

# Law On the Safety of Goods and Services

## Chapter I

### General Provisions

#### Section 1.

The purpose of this Law is to achieve the production and circulation of goods and the provision of services that is safe, non-harmful to human life, health and the property of a person, as well as non-harmful to the environment.

#### Section 2.

(1) A producer is a manufacturer of goods registered in the European Union, any other person who has manufactured and put into circulation goods in the European Union or who presents himself as a manufacturer, indicating (marking) upon the goods, their packaging, in the technical documentation or the technical registration of the goods his or her name (firm), given name, surname, trademark or other distinctive mark, or the person who has reconditioned the goods in order to put them into circulation.

(2) The following shall also be considered to be a producer:

1) a representative authorised by the producer - a person who puts goods into free circulation on behalf of the producer but in his own name, if the producer is not registered in the European Union;

2) an importer, if the representative authorised by the producer is not registered in the European Union;

3) any other person who sells, supplies or otherwise distributes goods within the scope of his or her economic activities, if the activity of such a person may affect the safety of the goods.

(3) A distributor is a person who sells, supplies or otherwise distributes goods within the scope of their economic activities, if the activity of such a person does not affect the safety of the goods.

(4) A service provider is any person who provides services.

#### Section 3.

(1) This Law applies to new, used or reconditioned goods (including those supplied within the scope of the provision of a service) which are intended for consumers or which could be used by consumers under foreseeable conditions, even if they are not intended therefor, and which have been supplied in the course of a commercial activity, except for used goods which are intended for sale as antiques or as goods to be reconditioned or repaired prior to use, if clear information has been provided regarding the need for reconditioning or repair.

(2) This Law applies to services, as a result of which the provider of the services manufactures a new tangible product, improves or alters an existing tangible product or its properties, as well as to services, which have a direct or indirect effect upon human life or health.

(3) The requirements of this Law are applicable if special legal norms do not provide for other safety requirements for goods or services, including other risks or other risk categories and ways to prevent them.

## Chapter II

### Duties of a Producer and Service Provider and Assessment of the Safety of Goods and Services

#### Section 4.

(1) The duty of a producer is to produce and put into circulation only safe goods, which are non-harmful to human life, health and the property of a person, as well as non-harmful to the environment. The producer shall be responsible for the safety of the goods put into circulation.

(2) The duty of the service provider shall be to provide only safe services, which are non-harmful to human life, health and the property of a person, as well as non-harmful to the environment. The service provider shall be responsible for the safety of the service provided.

#### Section 5.

(1) Safe goods are any goods which, in conformity with the requirements of installation and maintenance, under normal or foreseeable conditions of use, including the intended duration of use, and where applicable, included as part of a service, do not present a risk or only a minimum risk related to the use of the goods, which is considered to be acceptable and consistent with a high level of safety for human life, health and the property of a person, as well as with the level of environmental protection, taking into consideration the following:

1) the characteristics of the goods, including their structure, composition and packaging and, where applicable, the instructions for installation and maintenance;

2) the effect on other goods, if it is foreseeable that the goods will be used together therewith;

3) the appearance, design, labelling, warnings, instructions for use, instructions for disposal of the goods and other information provided by the producer;

4) whether there are any categories of persons, especially children and the elderly, who may be at risk when using the goods.

(2) The goods shall be considered to be safe if they conform to:

1) specific health and safety requirements specified in laws and regulations;

2) European Standards adopted in the status of the National Standard which are included in the list referred to in Paragraph three of this Section, to the extent of the risks regulated by such Standards.

(3) The national standardisation body shall, on the basis of a recommendations of the Ministry of Economics, publish in the official gazette Latvijas Vēstnesis the list of the European Standards adapted in the status of the National Standard referred to in Paragraph two, Clause 2 of this Section.

(4) If the requirements laid down in Paragraph two of this Section do not exist in relation to the goods, the safety of the goods shall be assessed, taking into consideration the following:

1) voluntary standards;

2) special standards specified in laws and regulations of the relevant field the application of, which is compulsory;

3) the recommendations of the European Commission determining the guidelines for the assessment of the safety of goods;

4) goods safety codes of good practice in force in the relevant sector;

5) the level of science and technology achieved;

6) reasonable consumer expectations concerning safety.

[20 March 2014]

## Section 6.

(1) A safe service shall be any service provided under normal or foreseeable conditions of use and which does not present any risk during or after the provision thereof, or causes a minimum risk considered to be acceptable and compatible with a high level of safety for human life, health and the property of a person, as well as with the level of environmental protection, taking into consideration the following:

1) the nature of the service, including its design, composition and the mode of provision;

2) the effect on human life, health and on property;

3) the appearance, design, labelling, instructions for installation or use, warnings, instructions for disposal of the property and other information provided by the service provider;

4) whether there are any categories of persons, especially children and the elderly, who may be at risk when using the service.

(2) Specific safety requirements for services or specific requirements in relation to certain risk or safety aspects related to the utilisation of the service may be laid down in other laws and regulations. If other laws and regulations do not lay down such requirements, the conformity of the service with safety requirements shall be evaluated in accordance with the National Standards, good manufacturing practice in the relevant sector, services safety guidelines approved by the market surveillance authority, as well as the level of science and technology achieved, and taking into account reasonable consumer expectations concerning safety.

[20 March 2014]

## Section 7.

The possibility of a higher safety level or the accessibility of goods or services with a lower risk level may not be the basis for considering goods or service to be unsafe.

## Section 8.

(1) The duty of a producer and service provider is to provide true and complete information regarding the goods or services (including warnings) in order to enable the assessment of risks related to the use of the goods or the utilisation of the service throughout the normal or reasonably foreseeable period of the use or utilisation thereof, if such risks are not immediately obvious without adequate warnings, and to take precautionary measures. A warning does not provide an exemption from the fulfilment of duties and responsibilities specified in the Law.

(2) The duty of the producer and service provider is, taking into consideration the characteristics of the goods and services, to take all measures to enable the assessment of risks which may be caused by the goods or services and to choose relevant activities, including;

1) withdrawal of the goods or items from circulation if such an activity is necessary in order to avoid risks;

2) the warning of consumers;

3) the recall of goods from consumers.

(3) The purpose of the recall of goods referred to in Paragraph two, Clause 3 of this Section is to recall unsafe goods from consumers (goods which fail to conform to the requirements laid down in Section 5, Paragraph one of this Law) or properties supplied by the producer or distributor. The recovery of the goods may take place on a voluntary basis or according to the decision of the market supervision body.

The measures specified in Paragraph two of this Section may include but are not limited to:

1) information regarding the reference number of the producer, product or goods, as well as the identification of the producer on the relevant goods, property or its packaging (except in cases where the non-provision of such indication is justified);

2) the performance of tests on a sample of the goods or property;

3) examination of complaints, and where necessary, the keeping of a register system of complaints;

4) the informing of distributors regarding the relevant measures and results of the performance thereof.

(5) The duty of the distributor is to act with due care in order to facilitate conformity of the goods with general safety requirements. The distributor may not sell, supply or otherwise distribute goods if he or she may or should conclude that they fail to comply with safety requirements, as well as goods

regarding which he or she lacks sufficient information as to safety thereof. Within the limits of his or her respective activities, the duty of the distributor is to participate in taking safety measures regarding goods, especially informing of the possible risks, keeping and ensuring the necessary documentation for tracing the origin of the goods, as well as co-operating actively with the producers and State supervision and control bodies in the actions taken to prevent any risks from goods put into circulation.

(6) If the producer, distributor or service provider becomes aware or he or she, as an expert, should have known that the goods or service cause a risk incompatible with general safety requirements, the producer, distributor or service provider must, in accordance with the procedures stipulated by the Cabinet, immediately inform the relevant State supervision and control bodies thereof. This condition, in particular, applies to the measures to be taken in order to prevent risk to consumers.

(7) In the case of serious risk, the producer, distributor or service provider has a duty to provide at least:

1) information that provides the opportunity to precisely identify the relevant goods, property or production batch of goods or properties;

2) the complete description of the risk caused by the relevant goods or property;

3) all accessible information necessary for tracking the relevant goods or properties;

4) information regarding the measures taken to prevent risk to consumers.

(8) The requirement laid down in Paragraph 7 of this Section also applies to such serious risk of which the impact is not immediate and thus does not require immediate action by the State supervision and control bodies.

(9) In order to commence the activities which prevent risk caused by goods and provided services, the duty of the producer, distributor and service provider is to co-operate with the State control and supervision bodies within the limits of their respective activities. The procedures for carrying out the co-operation referred to in this Section shall be determined by the State control and supervision bodies.

## Section 8.1

If goods or service may cause serious risk to human life, health, environment or property, the Cabinet shall determine special requirements or the necessary measures for reduction or prevention of risk, the procedures for movement of goods and offering of services, as well as the procedures for their supervision and control.

[20 March 2014]

#### Section 9.

It is prohibited to produce, offer, sell or otherwise distribute, import and export the goods which are not food goods but the form, smell, colour, appearance, packaging, labelling, volume or sizes of which may encourage persons, especially children, to consider them to be food goods and therefore to put them in their mouth, lick or swallow them, causing risk to life or health - possible suffocation, poisoning or perforation or blocking of the alimentary tract.

#### Chapter III

#### Control of the Safety of Goods and Services

#### Section 10.

(1) Conformity with this Law is supervised and controlled by the Consumer Rights Protection Centre and other State supervision and control bodies, the competence of which includes the supervision and control (hereinafter - the market supervision body), as well as the customs authorities and the Food and Veterinary Service under the competence thereof.

(2) The duty of the market supervision bodies, customs authorities and the Food and Veterinary Service is to co-operate and exchange information regarding unsafe goods and services.

[16 June 2005]

#### Section 11.

(1) The Market Supervision Council is a consultative body established by the Cabinet, the objective of which is to ensure exchange of information and opinions between market supervision bodies. The materials and technical facilities of the Market Supervision Council shall be included under the competence of the Ministry of Economics.

(2) The by-law and composition of the Market Supervision Council shall be approved by the Cabinet, including therein one representative each from the Ministry of Economics, Ministry of Health, Ministry of Welfare, Ministry of Agriculture and Ministry of Environmental Protection and Regional Development, the relevant market supervision bodies and the Central Customs Board of the State Revenue Service and the Food and Veterinary Service.

(3) The main task of the Market Supervision Council shall be to facilitate:

1) a common approach to market supervision;

2) the co-operation of market supervision bodies with regard to unsafe goods and services;

3) the division of competence between various market supervision bodies in order to ensure the supervision of all goods and to prevent the overlapping of functions.

(4) The Market Supervision Council shall perform market supervision activity and the summarisation of the results thereof, as well as examine the operation and efficiency of the market supervision bodies once a year and, where necessary, shall prepare proposals for the Minister for Economics regarding the necessary changes in the performance of the market supervision activities and the division of competence.

[16 June 2005; 10 February 2011]

## Section 12.

(1) The market supervision bodies shall control the compliance of the goods and services with the requirements of this Law in accordance with periodically updated supervision and control programmes, as well as if there are suspicions regarding the non-compliance of goods or service with the safety requirements or if a complaint has been received.

(2) When implementing the market supervision and control provided for by this Law, the officials of the market supervision bodies are entitled to, within their competence:

1) control and supervise conformity with the safety requirements of the goods and services;

2) require and receive information free of charge necessary for the evaluation of the safety of goods and services or for the implementation of functions of the relevant body;

3) request and receive free of charge samples of goods, perform control purchases for the acquisition of samples of goods, and organise laboratory or other types of expert-examination of the goods or service in order to determine the conformity with the safety requirements of goods or service, if so provided for by the annual supervision and control programme approved by the director (head) of the relevant body or, if there are suspicions regarding the non-conformity with the safety requirements of goods or service, or if a complaint has been received.

(21) Market supervision bodies and customs authorities, when carrying out the activities specified in Article 27 of Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93, are entitled to request and receive free of charge samples of goods and to organise laboratory or other type of expert-examination of goods.

(3) The Cabinet shall determine the procedures by which the market supervision bodies shall require and receive samples of goods, as well as by which they shall handle them after the performance of the laboratory or other type of expert-examination.

[20 March 2014]

### Section 13.

(1) If goods or service may cause risk under certain conditions, the relevant market supervision body is entitled to:

1) request that the producer, service provider or distributor ensures the labelling of the goods or that the service is provided with appropriate, clearly worded and easily comprehensible warnings regarding the possible risks;

2) require the producer, service provider or distributor to take particular measures for guaranteeing the safety of the goods or services and to forbid the sale of such goods or the provision of such services before the implementation of such measures.

(2) If goods or service may cause risk to certain categories of persons, the relevant market supervision body is entitled to request that such persons are warned regarding the possible risks at an appropriate time and in an appropriate way, including by publishing special warnings.

(3) If there is suspicion that the goods or service may be unsafe, the relevant market supervision body is entitled to prohibit the supply, offer to supply or display thereof for a time period necessary for the assessment, examination and expert examination of the safety thereof.

(4) If goods or service are unsafe the relevant market supervision body is entitled to:

1) prohibit the sale of the goods or production batch of the goods or the provision of services, as well as to perform activities in order to ensure the implementation of such a prohibition;

2) if the goods or service has already been placed on the market:

- a) request or organise effective and immediate withdrawal of the goods from the market or discontinuance of the provision of services, as well as the warning of consumers regarding the existing risks,
- b) request, co-ordinate or organise, in co-operation with the producers, distributors or service providers the withdrawal of goods or properties from consumers and the destruction of the goods or properties under suitable conditions.

(5) The activities referred to in Paragraphs one, two, three and four of this Section are correspondingly applicable to the producer or distributor within the limits of his or her respective activities, especially to the producer or distributor responsible for putting the goods into circulation for the first time or, where necessary, to any other person if co-operation is necessary in taking the measures intended to prevent the risks caused by the goods or services. In its decision, the market supervision body shall specify the grounds for the taking thereof.

(6) The market supervision body is entitled to take the measures referred to in Paragraphs one, two, three and four of this Section, including the circumstance when the goods conform to the safety requirements laid down in Section 5 of this Law or if the service conforms to the safety requirements laid down in Section 6 of this Law, but there is evidence that the goods or service are hazardous to human life or health.

(7) When taking the measures referred to in Paragraphs one, two, three and four of this Section, the market supervision body shall act in accordance with the Treaty on the Functioning of the European Union, and in particular, with the provisions of Articles 34 and 36 thereof. Decisions shall be taken in compliance with the precautionary principle, and they shall be proportional to the size of the particular risk.

(8) The market supervision bodies shall facilitate and support voluntary activities of the producers, distributors and service providers for the fulfilment of the duties specified in this Law (including the development of guidelines and good practice for manufacturing and the provision of services).

(9) The relevant market supervision body shall organise or specify the measures to be taken which are referred to in Paragraph four, Clause 2 of this Section, if the actions performed by the producers, distributors or service providers are insufficient for the fulfilment of the duties specified in this Law. The withdrawal (recall) of goods or properties shall be performed only as an extreme measure.

[20 March 2014]

#### Section 14.

(1) A decision of the market supervision body shall be in effect from the moment it has been taken.

(2) A decision of the market supervision body may be appealed in court in accordance with the procedures laid down in law. The appeal of a decision shall not suspend the execution of the decision.

#### Section 15.

(1) The market supervision body shall cover the expenses for the laboratory or other type of expert examination of the goods or service.

(2) If it is established that the goods do not conform to the safety requirements, expenses for expert-examination and the amount of money paid for the control purchase shall be reimbursed:

1) by the producer;

2) if the producer of the goods is not established in Latvia - by the distributor who was the first to supply goods not conforming to the safety requirements on the market of Latvia;

3) in the case referred to in Section 12, Paragraph 2.1 of this Law - by the importer.

(21) [20 March 2014]

(22) A distributor, which has reimbursed the expenses of the market supervision body for an expert-examination, has the right of subrogation against the producer from which the goods have been acquired, or against the service provider which has provided the relevant service.

(23) If it is established that the service does not conform to the safety requirements, expenses for expert-examination shall be reimbursed by the service provider.

(3) Expenses shall be reimbursed within five days from the day of receipt of the document verifying the expenses. If the relevant person refuses to cover the expenses, the market supervision body shall recover them in accordance with the procedures laid down in law.

[29 November 2007; 20 March 2014]

## Section 16.

(1) If the market supervision body establishes that the goods or service fail to conform to the safety requirements it shall, if necessary, ensure the provision of the public with information regarding such goods or service and regarding the risk related thereto directly or by means of mass media.

(2) The Cabinet shall determine the procedures by which the market supervision bodies shall inform the Consumer Rights Protection Centre of the measures taken which restrict or prohibit the putting into circulation of the goods, and the procedures by which the Consumer Rights Protection Centre shall send the information received to the European Commission and handle the information, which is received from the European Commission.

[16 June 2005]

### Transitional Provisions

1. With the coming into force of this Law, the Law On the Safety of Goods and Services (Latvijas Republikas Saeimas un Ministru Kabineta Ziņotājs, 2000, No. 14; 2002, No. 8; 2003, No. 11) is repealed.

2. Until the day when new Cabinet Regulations come into force, but not longer than 1 November 2004, the following Cabinet Regulations shall be applicable insofar as they are not in conflict with this Law:

1) Cabinet Regulation No 83 of 27 February 2001, Procedures by which Market Supervision Bodies Request and Receive Samples of Commodities, and Handle them after Performance of Laboratory or Other Types of Expert-Examination, and

2) Regulation No. 429 of 12 December 2000, By-law of Market Supervision Council.

Informative Reference to European Union Directives

[16 June 2005]

This Law contains legal norms arising from

1) Council Directive 87/357/EEC of 25 June 1987 on the approximation of the laws of the Member States concerning products which, appearing to be other than they are, endanger the health or safety of consumers; and

2) Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety.

This Law shall come into force on 1 May 2004.

This Law has been adopted by the Saeima on 7 April 2004.

President V. Vīķe-Freiberga

Rīga, 28 April 2004