

Act No. 634/1992 Coll.  
As of December 16, 1992  
Consumer Protection Act

Amended by: 217/1993 Coll.  
Amended by: 40/1995 Coll.  
Amended by: 104/1995 Coll.  
Amended by: 110/1997 Coll.  
Amended by: 356/1999 Coll.  
Amended by: 64/2000 Coll.  
Amended by: 145/2000 Coll.  
Amended by: 64/2000 Coll. (part), 258/2000 Coll.  
Amended by: 102/2001 Coll.  
Amended by: 477/2001 Coll.  
Amended by: 452/2001 Coll.  
Amended by: 151/2002 Coll., 320/2002 Coll.  
Amended by: 277/2003 Coll.  
Amended by: 439/2003 Coll.  
Amended by: 119/2004 Coll.  
Amended by: 217/2004 Coll. 186/2004 Coll.  
Amended by: 444/2005 Coll., and  
Amended by: 229/2006 Coll.

The Federal Assembly of the Czech and Slovak Federative Republics has resolved on this Act:

**PART ONE**  
**INTRODUCTORY PROVISIONS**

**Section 1**  
**Subject and Scope of the Act**

- (1) This Act provides certain conditions for business activities<sup>1</sup> which are important for protection of consumers, tasks of government authorities in the area of consumer protection, and the rights of consumers, associations of consumers<sup>2</sup>, and other legal entities established with the purpose of protecting consumers.
- (2) The provisions of other acts<sup>3</sup> concerning the conditions of production, import, sale, and marking of products and provision of services are not subject to this Act.

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<sup>1</sup> Section 2, paragraph 1 of the Commercial Code, Act No. 513/1991 Coll.

<sup>2</sup> Act on Assembly of Citizens, No. 83/1990 Coll.

<sup>3</sup> Such as the State Testing Act, No. 30/1968 Coll., as amended; the People's Healthcare Act, No. 20/1966 Coll., as amended; the Fire Protection Act, Czech National Council Act No. 133/1985 Coll., as amended; the Fire Protection Act, Slovak National Council Act No. 126/1985 Coll., as amended; the Livestock Breeding Act, Czech National Council Act No. 240/1991; the Livestock Breeding Act, Slovak National Council Act No. 110/1991, as amended; the Vegetation Production Act, No. 61/1964 Coll., as amended; the Veterinary Care Act, No. 87/1987 Coll., as amended, the Railways Act, No. 51/1964, as amended; the Weapons and Ammunitions Act, No. 147/1983 Coll., as amended; the Postal Act, No. 222/1946 Coll., as amended; the Telecommunications Act, No. 110/1964 Coll., as amended, the Act on Prices, No. 526/1990 Coll.; and the Act on Protection of Economic Competition, No. 63/1991 Coll.

- (3) This Act applies to sale of products and provision of services in cases where performance is effected in the territory of the Czech Republic. It applies to other cases only if performance is related to business activities carried out in the territory of the Czech Republic.

## **Section 2**

### **Definition of Terms**

- (1) For the purposes of this Act:
- a) a consumer means an individual or a legal entity that purchases products or uses services for purposes other than conducting business with such products or services,
  - b) a seller means an entrepreneur<sup>4</sup> who sells products or provides services to a consumer,
  - c) a producer is an entrepreneur who produces a product or its part, who provides services, who extracts or processes a raw material, or who designates himself as such,
  - d) an importer means an entrepreneur who imports goods from the other state than is EU Member State
  - e) a supplier means any entrepreneur who, either directly or through other entrepreneurs, supplies products to a seller,
  - f) a product is any thing that is made, extracted, or otherwise acquired, irrespective of the degree of processing or manufacture, and that is intended to be offered to consumers,
  - g) a textile product means a textile fibrous raw material, narrow textile items sold by length, fabrics, individual textile products, clothing products, at any stage of its production, and textile products containing a textile element:
    - 1. products whose total weight consists of at least 80% of textile fibers,
    - 2. coverings of upholstered furniture, umbrellas and parasols, provided that their textile content amounts to at least 80% of their total weight,
    - 3. textile content of multi-layer floor coverings, mattresses, camping products, and thermal lining in gloves and footwear, provided that such textile content or lining constitutes at least 80% of the total weight of the product,
    - 4. the textile content of other products where its composition is specified, provided that it constitutes an integral part of such products,
  - h) a textile fiber means an object whose characteristic flexibility, fineness, and a high ratio of length to cross-section makes it suitable for textile processing, including production of flexible belts or tubing with a maximum width of five millimeters,
  - i) repealed
  - j) a service is any business activity intended to be offered to consumers, with the exception of activities regulated by special laws<sup>4a</sup>, where the responsibility for monitoring consumer protection is entrusted to professional associations or government authorities other than those specified in Section 23,
  - k) a product dangerous due to being possibly mistaken for foods product means a product, excluding foods, whose shape, aroma, color, appearance, packaging, marking, volume or dimensions may cause consumers, especially children, to mistake it for foods and for that reason ingest, suck, or swallow it, which may be dangerous to human health, particularly by causing suffocation, poisoning, or perforation or blocking of digestion system,
  - l) footwear means a product designed for the protection or covering of feet, whose sole is attached, including the main parts of such footwear, even if such parts are sold separately;

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<sup>4</sup> Section 2, paragraph 2 of the Commercial Code, Act No. 513/1991 Coll.

<sup>4a</sup> Such as the Act on Law Practice, No 128/1990 Coll.; Act on Commercial Lawyers and Legal Assistance Provided by Them, Czech National Council Act No 209/1990 Coll.; the Act on Tax Consultancy and the Chamber of Tax Consultants of the Czech Republic, Czech National Council Act No 523/1992 Coll.; Act on Certain Conditions for Production, Distribution, and Storage of Audio-visual Products, and on Amendment to Certain Acts and Some Other Regulations, No 273/1993 Coll.

the sock and lining, consisting of an assembly of the sock and lining of the top, forming the shoe's inner part,  
outsole, forming the shoe's bottom part, affixed to the top; it is exposed to abrasion by using the shoe

m) three shoe's main components which have to be marked:

1. the upper part, consisting of an assembly of the outer part of the top, affixed to the outsole or middlesole,
2. the sock and lining, consisting of an assembly of the sock and lining of the top, forming the shoe's inner part,
3. outsole, forming the shoe's bottom part, affixed to the top; it is exposed to abrasion by using the shoe;

n) processed leather means processed leather whose fibrous structure is preserved and whose final surface layer's thickness is less or equals to 0.15 millimeter;

o) layered processed leather means processed leather with a layer that is thinner than one third of the total thickness of the processed leather, but thicker than 0.15 millimeter,

p) crystal glass is glass that contains lead oxide, barium oxide, zinc oxide, and potassium oxide separately or in combination in the amount stipulated by the applicable implementing regulation; the implementing regulation also stipulates other technical details,

r) products or goods violating some intellectual property rights means:

1. fake products or goods, including their packaging, which without the consent of the trademark holder bear a designation which is the same as or can be mistaken for a trademark, violate the rights of a trademark holder pursuant to a special law<sup>4b</sup>, all objects bearing such a designation (signs, logos, labels, stickers, brochures, user's manuals, warranty documentation, etc.), even in cases when they are supplied separately, and separate packaging which bears such a designation,
2. prohibited imitations, i.e. products or goods which are copies or comprise copies made without the consent of the holder of copyrights or related rights or without the consent of the holder of industrial model rights, provided that production of such an imitation violates such right in accordance with special laws<sup>4c</sup>,
3. products or goods which violate the rights of holders of a patent<sup>4d</sup> or a utility model<sup>4e</sup> or the rights of holders of supplementary protection certificate for pharmaceuticals and vegetation-protection substances in accordance with a special law<sup>4d</sup>.
4. products or goods violating the rights of a person, availing the protection of registered designation of origin or geographic description<sup>4f</sup>.

- (2) For the purposes of this Act, a seller is also an individual who sells vegetable and animal products to a consumer from his own small-scale agricultural or breeding activity or who sells forest produce.

## **PART TWO**

### **DUTIES RELATED TO SALE OF PRODUCTS AND PROVISION OF SERVICES**

#### **Section 3**

#### **Honesty in Sale of Products and Provision of Services**

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<sup>4b</sup> Act on Trademarks, No. 137/1995 Coll., as amended

<sup>4c</sup> Act on Literary, Scientific, and Artistic Works (Copyright Act), No. 35/1965 Coll., as amended

<sup>4d</sup> Act No. 527/1990 Coll., as amended

<sup>4e</sup> Act on Utility Models, No. 478/1992 Coll., as amended by Act No. 116/2000 Coll.

<sup>4f</sup> Act No. 452/2001 Coll. On the Protection of Origin Designation and Geographic Description Amending Consumer Protection Act

Sellers are obliged:

- a) to sell products with the proper weight, measure, or quantity and to enable the consumer to check the correctness of the same;
- b) to sell products and to provide services of the prescribed or approved quality, if such quality is determined in a binding manner or ensues from special regulations, or of the quality described by the seller; if the quality is not prescribed, approved or stated, products and services are to be of the usual quality,
- c) to sell products and to provide services for prices agreed in compliance with pricing regulations<sup>6</sup> and to charge correct prices when selling products or providing services. At final charging of products sold and services provided in cash the total amount shall to be rounded up to the nearest valid nominal value of legal currency<sup>6a)</sup>

**Section 4  
Repealed**

**Section 5  
Repealed**

**Section 6  
Prohibition of Discrimination against Consumers**

No seller may behave contrary to good manners when selling products or providing services, in particular no seller may discriminate against any consumer in any way.

**Section 7  
Repealed**

**Section 7a  
Prohibition to Produce, Import, Export, Offer, Sell, and Give Away Products Dangerous Due to Being Possibly Mistaken for Foods**

No one may produce, import, export, offer, sell or give away products that are dangerous due to being possibly mistaken for foods.

**§ 7b  
Prohibition to Offer, Sale and Export Products or Goods Intended for Humanitarian Purport**

No one may offer for sale, sale and export the products or goods intended for humanitarian purport and labeled with the mark “humanita” according to special legal regulation<sup>7</sup> 7)

**Section 8  
Prohibition to Deceive Consumers**

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<sup>6</sup> Act No. 526/1990 Coll.

<sup>6a)</sup> Act No. 6/1993 Coll on Czech National Bank as amended

<sup>7</sup> § 7b of the Act 64/1986 Coll. As amended

- (1) No one may deceive consumers, particularly by providing untruthful, unsubstantiated, incomplete, inaccurate, unclear, ambiguous or exaggerated information, or by concealing information about the real properties of products or services or the quality of purchasing conditions.
- (2) Considering as deceiving a consumer is also offer or sale of goods or products violating certain intellectual property rights as well as storage of such goods or products with the purpose of offering or selling the same.
- (3) One cannot be released from the liability for deceiving consumers by claiming that the necessary or correct information was not provided by the manufacturer, importer or supplier.
- (4) The terms "guarantee" or "guaranteed" as well as other terms with a similar meaning may be used only when the content and conditions of the guarantee are specified at the same time.
- (5) The provisions of the preceding paragraphs shall have no affect on the general provisions on unfair competition<sup>9</sup>.
- (6) For the purposes of this Act, storage of goods or products violating intellectual property rights means the placement of such goods or products in storage facilities, means of transportation, offices or other non-residential areas as well as points of sale, including outdoor stands.

#### **Section 8a**

- (1) Holders and co-holders of a patent, holders of a copyright certificate, holders of trademarks, holders of copyrights or other rights protected under the Copyright Act, and holders of rights for a registered industrial design or utility model or their representatives (hereinafter "holders of intellectual property rights") must upon request submit to the supervisory authority documentation necessary for assessment of goods or products within 15 business days of receiving such a request. Holders of intellectual property rights are responsible for ensuring that such documentation is truthful, accurate, complete and effective. They must inform the supervisory authority of any changes which may be material for the accuracy of an assessment of goods or products. If the supervisory authority has doubts about the acceptability and objective correctness of submitted documentation, the authority shall inform in writing the holder of intellectual property rights about this fact. The holder of intellectual property rights shall provide a written statement concerning the ascertained deficiencies in the documentation with 15 days of receiving such a notice.
- (2) If the supervisory authority conducts an investigation based on a complaint of a holder of intellectual property rights or another party that demonstrates legal interest in the matter, such parties must pay an adequate deposit (hereinafter "deposit") for the purpose of covering expenses of the supervisory authority in the event that the results of the investigation show that the complaint was unsubstantiated. The amount of the deposit shall be set by the director of the supervisory authority. The deposit shall be calculated based on the average cost of work performed by one inspector per day during the preceding year. The deposit shall be paid by the holder of intellectual property rights or another party that demonstrates legal interest in the matter to the account of the supervisory authority within 15 days of the filing of a complaint. If the deposit is not paid by the applicable deadline, the supervisory authority shall be under no obligation to investigate the complaint.

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<sup>9</sup> Chapter V, Part One of the Commercial Code, Act No. 513/1991 Coll.

- (3) If the results of an investigation show that a complaint was substantiated, the supervisory authority shall refund the deposit within ten days of the completion of investigation. If the complaint is found to be unsubstantiated, the supervisory authority shall calculate the actual cost of the conducted investigation. If the sum of actual costs is lower than the deposit, the supervisory authority shall refund the difference to the holder of intellectual property rights or another party that demonstrates legal interest in the matter within ten days. If the sum of actual costs is higher than the deposit, the holder of intellectual property rights or another party that demonstrates legal interest in the matter shall pay the difference within ten days of receiving a notice to this effect.
- (4) In the event that a holder of intellectual property rights submits to the supervisory authority untrue, incorrect, incomplete or ineffective documentation, the holder of intellectual property rights shall be liable for any damages incurred in connection therewith by the supervisory authority or the investigated entity.

### **Information Duty**

#### **Section 9**

- (1) Sellers shall duly inform consumers about the properties of products to be sold, the nature of services to be provided, the manner of use and maintenance of particular products, any risks related to the improper use or maintenance thereof, and about any risks concerning services that are to be provided. If necessary due to the nature of a product, the manner of its use, and the period of its use, the seller shall ensure that the relevant information is contained in enclosed operating instructions and that such information is comprehensible.
- (2) A seller may not be released from the duties set forth in paragraph (1) on the grounds that the required or correct information was not provided to him by the manufacturer, importer or supplier. However, such duty does not apply in cases of obvious or generally known facts.

#### **Section 10**

- (1) Sellers shall ensure that products to be sold by them are visibly and intelligibly marked:
  - a) with the name of the product, the designation of the manufacturer, importer or supplier, the weight, quantity, size or dimensions, and any further information that based on the nature of the product is necessary for its identification or use,
  - b) with information about the composition of the material in the case of textile products, with the exception of products that under a special regulation are not subject to the duty of being identified this way,
  - c) with information about the minimum durability of foods or the expiration date in the case of perishable products, as specified in a special law<sup>9a</sup>,
  - d) with information about the materials used in the main parts of footwear, with the exception of products that according to the relevant implementing regulation are not subject to the duty of being identified this way.
- (2) If special rules are to be observed when using a certain object, especially if instructions for use are to be followed, sellers shall inform consumers accordingly, unless such rules are generally known.
- (3) When products to be sold cannot be marked directly, sellers must mark them clearly and intelligibly with the information described in paragraph 1 in another suitable manner. When it is not possible or expedient to mark products to be sold due their nature, sellers shall provide such

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<sup>9a</sup> Act on Foods and Tobacco Products and on Amendment to Some Related Acts, No. 110/1997 Coll.

information truthfully, on request, to any consumer or authorities monitoring compliance with the provisions of this Act, and if necessary sellers must substantiate such information.

- (4) Special regulations may define a different manner of marking products.
- (5) No seller may remove or change product markings and other information provided by the producer, importer or supplier.
- (6) In the case of sale of used or modified products, products with a defect, or products whose usefulness is otherwise limited, sellers must advise consumers clearly of these facts in advance. Such products must be sold separately from other products.
- (7) The provisions of paragraphs 1 to 3 shall apply to the sale of used goods only where applicable.

### **Section 10a**

Manufacturer or his delegate<sup>9b</sup> is responsible for marking materials used in shoe's main components, in accordance with statutory instrument, and for accuracy of information contained therein. Manufacturer or his Authorised Representative is obliged to provide such data to both the distributor and the retailer. If neither the manufacturer nor his Authorised Representative has a registered office in a member state of the European Union, this obligation is transferred to the person responsible for launching the shoes on the European Community's market.

### **Section 11**

- (1) If the information referred to in Sections 9, 10, 13 and 19 is provided in writing, it must be in the Czech language.
- (2) Separate pieces of information referred to Sections 9 and 10 may be provided also in the form of symbols (pictograms) that shall be understandable, legible and complete. In case of sale of products denoted with the help of symbols (pictograms) sellers will be obliged to explain them or otherwise make their meaning suitably accessible to consumers upon request.
- (3) Physical quantities must be expressed in measuring units stipulated by a special act<sup>10</sup>.

### **Section 12**

- (1) In accordance with price regulations<sup>11</sup>, sellers shall clearly inform consumers about the price of products to be sold or services to be provided by clearly marking the price on every product or providing information about the price of products or services in another suitable manner.
- (2) Information about the price, or the fact that information about the price is incomplete or missing, may not make it appear that:
  - a) the price is lower than the actual price,
  - b) the setting of the price depends on circumstances on which it in fact does not depend,

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<sup>9b</sup> Section 2, letter f) of the Act No. 22/1997 Coll., on Technical Requirements on Products, as amended

<sup>10</sup> Section 2 of the Metrology Act, No 505/1990 Coll.

<sup>11</sup> Section 13, paragraph 2 of Act No. 526/1990 Coll.

Section 5, paragraphs 2 and 3 of Regulation No. 580/1990 Coll., which enacts the Act on Prices, No. 526/1990 Coll., as amended by Regulation No. 580/1992 Coll.

- c) the price includes delivery, performance, work, or services, that in fact is to be paid for separately,
  - d) the price has been or will be increased or reduced or will remain unchanged, if this is not the case,
  - e) the price and usefulness of an offered product or service is comparable to the price and usefulness of a similar product or service if this is not the case.
- (3) The provisions of paragraph 2 shall apply commensurately to information about methods of setting prices.

### **Section 13**

Sellers shall duly inform consumers about the extent, conditions, and manner of making liability claims concerning defects in products and services, including claims of conflict with the purchase contract (hereafter "claims"), while providing information at the same time as to where claims can be made and warranty service obtained.

### **Section 14**

- (1) Sellers are obliged to mark their retail outlets in conformity with a special legal regulation<sup>11b</sup>.
- (2) When a retail outlet is to be closed down, the seller shall inform the applicable Trade Licensing Authority<sup>11a</sup> about where claims can be settled.

### **Section 14a**

Operators of a market place (market hall)<sup>11c</sup>, including municipalities renting out parts of public land for occasional stall sales, are required to keep records of the sellers, such records to include information in the extent defined by a special legal regulation<sup>11d</sup>, and shall present the records to the supervisory authority upon request. Operators shall store the records for one year as from the date of a record entry.

## **Other Duties Related to Sale of Products and Provision of Services**

### **Section 15**

- (1) If the nature of a product so permits, the seller shall demonstrate the product to consumers upon request.
- (2) In the cases stipulated by law<sup>12</sup>, the seller shall duly issue a warranty certificate.
- (3) Where service is not provided instantly, a seller is obliged to issue a written confirmation of the accepted order to the consumer. Such confirmation shall include designation of the subject of the service, its scope, quality, price for the service and deadline of its performance.

### **Section 16**

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<sup>11a</sup> Act on Trade Licensing Authorities, Czech National Council Act No. 570/1991 Coll.

<sup>11b</sup> Section 17, Act on business activities (Small Business Act) No. 455/1991 Coll., as amended

<sup>11c</sup> Section 132 letter d, Act on excise duties No. 353/2003 Coll., as amended by Act No. 217/2005 Coll.

<sup>11d</sup> Section 17 paragraph 7, Act on business activities (Small Business Act) No. 455/1991 Coll., as amended

<sup>12</sup> Section 620, paragraphs 2 and 3 and Section 621 of the Civil Code



- (1) At the request of a consumer, a seller shall issue a receipt confirming purchase of a product or provision of a service, stating the date of sale of the product or provision of the service, the type of product or service, and the price for which such product was sold or service provided, including also an identification of the seller, i.e. the first name and family name or a designation or business name, or designation of the seller, its company ID and registered office (for legal entities) or place of business (for individuals), unless otherwise stipulated by a special law<sup>12a</sup>.
- (2) Receipts of purchase for products that are to be delivered at a later date must state the place and date of delivery.
- (3) Receipt of purchase for used or modified products, products with a defect, or products whose usefulness is otherwise limited must clearly indicate this fact.
- (4) If it concerns the purchase of used goods or the goods without data of acquisition, receiving the goods into deposit or interposition or purchase of such goods the seller shall submit identification data according to special legal regulation<sup>12b)</sup> upon request of the surveillance authorities or Police in the limits of their competence.

### **Section 17**

If the nature of products so requires, particularly in respect of the hygienic conditions in which they are sold and the manner in which they are used, the seller shall sell products in hygienic packaging or wrap them in such packaging materials at the time of sale; in the case of self-service sale, the seller shall provide the consumer with a suitable packaging material<sup>12b)</sup>.

### **Section 18**

- (1) Sellers must inform consumers about the monetary deposit paid for returnable packagings and post this information in a visible place.
- (2) Sellers must inform consumers about a change in the sum of the deposit paid for returnable packagings or the termination of refund of the deposit for returnable packagings at least 30 days before the change or termination is to take place. During this period refund of the deposit for such returnable packagings may not be stopped.

### **Section 18a**

Manufacturers, importers and sellers may not use the names of individual types of crystal glass and symbols assigned thereto which are defined in the implementing regulation, in the case of products that are not specified in detail by such implementing legal regulation; the foregoing applies also to the advertising for such products. When a glass product bears a company or production designation or a brand or business name or a name including the words "crystal" or "made of crystal" or words derived therefrom, the producer or importer and the seller must add to such designation a detailed specification in accordance with the implementing regulation.

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<sup>12a</sup> Section 31, paragraph 12 of the Act on Trades, No. 455/1991 Coll., as amended by Act No. 356/1999 Coll.

<sup>12b)</sup> Section 31 paragraph 4 to 7 of the Act on Trades, No. 455/1991 Coll., as amended by Act No. 356/1999 Coll.

<sup>12b)</sup> § 31 paragraph 4-7 of the Act on Trades, No. 455/1991 Coll., as amended

## **Section 18b**

No one is allowed to unauthorised use of an ecolabel<sup>12c</sup>.

## **Section 19**

- (1) Except when another person is designated to perform repairs<sup>13</sup>, a seller must accept a claim in respect of a product that he sold in any of his outlets, if this is possible taking into account the assortment of goods sold or services provided, at his registered office, or at his place of business. A seller is obliged to issue a written confirmation to the consumer, stating when the latter presented his entitlement, the content of the claim and manner of the claim handling requested by the consumer; also, a confirmation showing the date and manner of handling the claim, including confirmation of the repair done and time spent on it, or a written justification in case of a rejected claim. The foregoing obligation shall apply also to any other persons appointed to carry out the repair.
- (2) An employee authorized to handle claims concerning sold products must be present at a retail outlet during the entire course of business hours.
- (3) A seller, or an employee authorized by him, shall decide about a claim immediately, in complicated cases within three business days. This period shall not include an adequate time required for expert assessment of a defect in a product or service. A claim concerning a defect in a product sold or service provided must be settled and the defect rectified without delay, at the latest within 30 days of the making of the claim, unless a longer period is agreed between the seller and the consumer. After the elapsing of such a period, the consumer shall have the same rights as if the defect were non-rectifiable.
- (4) In the case of sale or provision of services outside a registered retail outlet, the seller, must add in writing to the information specified in Section 13 the seller's name and the address where the consumer may file a claim after such sale or provision of services is terminated.

## **Section 20 Repealed**

## **PART THREE**

### **Tasks of Public Administration**

## **Section 21 Protection against Products Dangerous due to Being Possibly Mistaken for Foods**

Government authorities, self-governing territorial authorities, and other public administration authorities shall, within their competences, take all steps necessary to prevent the import, export, market introduction, and subsequent distribution of products dangerous due to being possibly mistaken

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<sup>12c)</sup> Regulation (EC) No 1980/2000 of the European Parliament and of the Council of 17 July 2000 on a revised Community eco-label award scheme

<sup>13</sup> Section 625, second sentence of the Civil Code

for foods. The abovementioned authorities must inform consumers about products dangerous due to being possibly mistaken for foods by all available means, especially through the use of mass media.

## **Section 22 Repealed**

## **Section 23 Supervision of Consumer Protection**

- (1) Compliance with the duties stipulated by this Act shall be monitored by the Czech Trade Inspection<sup>16</sup>, with the exception of the supervision as per paragraph 4, and, in case of the foods and tobacco products, as per Section 3, letter b), Sections 8 and 9, Section 10, paragraph 1, letter c), and Section 17.
- (2) Compliance with the duties stipulated in Section 3, letter b), Sections 8, 8a and 9, Section 10, paragraph 1, letter c), Section 10, paragraph 4, Section 14a and Section 17 of this Act concerning agricultural products, foods, cosmetics, soaps and detergents, and tobacco products is supervised also by the Czech Agricultural and Food Inspection<sup>17</sup>.
- (3) Compliance with the duties stipulated in Section 3, letter b), Section 8, paragraph 1, Section 9, Section 10, paragraphs 1 and 3, Section 14a and Section 17 of this Act concerning protection of human health, especially from the viewpoint of the effect of products and services on human health, is also supervised by public health protection authorities<sup>18</sup>.
- (4) Compliance with the duties stipulated in Section 3, paragraph b), Section 8, paragraphs 1 and 4, Section 9, Section 10, paragraph 1, letter c), Section 14a and Section 17 of this Act is supervised in the area of veterinary care by veterinary care authorities<sup>19</sup>, especially from the following viewpoints:
  - a) the fitness and biological value of foods of animal origin when they are sold at outdoor and indoor markets and foods of animal which are conditionally edible,
  - b) the fitness and dietary quality of fodder,
  - c) ensuring that only veterinary pharmaceuticals and preparations approved in accordance with a special law<sup>18</sup> are distributed,
  - d) ensuring that live animals are sold in accordance with the provisions of special laws<sup>19</sup>.
- (5) Compliance with the duties stipulated in Section 8, 9 through 13, Section 14, paragraph 2, Section 14a through 16, and Section 18 of this Act with respect of trade and services<sup>21</sup> is supervised also by the municipal trades licensing authorities<sup>11a)</sup> in whose jurisdiction an outlet is located.
- (6) Compliance with the duties stipulated in Section 7b, 8, paragraph 2 and Section 8a, is supervised also by the customs authorities as per Sections 23b and 23c of this Act.
- (7) An inspector of the Czech Trade Inspection or the Czech Agricultural and Food Inspection who supervises the market in accordance with this Act and ascertains products or goods which

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<sup>16</sup> Czech Trade Inspection Act, Czech National Council Act No. 64/1986 Coll., as amended

<sup>17</sup> Czech Agricultural and Food Inspection Act, Czech National Council Act No. 63/1986 Coll., as amended

<sup>18</sup> Act on Protection of Public Health and on Amendment to Some Related Laws, No. 258/2000 Coll.

<sup>19</sup> Act on the Responsibilities of Veterinary Care Authorities of the Czech Socialist Republic, Czech National Council Act No. 108/1987 Coll., as amended by Czech National Council Presidium Measure No. 25/1991 Coll., Czech National Council Act No. 437/1991 Coll., Czech National Council Presidium Measure No. 348/1992 Coll., and Act No. 112/1994 Coll.

violate Section 8, paragraph 2, provided that it is demonstrated that the goods or products are not under customs supervision<sup>21c</sup>, is entitled to seize such products or goods. The matter and the seized products or goods shall be transferred to the applicable customs authority<sup>21a, 21d</sup> for customs proceedings and further investigation.

- (8) Supervision at compliance with the duties stipulated in Sections 8 paragraph 1, § 9 paragraph 1, § 10 paragraph 1 letter a) and paragraph 5 through 7, Section 11, Section 12 paragraph 1, Section 14 paragraph 1 and Section 14a of this Act concerning weapons, munitions and pyrotechnic products shall be carried out by the Czech Office for Testing the Weapons and Munition<sup>21e</sup>.

### **Section 23a**

- (1) The authorities specified in Section 23 are entitled to issue binding instructions for the purpose of rectifying ascertained deficiencies. In cases of imminent danger to life, health or property, they may stop sale of products and provision of services or close an outlet; if the urgency of the situation so requires, such a decision can be announced verbally and a written confirmation be delivered without delay.
- (2) An appeal may be lodged against a decision made under paragraph 1, second sentence, within three days of the receipt of such a decision in writing. An appeal shall not have a postponing effect and the appeal authority shall deliver a ruling concerning an appeal without delay.
- (3) The sale of products, provision of services or the re-opening of an outlet is possible only after the same has been restored to a suitable condition, and only with written approval of the authority that decided to stop the sale of products or the provision of services or to close the outlet.
- (4) The authorities specified in Section 23 may decide to order a producer, an importer, a supplier or a seller to withdraw from the market a product dangerous due to being possibly mistaken for foods. In cases of imminent danger to life, if required by the urgency of the situation, such decision can be communicated verbally and its written confirmation delivered without delay.
- (5) A seller must notify a producer, an importer or a supplier of the fact that a product is to be withdrawn from market due to a decision of the supervisory authority and to ensure immediately in cooperation with them the manner of withdrawing the product dangerous due to being possibly mistaken for foods. A supplier shall, based on a seller's notification or a supervisory authority's decision, to withdraw a product from the market and to ensure immediately in cooperation with the producer the manner of withdrawing a product dangerous due to being possibly mistaken for foods. A producer or a supplier shall, based on a supervisory authority's decision to withdraw a product from the market or based on a notice from the supplier or the seller of withdrawing the product from the market, ensure in cooperation with them the manner of taking back the product dangerous due to being possibly mistaken for foods. The parties making and accepting delivery of such products to be withdrawn from the market shall ensure the withdrawing of such a product by the deadline set by the supervisory authority or, if no deadline is set, without undue delay and notify the supervisory authority.

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<sup>21c</sup> Section 47 of the Customs Act, No. 13/1993 Coll.

<sup>21d</sup> Section 11 of Act No. 13/1993 Coll., as amended by Act No. 113/1997 Coll.

<sup>21e</sup> Act 156/2000 Coll. on Verification of Weapons, Munitions and Pyrotechnic Products amended by the Act. 288/1995 Coll. on Weapons and Munitions amended by Act 13/1998 Coll. and the Act 368/1992 on Administrative Charges as amended

- (6) If the returning or taking back of products described in paragraph 4 does not take place in accordance with the applicable decision of the supervisory authority or without undue delay, the supervisory authority shall be entitled, in addition to its right to impose a fine, to order destruction of the product at the expense of the person or the entity that breached the duty to return or take back such products in cases of danger to life, health or property.

### **Section 23b**

#### **Customs authorities**

- (1) In discharge of their supervisory functions as per Section 23 paragraph 6, customs authorities are authorized to:
- a) perform checks of legal entities and individuals who manufacture, store, distribute, import, export, purchase or supply products and goods to the national market or carry out any similar activity on the national market; in doing so, the customs authorities act either in concert with the Czech Trade Inspection or independently, providing there is justified suspicion that products or goods violate certain intellectual property rights;
  - b) enter, at performing their checks:
    - 1. retail outlets or storage facilities (Section 8 paragraph 6) with respect of which they hold a justified suspicion that such points offer, store or sell product or goods contravening certain intellectual property rights (Section 8 paragraph 2); the government shall be the party liable for any damage caused at that; it cannot be exempted from such liability,
    - 2. premises of a manufacturer, importer or distributor and require submission of relevant documentation and provision of truthful information. Manufacturers, importers or exporters may be advised by a customs officer to obtain and submit professional opinions by a professionally qualified person<sup>21a)</sup> on the subject of supervision, or, a customs officer may request presence, for consideration, of a professionally qualified person during the check. A fee for the work performed by a professionally qualified person shall be agreed according to a special regulation<sup>21f)</sup>,
  - c) establish the identity of individuals who are persons subjected to a check, as well as identity of individuals who represent checked persons and ascertain powers of representation of such individuals,
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- <sup>21f)</sup> Act No. 526/1990 Coll., On prices, as amended
- d) require all necessary documents, information and oral or written explanations from the checked persons,
  - e) seize, from the checked persons for compensation, required samples of products or goods for assessing whether or not a respective product or good is violating certain intellectual property rights with respect of consumer deception. Checked persons shall receive compensation for any seized samples of products or goods, at the amount of the price for which the product or good is offered at the time of the sample seizure. No compensation will be however furnished if waived by the checked person. No title to compensation will arise if a final and conclusive decision is taken on the product or good concerned that, in fact, it is a good contravening certain intellectual property rights.
- (2) In discharge of tasks under this Act, customs officers shall identify themselves without demand with an authorisation issued by the customs authority and with a custom officer's service ID card.

- (3) Customs officers shall maintain confidential any facts constituting a business secret subject<sup>21g)</sup> that have come to their attention in discharge of their supervisory tasks or in performance of duties relating to such secret, except for disclosure of information required for the purposes of and relating to criminal proceedings.
- (4) Customs officers are authorised to perform checks to establish whether or not consumer deception has been committed as per Section 7b, Section 8 paragraph 2 and Section 8a.
- (5) The customs authority informs the originator of a filed motion on any established instance of consumer deception as per Section 8 paragraph 2 or on any identified deficiencies and their reasons.
- (6) The customs authority is authorised request presence of persons professionally qualified under special legal regulations<sup>21a)</sup> during a check, where justified by the nature of the supervisory activity. Such persons shall have rights and obligations identical to those of the customs officers, in the extent of authorisation issued for them by the customs authority. Professionally qualified persons cannot be authorised to impose measures or penalties under this or any other acts<sup>21h)</sup>.
- (7) Checked persons are obliged to enable customs officers and professionally qualified persons whose presence at the check has been requested to perform their tasks related to discharge of supervision.

### **Section 23c**

- (1) A customs officer shall, at a proven identified instance of offer, sale, storage, distribution, or export or import of products or goods, or supply of products and goods to the national market, or carrying out of any similar activity on the national market, referred to in Section 7b and Section 8 paragraph 2, impose seizure of such products or goods. On such measure to seize products or goods, the customs officer shall orally inform the checked person or person present at the check and shall forthwith make an official record that shall set out, inter alia, a reason of the seizure, description of the seized products or goods and their quantities. The customs officer shall hand over a copy of the official record to the checked person.

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<sup>21g)</sup> Section 17 ff., Act No. 513/1991 Coll., Commercial Code

<sup>21h)</sup> Act No. 219/2000 Coll., On the property of the Czech Republic and on its acting as a legal entity, as amended

- (2) The customs office is authorised to deposit seized products or goods, as set out in Section 7b and Section 8 paragraph 2, out of the checked person's reach. The checked person is obliged to surrender the seized products or goods to the customs officer. Should the checked person refuse such surrender, the products or goods shall be dispossessed from the checked person. The customs officer shall make an official record of the seizure or dispossession. Costs of dispossession, transport and storage shall be paid by the checked person. The checked person shall be not liable to cover the costs if it demonstrates that the products or goods do not fall under those set out in Section 7b or Section 8 paragraph 2.
- (3) The checked person may lodge objections with the customs office director against the imposed measure to seize the products or goods under paragraph 1 above, doing so within 3 workdays from the date of familiarisation with the imposed measure. Such objections shall have no dilatory effect. The customs office director shall decide on the objections without undue delay.

His or her decision shall be final. A written decision on the objections shall be delivered to the checked person.

- (4) The seizure of products or goods under paragraph 1 above shall last until a conclusive and final decision is taken on their forfeiture or confiscation, or until they are proved not to be the products or goods violating certain intellectual property rights. Cancellation of a measure to seize the products or goods that are then proved not to contravene certain intellectual property rights shall be made in writing by the customs office director. The decision shall be delivered to the checked person. If the measure of seizure is cancelled, the checked person shall be returned the seized products or goods intact and without undue delay, except for the products or goods used in the assessment. The customs officer shall make a written record of the return.
- (5) The customs office director shall impose, in addition to a fine, also the forfeiture or confiscation of the products or goods referred to in Section 7b or Section 8 paragraph 2. The government shall become the owner of any such forfeited or confiscated products or goods<sup>21h)</sup>.
- (6) The customs office director shall determine that the confiscated or forfeited products or goods either should be destroyed or, where they are suitable for humanitarian purposes, the director may instruct to use them for such purposes, free of charge. Humanitarian purposes shall be understood to include activities carried out with an aim to provide for the basic needs of citizens who have been exposed to a situation of personal distress or suffered from an extraordinary event, when use of extraordinary subsistence resources is justified.
- (7) Once a decision as per paragraph 5 above is final and conclusive, while the customs office director has determined that the confiscated or forfeited products or goods should be destroyed, such destruction should be carried out officially, under supervisions of a three-member commission appointed by the customs office director. The commission shall draw up a record of the destruction, signed by all three members of the commission. The destruction shall be carried out at the expense of the checked person who offered, sold or stored the products or goods.
- (8) The customs office shall impose an obligation to pay the costs as per paragraphs 2 and 6, by a decision with a maturity term of 30 days from the date of notifying on the decision. Should the above costs fail to be settled within the maturity term the customs office shall proceed with their dunning in accordance with special legal regulations<sup>21i)</sup>.
- (9) Products or goods forfeited or confiscated based on a decision that have come into legal force may be transferred for humanitarian purposes, subject to the conditions laid down by this Act, solely to the recipient organisations who may include the following:

- a) branches and contributory organisations of the government and territorial self-governed units, incorporated for the purposes of provision of social care or for activities in health care or education<sup>21j)</sup>, or
  - b) other legal entities<sup>21k)</sup>, subject to their satisfying the following requirements:
    - 1. they have not been formed for entrepreneurial purposes,
    - 2. their scope of registered activities includes only those referred to in letter a) above,
    - 3. they have been providing humanitarian aid for no less than 2 years, and
    - 4. they will document they have no overdue tax liabilities or overdue premiums for social insurance and contributions for the state employment policy, nor has been any judicial procedure conducted against them.
- (10) Allowable to be provided for the humanitarian purposes shall be only products or goods that are obviously safe to human health, safe to use and from which a recipient organisation has entirely removed and destroyed any elements violating the intellectual property rights. Each product or good must be marked with an inscription “humanita” (i.e. “humanity”) in permanent ink, in the manner that shall be not humiliating the dignity of individuals who will use such products.
- (11) The Czech General Customs Office and recipient organisation shall sign a written agreement on provision of a product or good for humanitarian purposes, while such agreement shall always include, in addition to the usual material requisites, the type and quantity of the provided products or goods and also a contractual fine clause<sup>21l)</sup> applicable in case of a failed commitment to provide the product or good solely for the humanitarian purposes, and specification of the purpose for which it will be used by the recipient organisation. Products or goods will be provided to the recipient organisations in the order of received applications, taking into account the effectiveness of use and urgency of needs. Removal of elements violating the intellectual property rights, their destruction, and respective marking as per paragraph 10 above shall be performed or procured for by the recipient party at its own expense. A record of performed modifications and destruction shall be drawn up by a three-member commission appointed by the customs office director, while members may include the intellectual property right owners or their representatives. The record shall be signed by all three members of the commission.

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<sup>21j)</sup> Act No. 337/1992 Coll., On administration of taxes and charges, as amended

<sup>21k)</sup> For example, Act No. 114/1988 Coll., On competence of authorities of the Czech Republic in social security, as amended; Act No. 109/2002 Coll., On execution of institutional and protective education in school establishments and on preventive educational care in school establishments, amending certain other acts, as amended; Act No. 170/2002 Coll., On war veterans, as amended by Act No. 190/2005 Coll.

<sup>21l)</sup> For example, Act No. 248/1995 Coll., On benevolent associations and on modifications and amendments to certain laws; Act No. 227/1997 Coll., On foundations and foundation funds and on amendments to certain related acts (Foundations and Foundation Funds Act), as amended by Act No. 210/2002 Coll., and Act No. 257/2004 Coll.; Act No. 83/1990 Coll., On citizens’ associations, as amended; Act No. 3/2002 Coll., On freedom of religious confession and the position of churches and religious societies and on the changes of some legal acts (Act on churches and religious societies), as amended by the Constitutional Court Judgement No. 4/2003 Coll., and by Act No. 495/2005; Act No. 325/1999 Coll., on Asylum amending the Act No. 283/1991 Coll., on the Police of the Czech Republic (Asylum Act), as amended

<sup>21i)</sup> Section 51, Commercial Code



- (12) Upon receipt of the product or good, a recipient organisation shall:
- a) forthwith remove and destroy any elements violating the intellectual property rights,
  - b) use the products or goods solely for humanitarian purposes on the territory of the Czech Republic, and
  - c) adopt measures to prevent any misuse of the products or goods and their re-admission for trading.
- (13) The customs office shall check with the recipient organisation for compliance with the duties laid down by this Act, as well as duties contractually undertaken by the recipient organisation.
- (14) The recipient organisation shall, over the period of 3 years from the date of provision of products or goods, record and file, for the purposes of supervision carried out by the customs office, documents supporting the receipt of the products or goods, removal and destruction of elements violating the intellectual property rights and manner in which such products or goods have been demonstrably disposed of. This provision leaves unaffected any provisions under special legal regulations, laying down recording and filing of determined documents<sup>21m)</sup>.

## **Section 24**

### **Fines**

- (1) The authorities specified in Section 23 shall impose a fine of up to CZK 50,000,000 for a breach of the duties stipulated in Sections 3, 6, 7a, 7b, Section 8, paragraphs 1, 2, 3, and 4, Section 8a, paragraph 1, and Sections 9 to 19 of this Act; when imposing such a fine, the nature of the unlawful conduct and the scope of its consequences shall be taken into consideration.
- (2) Where a breach of a duty stipulated in Section 3, letters a) and c), Section 6, Section 10, paragraph 1, letters a) and b), and Sections 11 and 12 is not involved, paragraph (1) shall not apply to foods and tobacco products.
- (3) In cases of breach of the duties stipulated in Section 23a, paragraphs 4 and 5, the authority specified in Section 23 shall impose a fine of up to CZK 50,000,000.
- (4) On their own initiative or at the request of a consumers' association or another legal entity established for the purpose of protecting consumers, the authorities specified in Section 23 shall impose on a seller, a producer, an importer or a supplier who sells, produces, imports or supplies a defective product that causes harm to life or health a fine of up to CZK 50,000,000; such a fine shall also be imposed on the persons specified in Section 27 who sell, produce, import or supply a defective product whose defect causes harm to life or health. The same fine shall be imposed on a person who causes such harm by the provision of a faulty service. A fine cannot be imposed on a person who proves that harm could not have been prevented even if all due care had been taken."

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<sup>21m)</sup> For example, Act No. 563/1991, On accounting, as amended; Act No. 337/1992 Coll., On administration of taxes and charges, as amended

- (5) A fine pursuant to paragraph 1 of up to CZK 5,000 can be imposed on the spot, provided that a breach of duty is reliably established and the person who breached the duty is willing to pay an on-the-spot fine. The imposition of an on-the-spot fine is subject to the applicable provisions of a special act<sup>22</sup> commensurately.
- (6) A fine pursuant to paragraph 1 cannot be imposed if a fine under a special law is imposed, or if a fine under paragraph 2 can be imposed.
- (7) In cases which are under the jurisdiction of several of the authorities stipulated in Section 23, a fine shall be imposed by the authority that first initiated administrative proceedings. These authorities shall inform each other about initiating proceedings on the imposition of a fine.
- (8) Fines imposed under paragraphs 1 to 4 shall be revenues of the state budget of the Czech Republic, unless the Act states otherwise (§ 24 paragraph 9).
- (9) Fines imposed under paragraph 1 by the trade offices shall be revenue of the appropriate community budget.
- (10) A fine pursuant to paragraph 1 can be imposed within three years and a fine pursuant to paragraph 2 within ten years of the day on which the duty was breached.
- (11) The imposition of a fine shall not affect the duty to pay compensation for damages.
- (12) A fine shall be paid within 30 days of the day when the decision on imposing of such fine enters into effect.
- (13) A fine which is state budget revenue is collected by the imposing authority and exacted by the customs office. The fine which is a revenue of the community budget is collected and exacted by the municipal trading office which imposed the fine. Collection and exaction is regulated by the Act on Tax and Fee Maintenance.

## **PART FOUR**

### **Consumer Associations and Other Legal Entities Established for Consumer Protection**

#### **Section 25 Legal Status**

- (1) The legal status of consumer associations and other legal entities established to protect the consumer (hereafter "associations") shall be governed by special laws<sup>15</sup>.
- (2) A motion to begin court proceedings for injunctions matters concerning protection of consumer rights may be filed by and a participant in such proceedings may be:
  - a) an association whose statutes stipulate such a purpose or
  - b) an entity set out in the list of persons qualified to bring an action for an injunction with respect of the consumer rights protection (hereinafter "the list of the qualified entities"), while the right of the court to re-examine if the motion for commencing the court proceedings has been filed by a qualified entity shall remain unaffected.

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<sup>22</sup> Sections 84 and 85 of the Act on Transgressions, Czech National Council Act No. 200/1990 Coll., as amended

<sup>15</sup> Act No. 83/1990 Coll. or the Civil Code

- (3) The list of the qualified entities is maintained by the Commission of the European Communities and published in the Official Journal of the European Union<sup>20</sup>.
- (4) An association may be proposed by the Czech Republic for inclusion in the list of the qualified entities, providing
  - a) it has been incorporated compliant to the laws of the Czech Republic<sup>15</sup>,
  - b) it has been actively operating in the consumer protection for two year at the minimum,
  - c) it is independent and not-for-profit, and
  - d) it has duly settled all its financial liabilities to the Czech Republic.
- (5) An applicant association shall file its application for inclusion in the list of the qualified entities with the Ministry of Industry and Trade, accompanied with the documents supporting satisfactions of the requirements under paragraph 4. If the association meets the requirements the Ministry of Industry and trade shall propose its inclusion in the list of the qualified entities to the Commission of the European Communities.

## **Section 26**

### **Rights in respect of Government Authorities**

Associations shall have the right to file motions with government authorities in connection with their supervision over the protection of consumer interests. Government authorities with which such motions are filed shall inform associations about the results of the applicable proceedings without undue delay, no later than two months of the filing of a motion.

## **PART FIVE**

### **Joint and Final Provisions**

## **Section 27**

### **Consumer Protection and Unauthorized Business Activity**

The duties of sellers, producers, importers, or suppliers shall also apply to persons carrying out the activities stipulated in Section 2, paragraph 1, letters b) to e) without the necessary authorization.

## **Section 28**

### **Relation to the Administrative Procedure Code**

Proceedings undertaken in accordance with Sections 23a, 23b and 23c and 24 of this Act shall be subject to the general provisions concerning administrative proceedings<sup>23</sup> unless this Act stipulates otherwise.

## **Section 28a**

The Ministry of Industry and Trade shall specify in a decree:

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<sup>23</sup> Administrative Procedure Code, No. 71/1967 Coll.

Act on Administration of Taxes and Fees, Czech National Council Act No. 337/1992 Coll., as amended

- a) the method of determining the content of individual kinds of fibers in textile products,
- b) details about the manner of marking textile products with information on the composition of the fabric,
- c) a list of textile products which are exempt from the requirement of being marked with information on the composition of the fabric,
- d) details about the manner of marking footwear with information about the materials used in their main parts,
- e) a list of the kinds of footwear which are exempt from the requirement of being marked with information about the materials used in their main parts,
- f) conditions for defining individual kinds of crystal glass, including their names, properties, symbols assigned thereto, methods used to determine their chemical and physical properties, as well as methods of marking products made from crystal glass, including a definition of products made from crystal glass which are subject to marking.

### **Section 29**

#### **Effectiveness**

This Act shall enter into effect on the day of promulgation.

Stránský, in own hand  
Kováč, in own hand

Amendment selected provisions  
Article III of the Act No. 217/2004 Coll

Proceedings on imposing the fines initiated before the date of coming into effect shall be terminated according to actual legal regulations.