



Tonga

# **CONSUMER PROTECTION (PRODUCT SAFETY & LABELLING STANDARDS) REGULATIONS**

**Chapter 40.08.1**

**2016 Revised Edition**





## CONSUMER PROTECTION (PRODUCT SAFETY & LABELLING STANDARDS) REGULATIONS

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# CONSUMER PROTECTION (PRODUCT SAFETY & LABELLING STANDARDS) REGULATIONS

## CONSUMER PROTECTION ACT 2000

*In exercise of the powers conferred by section 36 of the Consumer Protection Act 2000, the Minister with the consent of Cabinet makes the following Regulations —*

[Commencement 9 November 2006]<sup>1</sup>

### 1 Short Title

This Regulations may be cited as the Consumer Protection (Product Safety & Labelling Standards) Regulations

### 2 Interpretation

In these Regulations, unless the context otherwise requires —

“**Act**” means the Consumer Protection Act 2000; and

“**complaint**” means any complaint filed in the form prescribed in Form 1 by consumers, representatives of consumers, enterprises or representative of enterprises under the Act;

“**Division**” means the Consumer Affairs Division established under section 4 of the Act; and

“**respondent**” means any person who a complaint is filed against under the Act.

### **3 Approved Standards**

- (1) The product safety standards prescribed in Part 1 of Schedule 1 shall apply to all goods imported, manufactured or traded in Tonga.
- (2) The product labelling standards prescribed in Part II of Schedule 1 shall apply to all goods imported, manufactured or traded in Tonga.

### **4 Complaints Procedure**

- (1) A complaint made under section 14(2) of the Act shall be made to the Division –
  - (a) in Form 1; and
  - (b) within 14 days from the date of sale.
- (2) The Division shall, within 3 working days of receipt of a complaint advise the respondent in the form prescribed in Form 2 of the complaint made against them.
- (3) The respondent may, within 7 working days of receipt of the notice of complaint, make a written submission to the Division in respect of the complaint made against them.
- (4) The Division or any other body appointed under the Act shall investigate the complaint 7 working days after the respondent is notified of the complaint.
- (5) The Division or any other body appointed under the Act shall make a ruling on the complaint within 30 working days from the date of receipt of complaint.
- (6) The Division or any other body appointed under the Act shall, within 3 working days of the ruling on the complaint, inform the complainant of the ruling.

### **5 Orders**

- (1) An order issued under section 14(4) of the Act shall be made in Form 3.
- (2) An order issued under section 16 of the Act shall be made in Form 4.

### **6 Right of Review**

- (1) An application for review made under section 35 of the Act shall –
  - (a) be made in writing to the Minister within 14 working days from the date of the notice of the order; and
  - (b) set out the grounds for application to review the order.

- (2) The Minister shall, within 14 working days of receipt of the application for review decide the application.
- (3) The Minister shall, within 7 working days of deciding the review advise the respondent in writing of the decision.

## **7 Issuance and effectiveness of order**

- (1) Where the Director of the Division issues and order pursuant to section 14(4) of the Act, he shall –
  - (a) serve the order on the respondent, and
  - (b) advise the respondent of the respondent’s right of review under the Act.
- (2) An order issued under section 14(4) of the Act shall not come into effect until, in the case of a respondent who –
  - (a) does not exercise a right of review within 14 working days as specified under regulation 6(1); or
  - (b) exercises a right or review within the time prescribed under regulation 6(1).

**SCHEDULE 1**  
**(Regulation 3)**

**PART I**

**PRODUCT SAFETY STANDARD**

**General Safety Standard**

- a. Capable of use for the purpose claimed;
- b. Safe, for the intended use and for any reasonable use made;
- c. Durable, reliable and offer satisfactory level of utility and suitability in accordance to any applicable standard prescribed by legislation or as construed reasonable by an ordinary person;
- d. Designed or manufactured in accordance with international standards.

The following goods shall not be supplied, distributed or traded for consumer consumption -

- a. Defective goods
- b. Goods that have exceeded its “use by date”, “best before date: or “expiry date”
- c. Good with labelling which do not comply with the Product Labelling Standard prescribed in Part II of this Schedule.
- d. Goods that have been banned for human consumption in Tonga.

**PART II**

**PRODUCT LABELLING STANDARD**

**Interpretation**

In this standard, unless the context otherwise requires

“**food**” means any substance, whether processed, semi-processed or raw, which is intended for human consumption, and includes drinks, chewing gum and any substance which has been used in the manufacture, preparation or treatment of “food” but does not include cosmetics, tobacco or substances used only as drugs.

“**label**” means any tag, brand, mark, pictorial or other descriptive matter, written printed, stencilled, marked, or impressed on, or attached to the packaging of goods.

“**labelling**” includes written, printed or graphic matter that is present on the label.

“**pre-packaged**” means packaged or made up in advance in a container, ready for offer to the consumer, or for catering purposes.



**General Labelling Standard**

1. The label of any goods other than the sale of food, gas, electricity, water and communications –
  - a) shall not be described, presented or labelled in a manner that is false, misleading, or deceptive regarding its character;
  - b) shall not be described or presented by words, pictorial or other devices which refers or suggests directly to any other goods which may be confused with as to lead the consumer to suppose the goods are connected with other goods;
  - c) shall declare the following information –
    - i. the name and address of the manufacturer;
    - ii. the country of origin;
    - iii. product use, content, maintenance, storage and disposal where appropriate.
    - iv. relating to possible misuse of the product.
    - v. advising of any potential harms resulting from use of the product.
2. The information required to appear on the label or labelling pursuant to this Standard, shall be written in the English or Tongan language, and shall be clear, legible and displayed in a visible position on the product.
3. Pre-Packaged Food Labelling Standard

All pre-packaged food goods imported, manufactured or traded within Tonga for consumer consumption shall comply with the requirements of the Codex General Standard for the Labelling of Pre-packaged Food (CODEX STAND 1-1985, Rev. 1-1991). Copies of the Codex Standard shall be made available to the public at the Ministry of Labour, Commerce and Industries.

**FORM 1****(Regulation 4(1)(a))**

**Ministry of Labour, Commerce & Industries  
Government of Tonga**

**CONSUMER COMPLAINT FORM  
CONSUMER PROTECTION ACT 2000  
Section 14(2)**

<b>Name of Complainant:</b>	<b>Name of Trader:</b>
<b>Address</b>	<b>Address:</b>
<b>Nature and Description of Complaint:</b> (use separate sheet if required)	
<b>Details of goods:</b>	<b>Date of Purchase:</b> (Attach copy of receipt)
<b>Name and Signature of Complainant:</b> (Indicate relationship with Complainant, if complainant is made by a person other than the complainant)	<b>Date complaint received and Name, Designation and Signature of the Receiving Officer:</b>

\* This Form shall be used for complaint(s) made pursuant to Section 14(2) Complaints pursuant to section 14(2) shall reach the Division within 14 days of the date of purchase.

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**FORM 2**  
**(REGULATION 4(2)-(3))**



**Ministry of Labour, Commerce & Industries**  
**Government of Tonga**

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**CONSUMER PROTECTION ACT 2000**  
**Section 14(3)**

**To:**

**Address:**

**NOTICE OF COMPLAINT**

1. You are hereby notified that a complaint has been lodged to the Division pursuant to section 14(2) of the Act, regarding the (manufacture/sale) of your goods without conforming to the approved standards. The nature and description of the complaint are set out in the *Consumer Complaint Form* attached.
2. PURSUANT to section 14(3), I hereby give you an opportunity to provide your response to such complaint. Your response shall be made within 7 working days of the date of this notice.
3. FAILURE to comply with this notice shall give me the right to conclude the enquiry and to form an opinion concerning the complaint in the absence of your response.

DATED this     day of     .

.....  
Director for Consumer Affairs

FORM 3  
(REGULATION 5(1))



Ministry of Labour, Commerce & Industries  
Government of Tonga

CONSUMER PROTECTION ACT 2000  
Section 14(4)

To:

Address:

**ORDER TO PAY COMPENSATION/REPLACE GOODS/REFUND COSTS**

1. In exercise of the powers conferred by Section 14(4) of the Act, I hereby order that the above-named (*manufacture/trader*) shall (*pay compensation the sum of \$..... as itemized in (a)/ refund the amount paid for the good(s)/ replace the good(s) listed in (b)*) (Delete where necessary)

(a) Compensation break-down:

(b) List of goods, brief description, quantity and price:

To (Mr/Mrs/Ms).....of  
(full name of complainant)

.....  
(address)

within 7 working days from the date of this order.

2. This Order is made after an enquiry made by me and in which I am of the opinion that the above-named (*manufacture/trader*) had (*manufactured/sold*) the above good(s) without conforming to the approved standards prescribed under the Act namely (reasons)

DATED this    day of    , 2    .

.....

Director for Consumer Affairs

**FORM 4**  
**(REGULATION 5(2))**



**Ministry of Labour, Commerce & Industries**  
**Government of Tonga**

**CONSUMER PROTECTION ACT 2000**  
**Section 16**

**To:**

**Address:**

**PUBLIC NOTICE**

In exercise of the powers conferred by Section 16 of the Act, I hereby order the above-named (manufacturer/trader) to do the following:

(Delete where not applicable)

- (1) Recall all of the goods identified hereunder, within 7 working days from the date of this order;

List of good(s)

Band/Specifications

- (2) Disclose to the public, (the nature of the defect in the good(s)/the circumstances in which the use of the good(s) is dangerous/the manner of disposing of the good(s), by way of public notice or announcement to:
  - (a) publish in any newspaper circulated in Tonga for a period of at least one month; and
  - (b) announce through Tonga Broadcasting Commission within 24 hours of the date of this order, and to be announced at least 3 times.
- (3) Notify the public in the manner and within the period specified above, that you undertake to (repair the good(s)/replace the good(s)/refund to any person to whom the goods were supplied the full price of the goods.

Dated this day of , 2 .

Minister for Labour, Commerce and Industries.

**ENDNOTE**

## ENDNOTES

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<sup>1</sup> G 16/2006 published 9 November 2006