

Order for Enforcement of the Consumer Safety Act

(Cabinet Order No. 220 of August 14, 2009)

The Cabinet hereby establishes this Cabinet Order pursuant to the provisions of the items of Article 2, paragraph (5) of the Consumer Safety Act (Act No. 50 of 2009) and the items of paragraph (6) of that Article; Article 10, paragraph (1), item (iii) and paragraph (2), item (iii) of that Act; and Article 23 of that Act.

(Extent of harm to the life or health of a consumer that causes the accident in which the consumer has been harmed to constitute Actual or Potential Consumer-Related Incident)

Article 1 The consumer suffering harm of an extent to be provided by Cabinet Order referred to in Article 2, paragraph (5), item (i) of the Consumer Safety Act (hereinafter referred to as "the Act") refers to the consumer suffering harm of an extent that falls under one of the following items:

- (i) death;
- (ii) injury or illness that requires at least one day of treatment (unless it is a minor injury or illness with regard to which it is found to be unnecessary for that treatment to take place at a general medical facility);
- (iii) poisoning by carbon monoxide or any other substance provided by Cabinet Office Ordinance.

(Requirements that a circumstance in which a consumer uses a good or product or a service that is not Safe to Use must meet in order to constitute Actual or Potential Consumer-Related Incident)

Article 2 The requirements to be provided by Cabinet Order referred to in Article 2, paragraph (5), item (ii) of the Act shall be the circumstance in question falling under one of the following items:

- (i) such good or product or service does not conform to standards for the good or product or service ensuring the safety of the life or health of consumers, which standards enterprises are required to procure that its good or product or service conforms to pursuant to law (including orders based on the law; the same applies hereinafter);
- (ii) other than those set forth in the preceding item, at the time of use of such good or product or service, any damage, failure, contamination, transubstantiation or other deterioration, overheat, abnormal sounds or other aberration is found in the objects (other than food and beverages and those used for consumption of food and beverages), facility or structure;
- (iii) other than those set forth in item (i), at the time of use of such good or

product or service, the objects (limited to food and beverages and those used for consumption of food and beverages; hereinafter the same applies in this item) is rotten or rancid, has become unhygienic, or is contaminated with pathogens; toxic or harmful substances is contained or attached on it, it has had a foreign substance incorporated into or added to it, it has an abnormal odor, its container or packaging is damaged, or it is otherwise not in its normal state;

- (iv) at the time of use of the good or product or the service in circumstances other than as set forth in the preceding three items, the consumer faces a choking hazard or other substantial threat to the consumer's life or health.

(Actions that are likely to wrongfully harm the interests of a consumer)

Article 3 The actions to be provided by Cabinet Order referred to in Article 2, paragraph (5), item (iii) of the Act are the following actions:

- (i) engaging in deceitful or exaggerated advertising or making deceitful or exaggerated representations with regard to a good or product or service;
- (ii) engaging in conduct falling under one of the following sub-items (a) through (d) in connection with a contract between the enterprise and a consumer (but only a contract that is to be concluded by the enterprise as a business; hereinafter the same applies in this Article), either when soliciting the consumer to conclude the contact or in order to prevent the customer from withdrawing, cancelling, or terminating the contract offer;
 - (a) willfully failing to disclose facts or misrepresenting the facts as regards details of the contract that would normally affect a consumer's decision as to whether to conclude the contract or whether to cancel or terminate the contract;
 - (b) providing the consumer with a conclusive evaluation with respect to the future price of a good, product, service, right, or other object of the contract or with respect to the amount of money that the consumer will receive in the future in connection with it, any future benefit the consumer will derive from using it, or anything else whose future course is uncertain;
 - (c) failing to leave a place where a consumer resides or does business in defiance of the consumer's request that the enterprise leave that place;
 - (d) preventing a consumer from leaving the place where the enterprise is soliciting the consumer to enter into the contact or where the consumer is seeking to withdraw, cancel, or terminate the contract, in defiance of the consumer's request to leave;
- (iii) deceiving, intimidating, or distressing a consumer in connection with the conclusion or performance of a contract between the enterprise and the consumer or in connection with the consumer's withdrawal, cancellation, or termination of the contract offer, other than as set forth in the preceding

- item;
- (iv) concluding a contract falling under one of the following sub-items (a) or (b) or soliciting a consumer to conclude such a contract:
 - (a) a contract established through an offer and its acceptance to which the consumer manifests the intention to be bound, which intention it is decided that the consumer may disaffirm pursuant to Article 4, paragraph (1) through paragraph (3) of the Consumer Contract Act (Act No. 61 of 2000) or pursuant to any other legal provisions regarding the disaffirmation of a manifested intention to be bound by the offer and acceptance establishing a contract between a consumer and an enterprise, which Cabinet Office Ordinance provides as protecting the interests of consumers;
 - (b) a contract that includes provisions that render the contract invalid pursuant to Article 8, paragraph (1); Article 9; or Article 10 of the Consumer Contract Act or pursuant to any other legal provisions regarding the validity of the provisions of a contract between a consumer and an enterprise, which Cabinet Office Ordinance provides as protecting the interests of consumers.
- (v) refusing or significantly delaying full or partial performance of an obligation under a contract with a consumer or an obligation arisen from the cancellation or termination of such a contract, without a legitimate reason for doing so;
- (vi) offering a premium, in violation of Article 3 of the Act against Unjustifiable Premiums and Misleading Representations (Act No. 134 of 1962);
- (vii) other than as set forth in the preceding items, engaging in conduct that violates provisions under laws governing the conduct of enterprises as regards the conclusion or performance of contracts with consumers or as regards consumers' withdrawal, cancellation, or termination of offers for such contracts, which Cabinet Office Ordinance provides as protecting the interests of consumers.

(Requirements that an accident causing harm to the life or health of the consumer must meet in order to constitute Actual or Potential Serious Accident)

Article 4 The requirements to be provided by Cabinet Order referred to in Article 2, paragraph (7), item (i) of the Act shall be harm caused to the life or health of the consumers to the extent provided in one of the following items:

- (i) death;
- (ii) injury or illness that requires at least 30 days of treatment or which leaves the consumer with a physical disability of the severity provided by Cabinet Office Ordinance once healed (or once the symptoms stabilize);
- (iii) poisoning by carbon monoxide or any other substance provided by Cabinet

Office Ordinance.

(Requirements that a circumstance in which a consumer uses a good or product or a service that is not Safe to Use must meet in order to constitute Actual or Potential Serious Accident)

Article 5 The requirements to be provided by Cabinet Order referred to in Article 2, paragraph (7), item (ii) of the Act shall be the circumstance in question falling under one of the following items:

- (i) it falls under Article 2, item (i) and under either of the following sub-items
 - (a) or (b):
 - (a) at the time of use of the good or product or service, damage, failure, contamination or transubstantiation or other deterioration is found in a part of the object (other than food and beverages and those used for consumption of food and beverages), facility, or structure that is essential for ensuring Safe to Use;
 - (b) at the time of use of the good or product or service, there is a poisonous substance as provided in Article 2, paragraph (1) of the Poisonous and Deleterious Substances Control Act (Act No. 303 of 1950), a deleterious substance as provided in paragraph (2) of the same Article, a deadly poison as provided in Article 44, paragraph (1) of the Pharmaceutical Affairs Act (Act No. 145 of 1960), a deleterious substance as provided in paragraph (2) of the same Article, or a substance with an equivalent toxic or deleterious effect is contained or attached on the objects (limited to food and beverages and those used for consumption of food and beverages).
 - (ii) at the time of use of the good or product or the service in circumstances other than as set forth in the preceding item, the consumer faces a choking hazard or other substantial threat to the consumer's life or health, or there is a fire or other circumstance that is significantly out of the ordinary.

(Standard for the Consumer Affairs Centers established by the prefectures)

Article 6 The standard to be provided by Cabinet Order referred to in Article 10, paragraph (1), item (iii) of the Act refers to the institution or organization being capable of performing the administrative functions set forth in Article 8, paragraph (1), item (ii) (a) and (b) of the Act at least four days a week.

(Standard for the Consumer Affairs Centers established by municipalities)

Article 7 The standard to be provided by Cabinet Order referred to in Article 10, paragraph (2), item (iii) of the Act refers to the institution or organization being capable of performing the administrative functions set forth in Article 8, paragraph (2), item (i) and (ii) of the Act at least four days a week.

(Authority not delegated to the Secretary-General of the Consumer Affairs Agency)

Article 8 The authority to be provided by Cabinet Order referred to in Article 46, paragraph (1) of the Act refers to the authority under the provisions of Article 6, paragraph (1), paragraph (4), and paragraph (5) of the Act (including as applied *mutatis mutandis* pursuant to paragraph (6) of that Article) and that under Article 7; Article 13, paragraph (4); Article 14, paragraph (1) (limited to the part about asking for the cooperation of the heads of the relevant administrative organs (limited to those who are Ministers of State)); Article 19; Article 31, paragraph (1) and paragraph (3); Article 32; Article 33; Article 38, paragraph (2) (limited to the part about providing information to the heads of the relevant administrative organs (limited to those who are Ministers of State)); Article 39; Article 40, paragraph (2), paragraph (3), and paragraph (5) through paragraph (8); and Article 41 through Article 44 of the Act.

(Administrative functions that it is permissible to decide that either the prefectural governor or the mayor of the municipality in which a Consumer Affairs Center has been established is to carry out)

Article 9 (1) The administrative functions that it is permissible to decide, pursuant to the provisions of Article 46, paragraph (2) of the Act, that either the prefectural governor or the mayor of the municipality in which a Consumer Affairs Center has been established (hereinafter referred to as "Governor or Mayor" in this Article) is to carry out are all or part of the administrative functions involved in asking for reports from an enterprise that has an office, place of business, or other business location within the territory of the prefecture or municipality, entering such a place to conduct an on-site investigation, asking such an enterprise questions, and collecting objects from such an enterprise, pursuant to Article 45, paragraph (1) of the Act.

(2) Before deciding, pursuant to Article 46, paragraph (2) of the Act, that the Governor or Mayor is to carry out an administrative function as provided in the preceding paragraph, the Secretary-General of the Consumer Affairs Agency must clarify the substance of the administrative function that the Secretary-General would decide for the Governor or Mayor to carry out, and ask the Governor or Mayor to consent to carrying out that administrative function, in advance.

(3) Having been asked for consent by the Secretary-General of the Consumer Affairs Agency pursuant to the preceding paragraph, a Governor or Mayor is to decide whether to consent to the substance of what has been asked and is to inform the Secretary-General of the Consumer Affairs Agency of this.

(4) If the Secretary-General of the Consumer Affairs Agency decides that an administrative function as provided in paragraph (1) is to be carried out by a

Governor or Mayor pursuant to Article 46, paragraph (2) of the Act, the Secretary-General of the Consumer Affairs Agency must immediately issue public notice in the Official Gazette of this fact and of the substance of the administrative function that is to be carried out by the Governor or Mayor.

- (5) If the Governor or Mayor carries out an administrative function as provided in paragraph (1) pursuant to Article 46, paragraph (2) of the Act, the Governor or Mayor is to report this fact and the substance of the administrative function to the Secretary-General of the Consumer Affairs Agency.
- (6) Even if the Governor or Mayor is to carry out an administrative function as provided in paragraph (1) pursuant to Article 46, paragraph (2) of the Act, the Secretary-General of the Consumer Affairs Agency may personally carry out such administrative function.
- (7) The provisions of paragraph (2) through paragraph (4) apply mutatis mutandis if the Secretary-General of the Consumer Affairs Agency decides to change the substance of an administrative function that has been decided to be carried out by the Governor or Mayor pursuant to the provisions of Article 46, paragraph (2) of the Act or to not have the Governor or Mayor carry out such administrative function.

Supplementary Provisions [Extract]

(Effective Date)

- (1) This Cabinet Order comes into effect as of the effective date of the Act (September 1, 2009).

Supplementary Provisions [Cabinet Order No.250 of September 26, 2012]

This Cabinet Order comes into effect as of October 1, 2012

Supplementary Provisions [Cabinet Order No.89 of March 27, 2013]

This Cabinet Order comes into effect as of April 1, 2013.