under subsection (6),
 and
 - (e) contain a statement that, if an appeal is not made in accordance with this section and within the time specified in paragraph (d), then—
 - (i) the notice will be treated as not disputed,
 - (ii) the person will be deemed to have accepted the notice and have agreed to comply with the compliance direction and requirements, and
 - (iii) any failure or refusal to so comply is an offence and, on summary conviction, the person will be liable to the fine and penalties set out in Chapter 4.
- (4) The date specified under subsection (3)(c) shall not be earlier than the end of the period within which an appeal may be made under subsection (5).
- (5) If the person on whom the compliance notice is served wishes to dispute the notice, the person may, no later than

的形式，向發出通知書所在地之地方法院提起申訴

- (6) 收到法規遵循通知書的行為人根據第5項提起申訴時，應在同一時間告知國家消費者署其提起申訴的事實與理由，國家消費者署應出席法院就該申訴舉辦聽證會，聽取並提出證據。
- (7) 根據本條決定是否接受申訴時，法院得根據其認為合理的方式，確認、修改或撤消法規遵循通知書之要求。
- (8) 如果申訴後法院並未撤銷法規遵循通知書者，通知書將於以下期日經過後生效：
 - (a) 通知書經法院確認有效或修改後之次日。
 - (b) 如果申訴者目的在撤銷此通知書，撤銷日期之次日。
 - (c) 通知書所載之日期。
- (9) 如果行為人未根據本條第5項提出申訴時，通知書將於以下期日經過後生效：
 - (a) 行為人收到通知第14天後。
 - (b) 通知書所載之日期。
- (10) 經授權的國家消費者署官員得為以下之回應：
 - (a) 在任何時間點撤銷已寄出的法規遵循通知書。
 - (b) 如果沒有人根據本條第5項提出申訴，或申訴書仍在效力等待期間者，可延長本條第3c項規定之日期。

- 14 days after the notice is served and in accordance with this section and in the form and manner specified in the notice, appeal the notice to a judge of the District Court in the district court district in which the notice was served.
- (6) A person who appeals under subsection (5) shall at the same time notify the Agency of the appeal and the grounds for the appeal and the Agency shall be entitled to appear, be heard and adduce evidence on the hearing of the appeal.
- (7) In determining an appeal under this section, the judge may confirm, vary or cancel the compliance notice, if satisfied that it is reasonable to do so.
- (8) If on appeal the compliance notice is not cancelled, the notice takes effect on the later of the following:
- (a) the day after the day on which the notice is confirmed or varied on appeal;
 - (b) if the appeal is withdrawn by the appellant, the day after the day it is withdrawn;
 - (c) the day specified in the notice.
- (9) If there is no appeal under subsection (5), the compliance notice takes effect on the later of the following:
- (a) 14 days after the notice is served on the person;
 - (b) the day specified in the notice.
- (10) An authorised officer may—
- (a) withdraw a compliance notice at any time, or
 - (b) if no appeal is made or pending under subsection (5), extend the date specified in the notice under subsection (3)(c).

- (11) 行為人如果其無合理理由，而未能遵照法規遵循通知書中所載的法規遵循指導與要求以矯正其行為者，將構成犯罪，依簡易程序定罪，並依本法第4章規定課處罰金與刑罰。
- (12) 根據本條第10項規定撤銷法規遵循通知書，並不意味國家消費者署不得另寄發新的法規遵循通知書，不論是否針對相同事項。
- (13) 法規遵循通知書根據本條規定生效時，國家消費者署應對外公佈其內容，或以國家消費者署認為適合的形式與方式，使其被公布。
- (14) 本條規定不影響政府對違法行為發動訴訟程序。

第四章 刑事訴訟

第七十六條 發動訴訟時效之限制

除非其他法規對訴訟程序的發動另有期限規定，否則根據本法，對違法行為的告訴、告發應限制在相關違法行為作成日後之2年內。

七十七條 法人團體之違法責任

- (1) 如果法人團體違反本法所定之行為規範，但能被證明事前經過其首長、管理者、執行秘書或其他具管理權限者、或提議為該行為者（以下簡稱「相關人等」）之同

- (11) A person commits an offence who, without reasonable excuse, fails to comply with a compliance direction or requirement specified in a compliance notice and, on summary conviction, is liable to the fines and penalties provided in Chapter 4.
- (12) Withdrawal of a compliance notice under subsection (10) does not prevent the service of another compliance notice, whether in respect of the same matter or a different matter.
- (13) If a compliance notice takes effect in accordance with this section, the Agency shall publish the compliance notice, or cause it to be published, in any form or manner the Agency considers appropriate.
- (14) Nothing in this section prevents the commencement of proceedings for an offence.

Chapter 4 Criminal Proceedings

76.—

Notwithstanding any provision in any enactment specifying the period within which proceedings may be commenced, a prosecution for an offence under this Act may be brought at any time within 2 years after the date of the alleged commission of the offence.

77.—

- (1) If an offence under this Act is committed by a body corporate and is proved to have been committed with the consent, connivance or approval of, or to have been

意、默許或核可，或可歸因於其疏忽時，前述相關人等與該法人團體將共同被視為有罪，應同受處罰。

- (2) 根據第1項規定提起的訴訟程序中，如果能證明行為人曾擔任法人團體之首長，或曾任有決定權限之管理職，對管理階層之決定或對行為之提議可能有影響力時，除非有相反的證據，否則應推定行為人所為之違法行為為得到相關人等之同意。
- (3) 第2項規定應被解讀為，賦予行為人對相關涉案不存在之事實負舉證之責任。
- (4) 如果法人團體之事務係由其會員負責維持營運者，第1項與第2項規定中對管理者之要求，在該行為人（會員）曾擔任過會長或管理職時，適用於該行為人（會員）。
- (5) 如果法人團體違反本法所定之行為規範，受聘雇者、職員、首長或團體之代理人曾授權、許可或默許相關違法行為之進行者，將被視為犯罪，不論該法人團體是否因此被提起告訴。

attributable to any neglect on the part of any person being a director, manager, secretary or any other officer of the body corporate or a person purporting to act in any such capacity, that person, as well as the body corporate, is guilty of an offence and is liable to be proceeded against and punished as if that person were guilty of the first-mentioned offence.

- (2) If, in a prosecution for an offence against the person referred to in subsection (1), it is proved that, at the material time, the person was a director of the body corporate or an employee of it whose duties included making decisions that, to a significant extent, could have affected the management of the body corporate, or a person who purported to act in any such capacity, it shall be presumed, until the contrary is shown, that the person consented to the doing of the acts or defaults that constitute the offence.
- (3) Subsection (2) shall be read as placing on the person referred to in that subsection an evidential burden only with respect to the matter or matters concerned.
- (4) If the affairs of a body corporate are managed by its members, subsections (1) and (2) apply in relation to the acts or defaults of a member in connection with the member's functions of management as if that member were a director or manager of the body corporate.
- (5) If a body corporate commits an offence under this Act, an employee, officer, director or agent of the body corporate who authorises, permits or acquiesces in the commission of the offence also commits an offence, whether or not the

- (6) 根據本法規定提起的訴訟程序中，不論相關人等的身份有否被辨識出，或有無因此被提告，受聘僱者、職員、首長或代理人之一者的自白或認罪，得作為判決是否有罪的證據。
- (7) 當被告主張已盡其應盡之努力的情況下，第6項規定不適用之。

第七十八條 已盡努力之抗辯

- (1) 根據本法規定提起的訴訟程序，除了第65條第2項之犯罪外，被告得以證明同時有以下之情事，以為無罪之防禦：
 - (a) 違法行為之作成係由於疏忽、依賴被他人提供之資訊、意外、或其他超過被告所能控制外的原因。
 - (b) 且被告以盡其應盡之努力，並採取所有合理的措施去警告、防止該違法行為。
- (2) 如果防禦之理由係以前項「依賴被他人提供的資訊」為之者，除非被告在法院聽取證據期日前不超過7日內，以書面聲明，將可協助辨別資料提供者身份的資訊提供檢察官調查，否則不得以之為判決無罪之理由。

body corporate is prosecuted for the offence.

- (6) In a prosecution for an offence under this Act, it is sufficient proof of the offence to establish that it was committed by an employee, officer, director or agent of the defendant, whether or not the employee, officer, director or agent is identified or has been prosecuted for the offence.
- (7) Subsection (6) does not apply if the defendant establishes that the defendant exercised due diligence to prevent the commission of the offence.

78.—

- (1) In proceedings for an offence under this Act, other than an offence under section 65(2), it is a defence for the accused to prove both of the following:
 - (a) commission of the offence was due to a mistake or the reliance on information supplied to the accused or to the act or default of another person, an accident or some other cause beyond the accused's control;
 - (b) the accused exercised due diligence and took all reasonable precautions to avoid commission of the offence.
- (2) If the defence provided by subsection (1) involves the allegation that the commission of the offence was due to reliance on information supplied by another person or to the act or default of another person, the accused shall not, without leave of the court, be entitled to rely on that defence unless, not less than 7 working days before the hearing, the accused has served on the prosecutor written notice

第七十九條 罰金與刑罰

- (1) 除了第65條第2項之犯罪外，行為人違反本法之規定、屬應依簡易程序定罪者，應處以下罰金或刑罰：
 - (a) 初犯者，處罰不超過3,000元罰金，或不超過6個月徒刑，或兩者俱罰。
 - (b) 對同一犯罪事實持續再犯者，或根據本法所定的其他犯罪（不包括第65條第2項之犯罪者），處罰不超過5,000元罰金，或不超過12個月徒刑，或兩者俱罰。
- (2) 根據第1項規定處罰後，持續違反法規遵循要求或仍為禁止的行為，而該行為屬依簡易程序定罪者，應按日處罰，每日不超過500元，直到其停止。
- (3) 除相關條文中已有排除條款者，行為人違反本法之規定、屬應依公訴程序定罪者，應處以下罰金或刑罰：
 - (a) 初犯者，處罰不超過6,000元罰金，或不超過18個月徒刑，或兩者俱罰。

providing information identifying or assisting in the identification of that other person.

79.—

- (1) A person guilty of an offence under this Act (other than an offence under section 65(2)) is liable on summary conviction to the following fines and penalties:
 - (a) on a first summary conviction for any such offence, to a fine not exceeding €3,000 or imprisonment for a term not exceeding 6 months or both;
 - (b) on any subsequent summary conviction for the same offence or any other offence under this Act (other than an offence under section 65(2)), to a fine not exceeding €5,000 or imprisonment for a term not exceeding 12 months or both.
- (2) If, after being convicted of an offence, the person referred to in subsection (1) continues to contravene the requirement or prohibition to which the offence relates, the person is guilty of a further offence on each day that the contravention continues and for each such offence is liable on summary conviction to a fine not exceeding €500.
- (3) A person guilty of an offence under this Act (other than an offence under any of the excluded sections) is liable on conviction on indictment to the following fines and penalties:
 - (a) on a first conviction on indictment for any such offence, to a fine not exceeding €60,000 or imprisonment for a term not exceeding 18 months or both;

- (b) 對同一犯罪事實持續再犯者，或根據本法所定的其他犯罪（除相關條文中已有排除條款者），處罰不超過100,000元罰金，或不超過34個月徒刑，或兩者俱罰。
- (4) 第3規定所稱之「排除條款」，意指第30條第11、12、15項，第32條第3項、第48條第5項、第49條第3項、第51條第1、2項、第58條、第59條第3項、第60條第2項、第65條第2項、第69條第4項、第75條第11項、第101條第5項。
- (5) 若被判決有罪後，第3項規定之行為人持續違反法規遵循要求或仍為禁止的行為，應持續按日根據以下規定處罰：
- (a) 依簡易程序判決者，每日處罰不超過500元罰金。
- (b) 依公訴程序判決者，每日處罰不超過10,000元罰金。
- (6) 行為人違反第65條第2項者，依簡易程序判決，處罰不超過150,000元罰金，或不超過5年徒刑，或兩者俱罰。
- (7) 行為人違反第65條第2項被判決有罪後，行為人持續有違反第65條第1項規定者，應持續按日，依公訴程序判決，處罰每日不超過10,000元罰金。

- (b) on any subsequent conviction on indictment for the same offence or any other offence under this Act (other than an offence under any of the excluded sections), to a fine not exceeding €100,000 or imprisonment for a term not exceeding 24 months or both.
- (4) In subsection (3) “excluded sections” means sections 30(11), (12) and (15), 32(3), 48(5), 49(3), 51(1) and (2), 58, 59(3), 60(2), 65(2), 69(4), 75(11) and 101(5).
- (5) If, after being convicted of an offence, the person referred to in subsection (3) continues to contravene the requirement or prohibition to which the offence relates, the person is guilty of a further offence on each day that the contravention continues and for each such offence is liable—
- (a) on summary conviction, to a fine not exceeding €500, and
- (b) on conviction on indictment, to a fine not exceeding €10,000.
- (6) A person guilty of an offence under section 65(2) is liable on conviction on indictment to a fine not exceeding €150,000 or imprisonment for a term not exceeding 5 years or both.
- (7) If, after being convicted of an offence under section 65(2), a person continues to contravene section 65(1), the person is guilty of a further offence on each day that the contravention continues and for each such offence is liable on conviction on indictment to a fine not exceeding €10,000.

- (8) 企業經營者有違反第47條、第51條第2項或第56條之行為，應根據本法規定考量適合的刑罰時，法院得將刊登廣告、以企業經營者之名發布任何更正性陳述、或對禁止行為的矯正措施等納入刑罰方式之考量。
- (9) 本法規定事項之違反，有1967年刑事訴訟法第13條適用之餘地，除非以下對罰金與刑罰之規定已經為1967年刑事訴訟法第13條第3a項所排除：
- (a) 為本法之初犯者，被告應處不超過不超過3,000元罰金，或不超過6個月徒刑，或兩者俱罰。
- (b) 如果不是本法之初犯，被告不超過5,000元罰金，或不超過12個月徒刑，或兩者俱罰。

第八十條 訴訟程序與調查程序費用之負擔

- (1) 行為人違反本法之規定，除非有其他特殊或重要的原因，否則法院應令被告支付因展開訴訟程序與調查程序所產生之費用予國家消費者署，給付之額度與方式，由法院決定之。
- (2) 根據第1項所為之命令，為罰金或刑罰以外，法院對被

- (8) In considering an appropriate penalty under this section for a trader convicted of an offence under section 47, 51(2) or 56, the court may take into consideration any advertisement published by or on behalf of the trader containing corrective statements to remedy the prohibited act or practice in respect of which the trader is convicted.
- (9) Section 13 of the Criminal Procedure Act 1967 applies in relation to an offence under this Act except that the following range of fines and penalties are to be substituted for those provided in section 13(3)(a) of the Criminal Procedure Act 1967:
 - (a) if it is a first conviction for an offence under this Act, the accused is liable to a fine not exceeding €3,000 or imprisonment for a term not exceeding 6 months or both;
 - (b) if it is not a first conviction for an offence under this Act, the accused is liable to a fine not exceeding €5,000 or imprisonment for a term not exceeding 12 months or both.

80.—

- (1) On convicting a person of an offence under this Act, the court shall, unless satisfied that there are special and substantial reasons for not so doing, order the person to pay to the Agency the costs and expenses, measured by the court, incurred by the Agency in relation to the investigation, detection and prosecution of the offence.
- (2) An order for costs and expenses under subsection (1) is in

告附加之義務。

第八十一條 補償消費者的損失或損害

(1) 除了第65條第2項之犯罪外，行為人違反本法之規定，國家消費者署得在取得被侵權消費者之同意後，以其名義向法院申請命令（補償命令），要求企業經營者給付金錢，以補償消費者因企業經營者的違法行為所致的任何損失或損害。金錢的額度，由法院衡量後決定之。

(2) 補償命令得被視為得對罰金或刑罰之替換，亦可被視為是法院對違法的企業經營者附加之義務。

(3) 根據補償命令所為之給付：

(a) 其額度，由法院在不逾越法律規定、司法審判權限定之範疇，衡量證據與企業經營者、被侵權消費者與國家消費者署或檢察官商議之結果，衡量決定之。

(b) 賠償額度不應超過填補損失之範圍。

(4) 如果被侵權的消費者根據本法第74條，已向企業經營者

addition to and not instead of any fine or penalty the court may impose.

81.—

- (1) If a trader is convicted of an offence under this Act (other than an offence under section 65(2)), the Agency may, on behalf of an aggrieved consumer who consents to the application, apply to the court for an order (a “compensation order”) requiring the trader (the “trader concerned”) to pay an amount of money the court considers appropriate compensation in respect of any loss or damage to that consumer resulting from that offence.
- (2) A compensation order may be instead of or in addition to any fine or penalty the court may impose on the trader concerned.
- (3) The compensation payable under a compensation order—
 - (a) shall be of such amount as the court considers appropriate (though not exceeding the amount set by law as the limit of the court’s jurisdiction in tort), having regard to any evidence and to any submissions made by or on behalf of the trader concerned, the aggrieved consumer, the Agency or the prosecutor, and
 - (b) shall not exceed the amount of the damages that, in the opinion of the court, the aggrieved consumer would be entitled to recover in an action under section 74 (respecting a consumer’s right of action for damages) in respect of the same prohibited act or practice.
- (4) An application shall not be made under subsection (1) if the

提出訴訟者，不應再根據第1項為請求。

(5) 如果企業經營者已根據補償命令給付補償金予消費者後，被侵權的消費者再根據本法第74條對企業經營者提起訴訟，並獲法院同意其損害賠償請求時，依補償命令給付之金額視同損害賠償之給付。

(6) 如果企業經營者拒絕根據補償命令為給付時：

(a) 法院得指定時間限期改進。

(b) 如果補償命令中未載明日期者，命令作成後30日內，被侵權的消費者得向地方法院或巡迴審判法庭提出執行命令之聲請。法院如認為合適者，得以該地方法院或申請地地方法院為執行法院。

(7) 根據第6項規定向法院提出之聲請，應依民事訴訟程序為之，經法院核准後，可對企業經營者強制執行之。

第八十二條 刊登更正性聲明

(1) 本條規定適用於以下狀況：

aggrieved consumer has brought an action under section 74 against the trader concerned and the action is in respect of the same prohibited act or practice for which the trader concerned is convicted.

- (5) If the amount of compensation payable under a compensation order is paid to the aggrieved consumer under this section and the consumer subsequently commences an action under section 74 and is awarded damages by the court in respect of the same prohibited act or practice, the compensation order is deemed to be in satisfaction of so much of the awarded damages as is equal to the first-mentioned amount.
- (6) If the trader concerned does not comply with a compensation order—
 - (a) within the time ordered by the court, or
 - (b) within 30 days after the order is made, if no time is specified in the order,
 the aggrieved consumer may enter judgment in the District Court or, as appropriate, the Circuit Court by filing the order with that court in the District Court district or, as appropriate, the circuit where the conviction was entered.
- (7) A judgment entered in the District Court or the Circuit Court under subsection (6) is enforceable against the trader concerned in the same manner as if it were a judgment rendered in that court in civil proceedings.

82.—

- (1) This section applies to a person—

- (a) 違反第47條有關誤導性商業行為、第56條有關禁止的商業行為、或第65條第2項有關多層次傳銷機制之規定者。
 - (b) 違反第70條第1項有關因他人之作為或不作為導致之違法責任。
- (2) 行為人有違反本法規定之事由，經國家消費者署請求，法院得於罰金與刑罰之外，以命令要求被告根據法院認為適合的形式與方式，於新聞媒體刊登聲明，說明犯罪之事實與更正之舉措。其費用由被告負擔。
- (3) 法院得在國家消費者署請求的基礎上，詳細規定聲明刊登的形式與方式，並對聲明之內容給予指示。

第八十三條 刑事普通程序簡易審

- (1) 行為人有違反本法規定之事由，地區法院得向當事人說明以下情事：
- (a) 法院根據事實之判斷，案件侵權之情節輕微，適合以簡易審判方式處理。
 - (b) 法院向被告告知，其權利之保護不致因為簡易審或普通審而有異。

- (a) convicted of an offence under section 47 (respecting misleading commercial practices), 56 (respecting prohibited commercial practices) or 65(2) (respecting pyramid promotional schemes), or
 - (b) convicted of such an offence pursuant to section 70(1) (respecting offences of traders due to act or default of another person).
- (2) On conviction of the person to whom this section applies and on application of the Agency, the court may, in addition to any fine or penalty imposed, order the person to publish, at the person's expense and in any manner the court considers appropriate, the facts relating to the commission of the offence and a corrective statement in respect of those facts.
- (3) The court may, based on the submissions of the Agency in the application and as the court considers appropriate, specify the form and content of the corrective statement or give any directions in respect of the publication of that statement.

83.—

- (1) If a person is indicted for an offence under this Act, the District Court may try the person summarily if—
- (a) the court is of opinion that the facts proved or alleged constitute a minor offence fit to be tried summarily,
 - (b) the accused, on being informed by the court of his or her right to be tried with a jury, does not object to being tried summarily, and

- (c) 地區公共檢察官同意以簡易程序起訴。
- (2) 違反第65條第2項，並為法院根據本條第1項規定以簡易程序宣判有罪者，得適用以下之規定：
 - (a) 被告應課處以下的罰金與刑罰：
 - (i) 本法之初犯者，處罰不超過3,000元罰金，或不超過6個月徒刑，或兩者俱罰。
 - (ii) 本法之再犯者，處罰不超過5,000元罰金，或不超過12個月徒刑，或兩者俱罰。
 - (b) 本法第80條有關訴訟程序與調查程序費用之負擔規定。
 - (c) 本法第82條有關刊登更正性聲明規定。
- (3) 根據第2項規定判決後，若被告持續有違反第65條第1項之行為者，應持續按日根據以下規定處罰：
 - (a) 依簡易程序判決者，每日處罰不超過500元罰金。
 - (b) 依公訴程序判決者，每日處罰不超過10,000元罰金。
- (4) 除了第65條第2項之犯罪外，任何違反本法之行為，並為法院根據本條第1項規定以簡易程序宣判有罪者，得適用以下之規定：
 - (a) 被告應被課以第79條第1項之罰金與刑罰。

- (c) the Director of Public Prosecutions consents to the accused being tried summarily for the offence.
- (2) On conviction by the court for an offence under section 65(2) that is tried summarily under subsection (1), the following apply:
 - (a) the accused is liable to the following fines and penalties:
 - (i) if it is a first conviction for an offence under this Act, to a fine not exceeding €3,000 or imprisonment for a term not exceeding 6 months or both;
 - (ii) if it is not a first conviction for an offence under this Act, to a fine not exceeding €5,000 or imprisonment for a term not exceeding 12 months or both;
 - (b) section 80 (respecting liability for costs and expenses of proceedings and investigation);
 - (c) section 82 (publication of a corrective statement).
- (3) However, if after conviction referred to in subsection (2), the accused continues to contravene section 65(1), the accused is guilty of a further offence on each day that the contravention continues and for each such offence is liable—
 - (a) on summary conviction, to a fine not exceeding €500, and
 - (b) on conviction on indictment, to a fine not exceeding €10,000.
- (4) On conviction by the court for any offence that is tried summarily under subsection (1) other than an offence under section 65(2), the following apply:
 - (a) the accused is liable to the fines and penalties described

(b) 本法第80條有關訴訟程序與調查程序費用之負擔規定。

(c) 本法第82條有關刊登更正性聲明規定。

第八十四條 簡易訴訟程序之聲請

除了第65條第2項之外，違反本法之行為得由國家消費者署決定是否聲請適用簡易訴訟程序。

第五章 定額賠償通知

第八十五條 定額賠償通知之適用

(1) 本條規定適用於任何違反以下規定之行為者（以下簡稱「相關違法行為」）：

(a) 第58條（有關價格標示法規）；

(b) 1958年價格法第22條(a)或(b)（有關價格標示形式）；

(c) 2002年歐盟規章（標示產品價格要求）第4條(3), 第5條(5), 或第7條(2) (S.I. No. 639 of 2002).

(2) 在合理認為任何個人正違反或已違反相關規定之下，授權官員得以開立或郵寄第(3)款所述通知給該個人。

(3) 通知（「固定付款通知」）應具備下列各項情事：

- in section 79(1) (respecting fines and penalties);
- (b) section 80 (respecting liability for costs and expenses of proceedings and investigation);
- (c) section 82 (publication of a corrective statement).

84.—

Summary proceedings for an offence under this Act, except an offence under section 65(2), may be brought and prosecuted by the Agency.

Chapter 5 Fixed Payment Notices

85.—

- (1) This section applies in respect of any offence under the following enactments (in this section referred to as a “relevant offence”):
 - (a) section 58 (respecting price display regulations);
 - (b) section 22(a) or (b) of the Prices Act 1958 (respecting price display orders);
 - (c) Regulation 4(3), 5(5), 6(3) or 7(2) of the European Communities (Requirements to Indicate Product Prices) Regulations 2002 (S.I. No. 639 of 2002).
- (2) An authorised officer who has reasonable grounds for believing that a person is committing, or has committed, a relevant offence may serve, personally or by post, the notice referred to in subsection(3) on the person.
- (3) The notice (“fixed payment notice”) shall be in the

- (a) 當事人被控違反相關規定；
- (b) 被控犯罪的時間與地點；
- (c) 以通知日起算28日內，如當事人繳付300元，並連同通知正本或影本寄回 Agency (通知單上地址)，即撤銷對當事人之告訴；以及

- (d) 如當事人拒繳款項，即會遭受起訴控告。

- (4) 第 (3) 款所述款項應連同固定付款通知正本或影本一併繳納。

- (5) 如個人被開發固定付款通知：
 - (a) 該個人得以循前述第 (3) 款 (c) 項方式繳納款項；
 - (b) the Agency 應接收留存此款項 (依第 (7) 款規定) 並開立收據；
 - (c) 款項一經繳納，概不退還當事人；以及
 - (d) 在第 (3) 款 (c) 項規定的期限內，或款項已依第 (3) 款 (c) 項及第 (4) 款規定繳納完畢時，該告訴即獲撤銷。

prescribed form and state—

- (a) that the person on whom it is served is alleged to have committed the relevant offence concerned,
 - (b) when and where it is alleged to have been committed,
 - (c) that a prosecution for it will not be instituted if, during the period of 28 days beginning on the date of the notice, the person pays the amount of €300 to the Agency (at the address stated in the notice) and submits the original or a copy of the fixed payment notice together with that payment, and
 - (d) that in default of such payment, the person will be prosecuted for the alleged relevant offence.
- (4) A payment referred to in subsection (3) shall be accompanied by the original or a copy of the fixed payment notice concerned.
- (5) If a fixed payment notice is served on a person—
- (a) the person may make a payment in accordance with subsection (3)(c),
 - (b) the Agency shall receive and retain the payment (subject to subsection (7)) and issue a receipt for it,
 - (c) any payment received shall not be recoverable by the person who made it, and
 - (d) a prosecution in respect of the alleged relevant offence to which the notice relates shall not be instituted during the period specified in subsection (3)(c) or, if a payment is made in accordance with subsections (3)(c) and (4), at all.

- (6) 當展開控訴個人之訴訟程序時，如無任何反證，該個人即視同未依第(3)款(c)項及第(4)款規定繳納款項。
- (7) 國家消費者署應將據此條規定所收納之款項，如財政部長般視審計長之需求，交付國庫或花掉。

第六章 企業經營者名稱之公布 (消費者保護清單)

第八十六條 對特定人士之資訊公告

- (1) 如企業經營個人有下列情事，國家消費者署得保留一份紀錄該個人名稱、地址、商號、職稱及第(2)款所規定細節的清單(「消費者保護清單」)：
 - (a) 經法院裁定罰鍰罰款，或經由第81條判決應賠償給付消費者之個人；
 - (b) 被判違反第71條之個人(有關公共賠償之禁止條款)；
 - (c) 任何在73條規範下對 Agency 有承諾義務之個人；
 - (d) 任何接獲第75條第(7)或(8)款規定之強制命令的個人(關於法規遵循命令)；

- (6) In proceedings against a person for a relevant offence it shall be presumed, until the contrary is shown, that the person did not make payment in accordance with subsections (3)(c) and (4).
- (7) Payments received by the Agency under this section shall be paid into or disposed of for the benefit of the Exchequer in such manner as the Minister for Finance directs.

Chapter 6 Publication of Trader Names (Consumer Protection List)

86.—

- (1) The Agency shall keep and maintain a list (the “consumer protection list”) of names and addresses of the following persons, together with a description of their trade, business or profession and the particulars described in subsection (2):
 - (a) any person on whom a fine or other penalty was imposed by a court under the relevant statutory provisions or who was required, by an order under section 81, to pay an amount of money to a consumer;
 - (b) any person against whom an order is made under section 71 (respecting civil relief by way of prohibition orders);
 - (c) any person who gives an undertaking to the Agency under section 73;
 - (d) any person against whom a compliance notice takes effect under section 75(7) or (8) (respecting compliance notices);

- (e) 任何在第85條規定下接獲固定付款通知並繳納款項之個人。
- (2) 國家消費者署應視情況需要，針對消費者保護清單之個人，列舉下列細節：
 - (a) 法院判決個人罰款之金額與名目；
 - (b) 法院判決個人之事由與名目；
 - (c) 在本法規定下，個人應給予國家消費者署承諾義務之事由；
 - (d) 在本法規定下，個人受強制命令之事由；
 - (e) 在本法規定下，個人受固定付款通知之事由。
- (3) 國家消費者署得視時地情況公佈整份或部分消費者保護清單。

第六編 其他

第八十七條 對揭密報告者的保護

- (1) 除本條規範外，任何為告發行為之個人，不應因其以書面或其他方式向國家消費者署舉發下列情事而蒙受損失，除經證實該告發者不合理捏造事端並惡意告發：

- (e) any person who makes payment to the Agency pursuant to a fixed payment notice under section 85.
- (2) The consumer protection list shall specify, in relation to each person named in the list, any particulars the Agency considers appropriate in respect of the following:
 - (a) the matter occasioning any fine or penalty imposed on the person by the court and the amount or nature of that fine or penalty;
 - (b) the matter occasioning any order made by the court against the person and the nature of that order;
 - (c) the matter occasioning any undertaking given to the Agency by the person under this Act;
 - (d) the matter occasioning any compliance notice served on the person under this Act;
 - (e) the matter occasioning any fixed payment notice under this Act.
- (3) The Agency may, at any time and in any form or manner the Agency considers appropriate, publish or cause to be published all or any part of the consumer protection list.

PART 6 Miscellaneous

87.—

- (1) A person who, apart from this section, would be so liable shall not be liable in damages in respect of the communication, whether in writing or otherwise, by the

- (a) 已完成或正在進行之違法行為。或
 - (b) 任何禁止性質的法規條例沒有被確實遵守。
- (2) 第1項所稱之蒙受損失，應包含其作為賠償對象之損害。
- (3) 如受雇者出於合理推測並以書面或其他方式善意向國家消費者署舉發第1項規定所列情事時，雇主不應對其做任何懲處。
- (4) 工作排程6應具備效力，以維護第(3)款規定。
- (5) 任何人明知其為不實而舉發其他人以下列情事，將構成犯罪，依公訴程序或簡易程序判決，並依第5編第4章規定可處罰金與刑罰：
- (a) 已完成或正在進行違法情事，或
 - (b) 無確實遵守相關規範。

- person to the Agency of the person's opinion that—
- (a) an offence under any of the relevant statutory provisions has been or is being committed, or
 - (b) any of the relevant provisions that prohibits a person from doing a particular thing or things has not been or is not being complied with,
unless it is proved that the person has not acted reasonably and in good faith in forming that opinion and communicating it to the Agency.
- (2) The reference in subsection (1) to liability in damages shall be construed as including a reference to liability to be the subject of an order providing for any other form of relief.
 - (3) An employer shall not penalise an employee for having formed an opinion of the kind referred to in subsection (1) and communicated it, whether in writing or otherwise, to the Agency if the employee has acted reasonably and in good faith in forming that opinion and communicating it to the Agency.
 - (4) Schedule 6 shall have effect for the purposes of subsection (3).
 - (5) A person who states to the Agency that a person—
 - (a) has committed or is committing an offence under any of the relevant statutory provisions, or
 - (b) has failed or is failing to comply with any of the relevant statutory provisions,

- (6) 本條第1項規定，並不賦予任何人在法定訴訟程序中享有任何特權。其他在本法施行前，規範人與人溝通對話之法規條例（不管對造是否具國家消費者署成員身份），應受本條第1項拘束。

第八十八條 對國家消費者署檢視命令之自願性承諾

- (1) 依據本條規定，任何代表一或多個企業經營者之自然人應呈交國家消費者署一份工作守則，以供其審核同意。
- (2) 工作守則應以國家消費者署規定的形式呈交。
- (3) 依本條呈交守則之個人應提供國家消費者署任何依第4項規定，國家消費者署認為需要的資訊。
- (4) 如守則確實維護消費者利益並無任何違反本法或其他法規之情事，國家消費者署得核准該守則。
- (5) 經國家消費者署核准之工作守則，如無國家消費者署同意，不得擅自修正。第(3)與第(4)款經適當修正後，適用於此項規定。

knowing that statement to be false commits an offence and is liable on conviction on indictment or on summary conviction, as the case may be, to the fines and penalties provided in Chapter 4 of Part 5.

- (6) Subsection (1) is in addition to, and not in substitution for, any privilege or defence available in legal proceedings, by virtue of any enactment or rule of law in force immediately before the commencement of this section, in respect of the communication by a person to another (whether that other person is the Agency or not) of an opinion of the kind referred to in paragraph (a) or (b) of subsection (1).

88.—

- (1) Subject to this section, a person representing one or more traders may submit a code of practice to the Agency for its review or approval.
- (2) The code of practice shall be submitted in the form and manner specified by the Agency.
- (3) The person submitting a code of practice for approval under this section shall provide the Agency with any information the Agency considers necessary or appropriate for the purposes of subsection (4).
- (4) If satisfied that the code of practice protects consumer interests and is not inconsistent with this Act or any other enactment, the Agency may approve the code of practice.
- (5) A code of practice approved by the Agency may not be amended without approval of the proposed amendments by the Agency and, for this purpose, subsections (3) and (4)

- (6) 由國家消費者署審核批可的工作守則或其任何內容之修正，均應以書面方式為之。
- (7) 國家消費者署得根據本條規定撤銷對工作守則的核可，如果國家消費者署認為，行為守則的全部或一部、或修正之內容屬無法執行，或未能達到保護消費者利益，或與本法、其他法規條例之精神有違者。
- (8) 國家消費者署得延遲向法院提出申訴，或法院得延遲聽取根據第71條聲請核發之禁止命令，或根據第74條聲請之消費者損害賠償案件，直到訴訟程序中所有的方式均已用盡。

第八十九條 行為守則於訴訟程序的有效性

不論是否根據本法第88條核可通過，如果行為守則之內容與引發訴訟之問題有關者，任何提交於法院的行為守則，屬有

apply with the necessary modifications.

- (6) The approval by the Agency of a code of practice or any amendments to such code shall be in writing.
- (7) The Agency may withdraw any approval under this section if the Agency is of the opinion that, in the implementation or operation of all or part of an approved code of practice or amendment to it, such code, part or amendment fails to protect consumer interests or is in any manner inconsistent with this Act or any other enactment.
- (8) If—
 - (a) it is alleged that a trader who is a signatory to a code of practice with the approval of the Agency under this section has contravened this Act or a complaint is made to the Agency in relation to a commercial practice of that trader, and
 - (b) the approved code of practice referred to in paragraph (a) provides for procedures or a means of handling or considering such contraventions or complaints,

then the Agency may defer consideration of the complaint or the court may defer hearing an application for a prohibition order under section 71 (respecting prohibition orders) or an action for damages under section 74 (respecting a consumer's right of action for damages) until the means or procedures referred to in paragraph (b) have been exhausted.

89.—

In any proceedings before a court, a code of practice (whether approved under section 88 or not) is admissible in evidence and, if

效的證據，得作為審判的依據。

第九十條 國家消費者署工作指針

在本條規範下，國家消費者署得依下列任一情事，針對企業經營者或任何代表企業經營者之個人，制定並發佈工作指針：

- (1) 在本條規範下，國家消費者署得依下列任一情事，針對企業經營者或任何代表企業經營者之個人，制定並公告工作指針：
 - (a) 消費者保護或福利相關事項；
 - (b) 對企業經營者之商業行為規範，無論其為一般或特殊、商務或專業範疇之銷售行為；
 - (c) 根據本條第8項第2m款規定對品管方案的草擬、建立與運作；
 - (d) 依據第88條規定，應送國家消費者署審核的施行細則之送呈辦法。
- (2) 在依本條款發佈工作指針之前，國家消費者署得視情況研擬草案並公告審議之。
- (3) 如咸認提案或草案達到保護消費者權益之目的，國家消費者署得酌情以適當的方式公佈之。
- (4) 在不限制第3項規定原則下，國家消費者署得將依本條規定所制訂的工作指針發佈在網際網路上。

any provision of the code is relevant to a question arising in those proceedings, the provision may be taken into account in determining that question.

90.—

- (1) Subject to this section, the Agency may prepare, issue and publish guidelines applicable to traders, or persons representing traders, concerning any of the following:
 - (a) a matter of consumer welfare or protection;
 - (b) a matter of practical guidance to traders in relation to commercial practices, whether generally or in a particular trade, business or professional sector;
 - (c) the establishment, form and operation of quality assurance schemes referred to in section 8(2)(m);
 - (d) the form and manner of submitting codes of practice to the Agency for approval under section 88.
- (2) Before issuing and publishing guidelines under this section, the Agency may prepare draft guidelines and consult with any person, as the Agency considers appropriate.
- (3) If satisfied that proposed or draft guidelines protect consumer interests, the Agency may issue the guidelines and shall cause them to be published in the manner the Agency considers appropriate for the purpose.
- (4) Without limiting the generality of subsection (3), the Agency may publish a copy of guidelines issued by it under this

- (5) 在任何訴訟程序中，依本條規定所建立之工作指針得以作為訴訟依據；如其中任一條款與程序之衍生問題相關，該條款得據以為此問題之依據。
- (6) 任何個人若無法遵循依本款所發佈指針之任一條款，將不得參與任何相關程序。

第九十一條 契約保留條款

根據第 66 條第 1 項規定，如合約涉及任何貨物或服務之供應而違反此法之任一規範，將不得據為合約無效之訴。

第九十二條 現行命令對價格展示規定之例外

- (1) 除第 4 條外，但根據本條第 2 項規定，下列依 1958 年價格法第 19 條以及其他相關條目（特別是第 2 條、第 18 條、第 19 條，及第 22 條到第 28 條）所制定之法規，在此法依本法廢止之前，其效力將予以維持：

- (a) 1973 年價格與售價（含稅）法(S.I. No. 9 of 1973)；
- (b) 1976 年售價（美髮展示）法(S.I. No. 156 of 1976)；
- (c) 1984 年零售價格（餐飲業食物）展示法(S.I. No. 213 of 1984)；
- (d) 1997 年零售價格（汽柴油）展示法(S.I. No. 178 of

section on the internet.

- (5) In any proceedings before a court, guidelines issued and published under this section are admissible in evidence and, if any provision of the guidelines is relevant to a question arising in those proceedings, the provision may be taken into account in determining that question.
- (6) A failure on the part of any person to observe any provision of guidelines issued and published under this section shall not, of itself, render that person liable to any proceedings.

91.—

Subject to section 66(1), a contract for the supply of any goods or the provision of any services shall not be void or unenforceable by reason only of a contravention of any provision of this Act.

92.—

- (1) Notwithstanding section 4 but subject to subsection (2), the following enactments made under section 19 of the Prices Act 1958 (before its repeal under this Act) remain in force for the purposes of this Act and any provision (in particular, sections 2, 18, 19 and 22 to 28) of the Prices Act 1958 that is relevant to the enforcement of those orders remain in force:
 - (a) Prices and Charges (Tax-inclusive Statements) Order 1973 (S.I. No. 9 of 1973);
 - (b) Charges (Hairdressing Display) Order 1976 (S.I. No. 156 of 1976);
 - (c) Retail Price (Food in Catering Establishments) Display Order 1984 (S.I. No. 213 of 1984);
 - (d) Retail Price (Diesel and Petrol) Display Order 1997 (S.I.

1997)；

(e) 1999年零售價格 (營業場所之販售飲料) 展示法(S.I. No. 263 of 1999).

(2) 部長得依規定修正或取消本條第1項所列的各項法規條例。

第九十三條 過渡規定

(1) 除了第4條規定外，下列依1978年消費者資訊法第11條所制定的各項法規，在消費者資訊法依本法廢止之前，其效力將予以維持，並視同為部長依第50條第2項規定所制定，直到部長依該條規定取消或替代之：

(a) 1984年消費者資訊 (廣告) (商業利益洩密) 法 (S.I. No. 168 of 1984)；

(b) 1997年消費者資訊 (娛樂表演廣告) 法(S.I. No. 103 of 1997)；

(c) 2000年消費者資訊 (航空運輸業廣告) 法(S.I. No. 468 of 2000).

(2) 第3條第2項不適用於本條第1項第a到c款之規定。

(3) 在已知的情況之下，2005年詮釋法第26條 規定得適用於廢止1978年消費者資訊法第11條 及其依第50條規範之替代法規。針對法條之適用性，第1項所羅列之細則將一併視為與第50條規則相合。

No. 178 of 1997);

(e) Retail Price (Beverages in Licensed Premises) Display Order 1999 (S.I. No. 263 of 1999).

(2) The Minister may by regulation amend or revoke any order referred to in subsection (1).

93.—

(1) Despite section 4, the following enactments made under section 11 of the Consumer Information Act 1978 (before its repeal by this Act) remain in force and are deemed to have been made as regulations by the Minister under section 50(2) until any such enactment is revoked, substituted by regulation of the Minister under section 50(2) or otherwise ceases to have effect:

(a) Consumer Information (Advertisements) (Disclosure of Business Interests) Order 1984 (S.I. No. 168 of 1984);

(b) Consumer Information (Advertisements for Concert or Theatre Performances) Order 1997 (S.I. No. 103 of 1997);

(c) Consumer Information (Advertisements for Airfares) Order 2000 (S.I. No. 468 of 2000).

(2) Section 3(2) does not apply to the enactments referred to in subsection (1)(a) to (c).

(3) For certainty, section 26 of the Interpretation Act 2005 applies in respect of the repeal of section 11 of the Consumer Information Act 1978 and its substitution by the provisions of section 50 and, for this purpose, the enactments specified in subsection (1) are conclusively deemed to be consistent

- (4) 在已知的情況下，第51條第2項與第69條第1項中關於第50條第2項的規定（見 (b) (iii) 「違反廣告」定義），包括第1項第a到c款規範下的施行細則。

第九十四條 修正1942年中央銀行法

- (1) 本條例中，「1942年法案」指依據2003年與2004年愛爾蘭中央銀行暨金融服務主管機關法所修正之1942年中央銀行法。

- (2) 1942年中央銀行法之第2條第(1)款中，「申訴法庭」定義之前，加入以下條文：

「『Agency』指稱依2007年消費者保護法所成立之國家消費者署」。

- (3) 1942年中央銀行法中第5A條應在其第(3)款後增列下列條款：

(3A) 第(3B)款所臚列Agency之功能，如其與受管轄之金融服務業者之業務相關，亦視同中央銀行功能，以下(3C)至(3F)各款並據此款獲得法律效力。

(3B) 第(3A)款所指Agency之功能，為下列2007年消費者保護法中所制定之功能，即：

- (a) 第8條第(1)、(4)、(5)、(6)款，有關—

with and validly enacted under section 50.

- (4) For certainty, the references in sections 51(2) and 69(1) (in paragraph (b)(iii) of the definition of “contravening advertisement”) to a regulation under section 50(2) include any enactment referred to in subsection (1)(a) to (c).

94.—

- (1) In this section “Act of 1942” means the Central Bank Act 1942, as amended by, amongst other enactments, the Central Bank and Financial Services Authority of Ireland Act 2003 and the Central Bank and Financial Services Authority of Ireland Act 2004.

- (2) Section 2(1) of the Act of 1942 is amended by inserting, before the definition of “Appeals Tribunal”, the following:

“ ‘Agency’ means the National Consumer Agency established by the Consumer Protection Act 2007;”

- (3) Section 5A of the Act of 1942 is amended by inserting the following subsections after subsection (3):

(3A) The functions of the Agency specified in subsection (3B) are, in so far as they relate to a financial service provided by a regulated financial service provider, also functions of the Bank and subsections (3C) to (3F) have effect for the purposes of this subsection.

(3B) The functions of the Agency referred to in subsection (3A) are the following functions of it under the Consumer Protection Act 2007, namely, functions under—

- (a) section 8(1), (4), (5) and (6) of that Act in relation to—

(i) 除第50條之外，第41至56條；以及

(ii) 1995與2000年歐盟規章 (消費合約中不平等規範)

(S.I. No. 27 of 1995 and S.I. No. 307 of 2000)。

(b) 第30、71、72、73、75、81、82、84、86、88、90項。

(3C)第(3A)款在2007年消費者保護法賦予Agency功能之同時，賦予銀行以第(3B)款臚列之功能。

(3D)根據

(a) 在 2007年消費者保護法第21條規範下所達成的任何合作協議中，Agency與銀行將得以順利運作；

(b) 視第(3F)款規定，該法第(3B)款中所有與Agency相關之條文，應包含銀行及其相關規範。

(3E)視第(3F)款規定，2007年消費者保護法第80、85與87項條文關於 Agency之規範，應同時適用於銀行；與Agency相關條文應包含銀行。

- (i) sections 41 to 56 (other than section 50) of that Act, and
 - (ii) the European Communities (Unfair Terms in Consumer Contracts) Regulations 1995 and 2000 (S.I. No. 27 of 1995 and S.I. No. 307 of 2000),
 - and
 - (b) sections 30, 71, 72, 73, 75, 81, 82, 84, 86, 88 and 90 of that Act.
- (3C) Subsection (3A) operates to vest in the Bank, concurrently with the vesting in the Agency of those functions by the Consumer Protection Act 2007, the functions specified in subsection (3B).
- (3D) Accordingly—
- (a) the functions so specified are, subject to any relevant co-operation agreement entered into under section 21 of the Consumer Protection Act 2007, capable of being performed by either the Agency or the Bank, and
 - (b) subject to subsection (3F), references to the Agency in the provisions of that Act specified in subsection (3B) are to be read as including references to the Bank and those provisions otherwise apply.
- (3E) Subject to subsection (3F), sections 80, 85 and 87 of the Consumer Protection Act 2007 apply to the Bank as they apply to the Agency and, accordingly,

- (3F)於2007年消費者保護法第(3B)或(3E)條款規範內的 Agency之相關業務中，無論其形式為通知、送審或其他，如依該法第21項達成任何合作協議，其協議中與Agency 及銀行相關之事項應視為合乎該條文規範。
- (4) 1942年中央銀行法中第33S (2)項第(f)款應由下列各款替代：
- 「(f)2007年消費者保護法;
 - (g) 1995與2000年歐盟規章 (消費合約中不平等規範) (S.I. No. 27 of 1995 and S.I. No.307 of 2000) ;
 - (h) 其它規章中所規範之施行細則與執行命令。」
- (5) 1942年中央銀行法第33AK (3)項第(a)節應於第(iv)段之後增列段落如下: 「(iva) 國家消費者署，或」。
- (6) 1942年中央銀行法表2修正為
- (a) 在第一部份，於2006年投資基金，公司與雜項規定法案插入

references to the Agency in those sections are to be read as including references to the Bank.

- (3F) Where any section of the Consumer Protection Act 2007 specified in subsection (3B) or (3E) provides for anything to be done in relation to the Agency (whether the giving of notice to it, the submitting of a thing to it or the doing of any other thing) then, if a co-operation agreement entered into under section 21 of that Act so specifies, it is sufficient compliance with the section concerned if the thing is done in relation to the Agency or the Bank as is specified in that agreement.”.
- (4) Section 33S(2) of the Act of 1942 is amended by substituting the following paragraph for paragraph (f):
- “(f) the Consumer Protection Act 2007;
 - (g) the European Communities (Unfair Terms in Consumer Contracts) Regulations 1995 and 2000 (S.I. No. 27 of 1995 and S.I. No. 307 of 2000);
 - (h) such other enactments and statutory instruments as are specified in the regulations.”.
- (5) Section 33AK(3) of the Act of 1942 is amended, in paragraph (a), by inserting the following subparagraph after subparagraph (iv):
- “(iva) the National Consumer Agency, or”.
- (6) Schedule 2 to the Act of 1942 is amended—
- (a) in Part 1, by inserting the following item after the item relating to the Investment Funds, Companies and

“

No. -of 2007	2007年消費者 保護法	全文
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”

且

(b)在第二部份

- (i) 在1994年歐洲共同體(人壽保險)組織規則
(S. I. NO 360 of 1994), 插入

“

S.I. No. 27 of 1995	1995歐洲歐洲共 同體(消費者契約 不公平條款)規則	全文
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”
,

且

- (ii) 在1999年歐洲共同體(補充監督管理保險業者)
組織規則
(S. I. NO 399 of 1999), 插入

Miscellaneous Provisions Act 2006:

“

No. -of 2007	Consumer Protec- tion Act 2007	The whole Act
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”
,

and

(b) in Part 2—

(i) by inserting the following item after the item relating to the European Communities (Life Assurance) Framework Regulations 1994 (S.I. No. 360 of 1994):

“

S.I. No. 27 of 1995	European Com- munities (Unfair Terms in Con- sumer Contracts) Regulations 1995	The whole instrument
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”
,

and

(ii) by inserting the following item after the item relating to the European Communities (Supplementary Supervision of Insurance Undertakings in an Insurance Group) Regulations 1999 (S.I. No. 399 of 1999):

“

S.I. No. 307 of 2000	2000歐洲歐洲共 同體(消費者契約 不公平條款)(修 正)規則	全文
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”。

第九十五條 修正1980年貨品銷售與服務提供法

1980年貨品銷售與服務提供法第6條第(2)款應由下列條款替代：

(2) 如本法遭受公共團體所侵犯，且證實為任何個人以負責人、經理、秘書或其他公共團體職務之名義，或藉由該名義，允許、協助、同意或忽視該侵犯行為，該個人及公共團體應視同侵害，並受訴訟程序與刑責處分。

(3) 在依據前述第(2)款處分個人時，如經證實該個人作為公共團體之負責人或職員，或藉由該職務名義，於侵害事實發生期間職務範圍得以影響該公共團體之決策，除有反證，否則應合理認為該個人允許侵害之行為或構成。」

“

S.I. No. 307 of 2000	European Communities (Unfair Terms in Consumer Contracts) (Amendment) Regulations 2000	The whole instrument
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”

95.—

Section 6 of the Sale of Goods and Supply of Services Act 1980 is amended by substituting the following subsections for subsection(2):

- (2) If an offence under this Act is committed by a body corporate and is proved to have been committed with the consent, connivance or approval of, or to have been attributable to any neglect on the part of any person being a director, manager, secretary or any other officer of the body corporate or a person purporting to act in any such capacity, that person, as well as the body corporate, is guilty of an offence and is liable to be proceeded against and punished as if that person were guilty of the first-mentioned offence.
- (3) If, in a prosecution for an offence against the person referred to in subsection (2), it is proved that, at the material time, the person was a director of the body corporate or an employee of it whose duties included making decisions that, to a significant extent, could have affected the management

- (4) 依據前述第(3)款所稱之人，須就該款所舉之事主張有利的部份負舉證責任。
- (5) 如公共團體為會員共同管理，第(2)與第(3)款依據個別成員在全體成員中之權限，將其視同該團體負責人或經理，並究其侵害行為或構成之責。

第九十六條 個人其他權利的保留

本法規定不影響其他法規條例或施行細則規範之下的任何個人權益。

第九十七條 修正1993年產業發展條例

以下項目將增列於1993年產業發展條例第九項條文之後：

「9A.—(1) 本項中「相關任務」指Forfa在部長於2006年5月26日依第9項第(2)款同意下，授權愛爾蘭產業發展署、企業愛爾蘭與Shannon Free 機場發展有限公司，依1986年產業發展法第25項條款籌集就業資金。

- (2) 該相關任務應被視為於2003年7月25日開始運作。

of the body corporate, or a person who purported to act in any such capacity, it shall be presumed, until the contrary is shown, that the person consented to the doing of the acts or defaults that constitute the offence.

- (4) Subsection (3) shall be read as placing on the person referred to in that subsection an evidential burden only with respect to the matter or matters concerned.
- (5) If the affairs of a body corporate are managed by its members, subsections (2) and (3) apply in relation to the acts or defaults of a member in connection with the member's functions of management as if that member were a director or manager of the body corporate.”.

96.—

This Act shall not affect any rights which a person may have under any other enactment or under any rule of law.

97.—

The following section is inserted after section 9 of the Industrial Development Act 1993:

9A.—(1) In this section ‘relevant assignment’ means the assignment by Forfa’s with the approval of the Minister on 26 May 2006 under section 9(2) to the Industrial Development Agency (Ireland), Enterprise Ireland and Shannon Free Airport Development Company Limited of the power to make employment grants under section 25 of the Industrial Development Act 1986.

- (2) The relevant assignment shall be deemed to have come into operation on 25 July 2003.

- (3) 依據1986年產業發展第25項條款籌集之就業資金，如於2007年2月1日前遭逢訴訟審理，將不受本項條款影響。」

第九十八條 修正1995年臨時性貿易法

以下項目將增列於1995年臨時性貿易法第6項條文之後：

「6A. -(1) 部長得針對地方政府對於第6項條款之執行成效，研擬並發佈書面工作方針。

- (2) 在不改變第一款普遍原則規範之下，本項所制定之工作方針得包含地方政府依第6項地方條例、針對該項第二款所列情事所自行研擬之工作規範。

- (3) 地方政府於執行第6項地方條例時，應尊重現行工作方針。

- (4) 部長得以書面修正或廢止依本條款所制定之方針。

- (5) 部長應將以此條款制定、修正或廢止之工作方針，以書面方式呈送國會審核。」

第九十九條 修正1981年商品檢驗標示法

以下項目將取代1981年商品檢驗標示法第5條與第6條條文：

- (3) Nothing in this section shall affect any proceedings commenced in any court concerning the making of an employment grant under section 25 of the Industrial Development Act 1986 where those proceedings were commenced before 1 February 2007.”.

98.—

The following section is inserted after section 6 of the Casual Trading Act 1995:

- 6A.—(1) The Minister may prepare and issue to local authorities guidelines, in writing, regarding the performance by them of their functions under section 6 in relation to bye-laws.
- (2) Without prejudice to the generality of subsection (1), guidelines under this section may include guidelines as to the particular provision that a local authority should make by bye-laws under section 6 in relation to each of the matters mentioned in subsection (2) of that section.
- (3) Local authorities shall have regard to guidelines for the time being in force under this section in performing their functions under section 6 in relation to byelaws.
- (4) The Minister may amend or revoke, in writing, guidelines issued under this section.
- (5) The Minister shall cause a copy of any guidelines issued under this section and of any amendment or revocation of them to be laid before each House of the Oireachtas.”.

99.—

The following sections are substituted for sections 5 and 6 of the Hallmarking Act 1981:

5.—(1) 在本法第6項規範之下，如商業行為涉及宣稱任何非貴重金屬物品為金、銀或白金製成或半成，即視同2007年消費者保護法第43項第(1)與第(2)款規範之不實商業行為。

(2) 任何涉及第(1)款定義不實商業行為之貿易商即違反2007年消費者保護法第47項規定。

6.—(1) 本法第5條不適用於本法所許可的標示方式。

(2) 如標示方式符合下列形式，將為本法所許可：

(a) 物品的金屬成分僅以顏色明示或暗示；

(b) 如標示內容含有「金」字，前面則飾以「箔」或「鑲」字；

(c) 如標示內容含有「銀」或「白金」等字詞，其字詞出現之處有「箔」字修飾之；

(d) 如以書寫方式標示且使用「箔」與「鑲」修飾，其字體應至少與標示中其他字詞同等大小。

(3) 如標示不實或與實際物品不符，即不適用本條第(2)項。

6A.—本法第5條與第6條所指稱之「商業行為」、「標示方式」以及「貿易商」與2007消費者保護法中詞句同義。

5.—(1) Subject to section 6 of this Act, a commercial practice that involves a representation that an article which is not of precious metal is made wholly or partly of gold, silver or platinum is a misleading commercial practice under section 43(1) and (2) of the Consumer Protection Act 2007.

(2) A trader who engages in any misleading commercial practice described in subsection (1) is guilty of an offence under section 47 of the Consumer Protection Act 2007.

6.—(1) Section 5 of this Act does not apply to a representation which is permissible under this Act.

(2) A representation is permissible under this Act if it complies with the following conditions:

(a) it is confined either expressly or by implication to the colour of the article;

(b) if it consists of or includes the word ‘gold’, that word is qualified by the word ‘plated’ or the word ‘rolled’;

(c) if it consists of or includes the word ‘silver’ or the word ‘platinum’, whichever of those words is used is qualified by the word ‘plated’;

(d) where the representation is in writing and the word ‘plated’ or ‘rolled’ is used, that word is at least as large as the rest of the representation.

(3) Subsection (2) of this section does not apply if the representation is false or is applied to an article for which the representation is inappropriate.

6A.—In sections 5 and 6 of this Act, ‘commercial practice’, ‘representation’ and ‘trader’ have the same meaning as they

第一百條 關稅官員查扣危險商品之權限

為協助國家消費者署執行法律所賦予維護產品安全之任務，在國家消費者署以書面請求財稅局授權之下，關稅官員得以查扣任何進口商品，以供國家消費者署充分查驗商品或安排查驗程序，時限為自查扣起不超過72小時。

第一百零一條 執行命令中關於產品安全之指示：第三方行為

(1) 本條「相關指示」指在執行期間，由工作排程7所規範之執行命令所下之指示，用以：

(a) 禁止一或多項產品進入市場，或將一或多項產品撤出市場。

(b) 對於一項或多項產品要進入市場時，增加限制。

(2) 本條所指稱產品，為與相關指示有關之產品。

(3) 如某人被賦予第1款(a)項所規範之相關指示，其他與此指示相關的個人不得從事以下情事：

have in the Consumer Protection Act 2007.”

100.—

For the purpose of facilitating the performance by the Agency of any functions conferred on it by any of the relevant statutory provisions relating to the safety of products, an officer of customs and excise, when authorised to do so by the Revenue Commissioners following a written request in that behalf by the Agency, may detain any goods being imported for such period as is reasonably necessary for the Agency to examine the goods, or arrange to have the goods examined, which period shall not in any case exceed 72 hours from the time when the goods concerned are detained.

101.—

- (1) In this section “relevant direction” means a direction, for the time being in force, given under any of the statutory instruments specified in Schedule 7, being a direction—
 - (a) prohibiting the placing on the market of one or more products or requiring one or more products to be withdrawn from the market, or
 - (b) imposing restrictions on the placing on the market of one or more products.
- (2) In this section a reference to a product concerned is a reference to a product to which the relevant direction relates.
- (3) If a relevant direction is given to a person, being a direction to which subsection (1)(a) applies, any other person who knows of the directions shall not do any of the following things, namely—

- (a) 散佈，
 - (b) 販賣，
 - (c) 提供販售，
 - (d) 以服務方式供應產品。
- (4) 如某人被賦予第1款(b)項所規範之相關指示，其他與此指示相關之個人應：
- (a) 於相關限制禁止從事與產品有關之特定活動時，從事第(3)款所規定之任何與產品有關之特定活動，或
 - (b) 於相關限制不禁止從事與產品有關之特定活動時，從事第(3)款所規定之任何與產品有關之特定活動，而非配合限制條款。
- (5) 任何違反第(3)或第(4)款之個人將構成侵犯，並得依第五編第四章規定處以立即罰鍰與刑責。
- (6) 本條補充工作排程7中所載之執行命令內容，新增一條違反該命令所下指示之刑責規定。

第一百零二條 實驗室測試的證明效力

- (1) 由受僱於相關實驗室人員所簽核並紀錄實驗結果之書面

- (a) distribute,
 - (b) sell,
 - (c) offer for sale,
 - (d) supply in the course of providing a service, a product concerned.
- (4) If a relevant direction is given to a person, being a direction to which subsection (1)(b) applies, any other person who knows of the direction shall not—
- (a) in a case where the restriction concerned prohibits the doing of that particular thing in respect of the product — do any particular thing referred to in subsection (3) in respect of a product concerned, or
 - (b) in a case where the restriction concerned does not prohibit the doing of that particular thing in respect of the product — do any particular thing referred to in subsection (3) in respect of a product concerned otherwise than in accordance with the terms of the restriction.
- (5) A person who contravenes subsection (3) or (4) commits an offence and is liable on summary conviction to the fines and penalties provided in Chapter 4 of Part 5.
- (6) This section is in addition to the provision of any statutory instrument specified in Schedule 7 that creates an offence in respect of a contravention of a direction given under that instrument.

102.—

- (1) A certificate in writing purporting to be signed by a person

證書，如無證明其簽名者確為實驗室受僱人員，仍得以作為該產品檢測程序結果之證明。

- (2) 此程序為工作排程7所規範之執行命令之下的程序。
- (3) 本條所稱之「相關實驗室」，為檢測能力受會員國依工作排程8所載之法律、法規或行政命令所認可的實驗室。
- (4) 由本條規範定義下之相關實驗室所為、符合第1項規定要求、根據第2項規定程序之證書，除非有證據證明其為假，否則將推定其效力為真。

employed in a relevant laboratory and stating the results of one or more tests carried out in that laboratory with respect to a product of a specified type shall, without proof of the signature of that person or that he or she is employed in the relevant laboratory, be admissible as evidence of the results of the test or tests in the following proceedings taken in relation to that type of product.

- (2) Those proceedings are proceedings under any of the statutory instruments specified in Schedule 7.
- (3) In this section ‘relevant laboratory’ means a laboratory the competence of which to carry out tests in relation to products is recognised by an authority performing functions under the laws, regulations or administrative provisions adopted by a Member State for the purposes of any of the Directives specified in Schedule 8.
- (4) Where a certificate referred to in subsection (1) is produced in proceedings referred to in subsection (2), it shall be presumed, until the contrary is shown, that the laboratory referred to in the certificate as a relevant laboratory is such a laboratory.

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