

## Consumer Protection Law in Sri Lanka

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As a third world state, Sri Lanka is trying hard to fulfill the need of citizens. Thus, consumer protection is also somewhat to use in the modern practice in Sri Lanka. Importance of consumer protection was recognized in Sri Lanka after Second World War to implement a rationing scheme of distribution of staple food items, basically rice and wheat flour and to control prices of such items. The Price control Act and Food control Act were introduced to control those things. After that, in 1977 'Free Open Market Competitive Economic Policy' was introduced.. The whole commodities market of the country was changed. Industrial promotion Act was enacted and it removed most items under price control. In 1979 Consumer Protection Act was enacted and it attempt to protect consumer rights. However, implementations of all the laws were changed due to the open market economic conditions in Sri Lanka.

### Constitutional reference and national law in Sri Lanka regarding consumer protection

Consumer protection in Sri Lanka is referred to in Article 27(C) of the Constitution of 1978. Article 27(C) deals with the provision of basic necessities like food, clothing, shelter, education, medical care, right to work, right to work at reasonable wages, quantity and quality of work, social security etc. This Article comes under the directive principles of state policy and fundamental duties. Therefore, these provisions are not enforceable in Courts of law.. The constitution of Sri Lanka has not directly provided for the right to life. However the case of Sriyani Silva vs. Iddamalgoda (2003) 2LR 63 emphasized that Article 13(4), recognized a right not to be deprived of life- whether by way of punishment or otherwise- and by necessary implication, a right to life. Consumer right is considered as a basic human right as part of right to life in the observances of basic human rights.

In addition, there are other numerous consumer laws in Sri Lanka, which have been enacted from time to time. For example, the Consumer Affairs Authority Act No. 9 of 2003 has given power to the government to control the production, distribution, preservation, use, and business etc. of certain essential commodities for which a license or a permit is a must. Other than that there are Food Act No 26 of 1980, Sri Lanka Standards Institution Act No 06 of 1984, Cosmetic Devices & Drugs Act no.27 of 1980, Telecommunications Regulatory Commission Act No. 27 of 1996, Public Utilities Commission Act No. 35 of 2002 , National Environmental Act No. 47 of 1980, Sale of Goods Ordinance No.11 of 1896 and Weight and measures Ordinance No. 37 of 1946.

The main consumer protection law in Sri Lanka is Consumer Affairs Authority Act no. 9 of 2003. This Act has replaced the former consumer Act No. 1 of 1979, Fair Trading Commission Act No. 01 of 1987 and Control of Price Act (Chapter 173). This Act has defined the word "consumer". According to Section 75 of this Act 'Consumer' means any actual or potential user of any goods or services made available for a consideration by any trader or manufacturer.

Objectives of the Consumer Affairs Authority Act are to establish the Consumer Affairs Authority, for the promotion of effective competition and the protection of consumers, for the regulation of internal Trade, for the establishment of Consumer Affairs Council. Under Section 8 of this Act Consumer Affairs Authority is established to control or eliminate restrictive trade agreements among investigate or inquire into anti-competitive practice, maintain and promote effective competition, carry out investigations and inquiries and promote and protect the rights and interests of consumers. However this Act is not providing for consumer rights directly, but the cumulative effect of the provisions of this Act, one can conclude, do provide these rights indirectly.



Procedure to make a complain in Consumer Affairs Authority has also been provided for: an aggrieved consumer, along with the proof of the goods purchased, can complaint to the Consumer Affairs Authority within three months of the purchase of such goods. In addition to Consumer Affairs Authority Act No.9 of 2003, the Food Act No. 26 of 1980 is also protecting consumers. It includes prohibition of manufactures, import sale of commodities which are unfit to human consumption or commodities that are adulterated. In terms of the Act, no person shall label, pack, process, sell, advertise any food in a manner that is false, misleading, deceptive as to give a wrong impression regarding its character, value, quality, composition or safety.

Sri Lanka Standards Institution No 06 of 1984 provides the minimum standards to be maintained in special commodities marketed in Sri Lanka, whether they are imported or manufactured locally. Regulation of the import, manufacture or trade in Pharmaceutical drugs and Cosmetic Devices is provided by Cosmetic Devices & Drugs Act No. 27 of 1980. Telecommunications Regulatory Commission Act No. 27 of 1996 is ensuring the promotion of a reliable and efficient national and international Telecommunication service in Sri Lanka and protecting and promoting the interest of consumer in terms of quality and variety of Telecommunication service. Weights and Measures Ordinance provides for determinations and supervisory function of compliance with prescribed weights and measures. Telecommunications Regulatory Commission Act No. 27 of 1996 is regulating the business of supply of telecommunication services, both land and mobile, including conditions of service and tariffs. And, Public Utilities Commission Act No.35 of 2002 regulates the business of supply of "water" and "electricity", including conditions of service and tariffs.

Sri Lanka is a common law country. The land mark case *Donoghue V Stevenson* 1932 AC 562 / 1932 AER 1 is a judgment which recognized the protection of consumers under products liability. In this case Lord Atkin clearly held that "..... In the absence of reasonable care in the preparation of putting up of the products, will result in an injury to the consumer's life.... Owes a duty of care to the consumer to take reasonable care.....". However Case law of Sri Lanka regarding consumer protection is yet developing. Only Magistrate's Courts are hearing some few cases.. According to the section 13 of the Consumer Affairs Authority Act No.9 of 2003, the authority may inquire complaints regarding consumer protection and rights. This Authority can give orders to those parties and if one party does not obey, then the other party can go to Magistrate's Court to implement the order. According to section 60 of this Act Magistrate can order fine and imprisonment. Therefore it shows that both civil liability and criminal liability to violation of consumer rights are available in Sri Lanka. Under Section 36 of this Act, the Consumer Affairs authority has power to investigate in to these matters. In that regard, the Authority shall have all the powers of a district court. Consumer Affairs Council is to inquire all the violations of consumer rights.

In Sri Lankan companies that manufacture consumer products are also required to take ISO international certificate.. ISO 22000 is the standard developed by ISO for Quality of goods. This system helps to ensure that products are conformed to the International standards and required quality. ISO certification is a well recognized practice and relevant authority must take these procedures into consideration to compulsorily implement the requirement of ISO certification.

The World Trade Organizations (WTO) has a great role in regulating trade affairs through different agreements among various nations. The United Nations (UN) has adopted guidelines for the protection of consumer rights. Sri Lanka is also a party to WTO and UN. As such, Sri Lanka is bound to follow these rules and regulations. But as a dualistic country, Sri Lanka is implementing those rules and regulations via enabling statutes. Thus Sri Lanka has introduced Consumer affairs Authority to implement those international standards. Moreover, the Department of Commerce is involved in to implement these rules and regulations. Some are bilateral, multilateral and conventional understandings.



## Challenges and Recommendations for consumer protection Laws in Sri Lanka

The main challenge to the protection of consumer rights, is the political and economic constraints. The protection of consumer rights is now a global agenda. And the institutional constraints are also essential. Not only that, Sri Lankan Legislative body has also failed to take adequate steps to ascertainment of Quality of goods. For instance a trader who supplies contaminated food to patients in a government Hospital or to School children may not be liable under the interpretation of Sec 75 of Consumer Affairs Authority Act No.9 of 2003 in Sri Lanka. This type of provisions should subject to reforms.

Moreover, food safety also should be enhanced by educating the public as well as businessmen, as in Australia. Australian Consumer Law (ACL) and The Australian Competition and Consumer Commission are Governmental statutory authorities. They are covering three main areas. Those are inspection on Guarantee, prevention of unfair selling and prohibiting unsafe products from marketing. These two authorities provide training programmes.. This training system improves the bottom line staffs of the company to take more care in quality of goods. Non- Governmental Consumer Organizations which are inactive should be encouraged to engage in awareness programs in Sri Lanka. There are no advertisements in the media to protect consumer rights. As such, media must be involved in to protect consumer rights specially to make awareness programmes about the ready-made goods or fast food system in modern world. And there must establish an effective consumer affairs authority branches in district level, provincial and National Level like in India. These branches of the Authority must strike a balance between consumer protection and the interest of the traders.

The Institute of Policy Studies (IPS) and the Federation of Chambers of Commerce and Industry of Sri Lanka (FCCISL) organized and hosted the World Consumer Rights Day Forum 2013 on 15 March 2013. In this ceremony former Chairman and Director General of the Securities and Exchange Commission of Sri Lanka, Dr. Dayanath Jayasuriya said that the lack of knowledge in rights and duties, taking certain matters for granted, and lack of resources to pursue rights are just a few challenges faced by consumers. Rights to safety, information, choice and to be heard, have progressed to rights to satisfaction of basic needs, consumer education, redress, and rights to a healthier environment are limited. He opined that a well-drafted law for consumer protection along with business ethics was needed to address issues in this regard. Moreover consumer protection must be extended to products liability. Consumers have to be protected voluntarily, institutionally and statutorily. Thus consumers also must be aware of their rights every time they purchase commodities or obtain services for consideration.

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