

## Product Safety Act

Passed 21 April 1998

(RT<sup>1</sup> I 1998, 40, 613),

entered into force 1 September 1998,

amended by the following Acts:

12.02.2003 entered into force 21.03.2003 - RT I 2003, 26, 156;

19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387;

19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375;

15.05.2002 entered into force 01.01.2003 - RT I 2002, 47, 297;

08.11.2000 entered into force 02.12.2000 - RT I 2000, 86, 546;

20.10.99 entered into force 14.11.99 - RT I 1999, 82, 753.

### Chapter 1

#### General Provisions

##### § 1. Scope of application of Act

(1) This Act provides safety requirements for marketed products and product-related services and the bases for organisation of market supervision.

(2) This Act applies to products and product-related services (hereinafter services) marketed in Estonia or exported to a Member State of the European Union.

(3) This Act applies to products, services and the organisation of market supervision in so far as there are no specific provisions in other Acts.

(3<sup>1</sup>) The provisions of the Administrative Procedure Act (RT I 2001, 58, 354; 2002, 53, 336; 61, 375; 2003, 20, 117) apply to administrative proceedings prescribed in this Act, taking account of the specifications provided for in this Act.

(19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375)

(4) This Act does not apply if:

1) a product has been used and must be repaired or reconditioned before re-use and the consumer is notified thereof in the marketing of the product;

2) persons supply products or services to one another not in the course of commercial activity;

3) a product may be deemed to be an antique.

(5) In this Act, product means a movable produced or manufactured for a consumer or a movable which is likely to be used by a consumer.

(15.05.2002 entered into force 01.01.2003 - RT I 2002, 47, 297)

(6) In this Act, marketing of a product in the course of a commercial activity means the sale or transfer by any other means of products, for consideration or not.

## Chapter 2

### Determination of Safety

#### § 2. Safe product and safe service

(1) For the purposes of this Act, products and services are safe if they do not endanger the health, safety or property of a consumer when used under the prescribed conditions or conditions which could be reasonably expected, for the prescribed purposes and in the prescribed manner.

(20.10.99 entered into force 14.11.99 - RT I 1999, 82, 753)

(2) Products designed and manufactured or services provided in accordance with the safety requirements established by an Act or other legislation on the basis thereof are deemed to be safe if they comply with such requirements.

(3) The feasibility of obtaining higher levels of safety or the availability of other similar products presenting a lesser degree of risk shall not constitute grounds for considering a product to be dangerous.

(4) A product is not deemed to be safe if its appearance, packaging or labelling does not comply with the composition of the product or does not enable unambiguous comprehension of its purpose and may therefore endanger the health, safety or property of the consumer.

(20.10.99 entered into force 14.11.99 - RT I 1999, 82, 753)

(5) It is prohibited to manufacture, market, import or export products which are not edible but the size, shape, odour, flavour, colour, packaging or labelling of which is such that consumers, especially children, may confuse the products with foodstuffs, and the placing in the mouth, sucking or swallowing of which may cause physical harm.

(20.10.99 entered into force 14.11.99 - RT I 1999, 82, 753)

#### § 3. Bases for determination of safety of products and services

(1) The following are the bases for determining the safety of products and services:

1) the structure, composition and packaging of the product and information provided by the producer for the assembly, use, maintenance and other purposes of the product;

2) the effect on other products, where it is reasonably foreseeable that it will be used with other products;

3) the presentation and labelling of the product and information for marketing provided by the producer;

4) the potential risk to categories of consumers, in particular children.

(1<sup>1</sup>) The Government of the Republic or a minister authorised thereby may establish safety requirements for different products and the procedure for attestation of the conformity with such requirements, taking into account the provisions of the Product Conformity Attestation Act (RT I 1999, 92, 825; 2002, 6, 20; 44, 282).

(08.11.2000 entered into force 02.12.2000 - RT I 2000, 86, 546)

(2) (Repealed - 20.10.99 entered into force 14.11.99 - RT I 1999, 82, 753)

(3) If safety requirements for products or services are not established by or on the basis of an Act, safety shall be assessed having regard to Estonian standards. If no standards exist, effect is given to good practice in respect of health and safety in the sector concerned, the state of the art and technology and to the safety which consumers of products and services may reasonably expect.

## Chapter 3

### Duties of Producers, Service Providers and Distributors

#### § 4. Duties of producers

(1) For the purposes of this Act, a producer is:

1) the manufacturer of the product or of a part thereof;

2) the person who presents himself as the manufacturer of the product and affixes his or her name, business name, trade mark or other distinctive mark to the product;

3) the person who improves, reconditions or finishes the product;

4) the manufacturer's representative in marketing the product;

5) the importer of the product if the manufacturer of the product has no representative in Estonia;

6) other suppliers of products in the supply chain in so far as their activities affect the safety properties of a product.

(2) A producer is required to:

1) place and distribute only safe products on the market;

2) label products with information which enables identification of the producer;

- 3) provide instructions for use, labelling and information with products which enable the assessment and avoidance of risks in the intended use of the products;
- 4) collect information and investigate consumers' complaints regarding marketed products and, if necessary, conduct product testing and take measures to make changes to products which prove to be dangerous such that they comply with the requirements;
- 5) notify the distributors of products of risks which become evident.

#### § 5. Duties of service providers

- (1) Service providers are required to offer and provide only safe services.
- (2) In providing services, a service provider shall ensure compliance with the safety requirements established for products.

#### § 6. Duties of distributors

- (1) For the purposes of this Act, a distributor is the marketer or supplier of a product whose activities do not affect the safety properties of the product.
- (2) A distributor is required to terminate the marketing of a product if the distributor knows or can presume on the basis of information in the distributor's possession that the product does not comply with safety requirements.

#### § 7. Duty to inform of risks of products and services and to withdraw them from market

- (1) Producers, service providers and distributors shall inform other producers, service providers, distributors and market supervisory authorities of risks which become evident in marketed products and services provided and shall co-operate to avoid such risks.
- (2) If it becomes evident that a product or service is not safe, the producer, service provider and distributor shall suspend the marketing and distribution thereof and assist in the withdrawal of such product or service from the market.

### Chapter 4

#### Market Supervision

#### § 8. Market supervisory authorities

- (1) The market supervisory authorities are the Consumer Protection Board and other boards and inspectorates as provided by law and the statutes of the market supervisory authorities.
- (2) Market supervisory authorities organise supervision over the safety of products and services in the market.
- (3) Market supervisory authorities are required to regularly exchange information and co-operate with one another.

## § 9. Organisation of market supervision

(1) Supervisory officials of the authorities specified in subsection 8 (1) of this Act shall check the safety of products and services:

- 1) periodically;
- 2) if there is doubt whether a product or service is safe.

(2) Upon presentation of identification, supervisory officials have the right, for the performance of their duties, to:

- 1) unhindered access to warehouses of products prepared for delivery to the market and which are to be marketed;
- 2) review documents which attest the conformity of products to requirements;
- 3) require information about products and services from producers and service providers;
- 4) issue precepts within the limits of their competence, impose time limits for their implementation and monitor their implementation;
- 5) take samples of products for safety checks without charge, taking into account the procedure for payment of expenses for product checks provided for in subsection (7) of this section.

(20.10.99 entered into force 14.11.99 - RT I 1999, 82, 753)

(3) Market supervisory authorities shall order assessment services from competent enterprises, agencies or organisations to check samples of products and services.

(4) Assessment services shall be formalised as expert opinions which describe the analysis, and the results of testing and expert analysis.

(5) Market supervisory authorities have the right to make the following decisions based on the results of checks of products and services:

- 1) to prohibit the marketing of a product or the provision of a service for a time limit necessary to conduct a final check on the safety thereof;
- 2) to require that, upon marketing a product or providing a service, additional information be provided concerning the risks which may become evident upon the use of the product or provision of the service;
- 3) to require that, by a specified time limit, a producer and service provider inform consumers of risks which have become evident and the possibilities of eliminating the risks of a product or service;
- 4) to require the withdrawal of a dangerous product or service from the market, prohibit the advertising thereof and, if necessary, require the destruction of such product.

(6) If a market supervisory authority establishes the risks of a product or service, the rights specified in clauses (5) 2)–4) of this section are valid regardless of whether the product or service is safe pursuant to subsection 2 (2) of this Act.

(7) The market supervisory authorities shall bear the expenses of assessment services which are ordered for product or service checks and shall return the product samples or compensate for the value thereof if, on the basis of an expert opinion, the product is safe. If, on the basis of an expert opinion, a product or service is not safe, the expenses shall be borne by the producer or service provider. If the producer or service provider cannot be determined, the expenses shall be borne by the distributor.

(20.10.99 entered into force 14.11.99 - RT I 1999, 82, 753)

§ 10. Appeal of precept issued by supervisory official, or decision or other act of market supervisory authority

If the producer, service provider or distributor does not agree with a precept issued by supervisory official, or decision or the result of any other act of a market supervisory authority, the producer, service provider or distributor may file a protest or have recourse to a court.

(19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375)

§ 11. Informing the public

(1) Market supervisory authorities are required to inform the public of the risks of a specific product or service in a daily national newspaper and, if necessary, through other media and in other possible ways.

(2) If in the course of market supervision it is determined that a product or service is not safe and the product is marketed or the service is provided in a foreign state, the Consumer Protection Board shall inform the foreign state of the established risks. The conditions and procedure for provision of such information are established by a regulation of the Government of the Republic.

Chapter 5

Liability

§ 11<sup>1</sup>. Violation of safety requirements set for products

(1) Violation, upon manufacture or distribution of products, of safety requirements set for a product is punishable by a fine of up to 200 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 40 000 kroons.

(Repealed - 19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

§ 11<sup>2</sup>. Failure to inform of risks of products and services

(1) Failure to inform of risks which have become evident in marketed products and provided services, and failure to suspend the marketing or distribution of such products and services is punishable by a fine of up to 100 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 30 000 kroons.

(19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

### § 11<sup>3</sup>. Procedure

(1) The provisions of the General Part of the Penal Code (RT I 2001, 61, 364; 2002, 86, 504; 105, 612; 2003, 4, 22) and of the Code of Misdemeanour Procedure (RT I 2002, 50, 313; 110, 654; 2003, 26, 156) apply to the misdemeanours provided for in §§ 11<sup>1</sup> and 11<sup>2</sup> of this Act.

(2) The following extra-judicial bodies conduct proceedings in matters of misdemeanours provided for in §§ 11<sup>1</sup> and 11<sup>2</sup> of this Act:

1) the Consumer Protection Board;

2) the Technical Inspectorate;

(19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

2<sup>1</sup>) the Health Protection Inspectorate.

(12.02.2003 entered into force 21.03.2003 - RT I 2003, 26, 156)

§ 12. (Repealed - 19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

§ 13. (Repealed - 19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

§ 14. (Repealed - 19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

## Chapter 6

### Implementing Provision

§ 15. Entry into force of Act

This Act enters into force on 1 September 1998.

<sup>1</sup> RT = *Riigi Teataja* = *State Gazette*