

Act relating to the control of products and consumer services (product control act)

Act No. 79 of 11 June 1976, with last amendments 19 May 1993

T-993, 1993

Section 1. The purpose of the Act

The purpose of the present Act is to prevent products¹ from causing damage to health or disturbances of the environment in the form of disturbances of ecosystems, pollution, waste, noise or the like.

A further purpose of the Act is to prevent consumer services from causing damage to health.

1. Cf. section 2.

Section 2. The technical area of application of the Act

This Act applies to the production, including testing, import, marketing, use and other handling of products.

By the term "product" is meant raw materials, subsidiary materials, and semi-manufactured and finished products of all kinds.

The Act also applies to consumer services. By the term "consumer services" is meant services that are offered to the user mainly for personal purposes.

The present Act does not apply to consumer services regulated by or pursuant to any other Act that safeguards the same interests as those mentioned in section 1, second paragraph.

The King¹ may decide by regulations or an individual decision that a product or consumer service be exempted in whole or in part from the scope of the Act.

1. The Ministry of the Environment and the Ministry of Children and Family Affairs pursuant to Royal Decree No. 730 of 7 September 1990.

Section 3. Duty to take due care, etc.

Any person who produces, imports, markets, processes, uses or in any other way handles products¹ that may cause such effects as are mentioned in section 1, shall² act with due care and implement reasonable measures to prevent or limit such effects.

Any person who produces or imports products has the duty to obtain such knowledge as is necessary to evaluate whether they can cause such effects as are mentioned in section 1.

Any person who owns or manages an enterprise offering consumer services, or who carries out work in such an enterprise, shall show due care and implement reasonable measures to prevent the consumer service from causing damage to health.

Any person who owns or manages an enterprise offering consumer services also has the duty to obtain such knowledge as is necessary to evaluate the risk of damage to health.

1. Cf. section 2.

2. Cf. section 12.

Section 4. ¹ Authority of the King

When necessary in order to prevent such effects as are mentioned in section 1, first paragraph, the King² may make decisions:³

- a) concerning the production, import, marketing, labelling, use and other handling of products,
- b) concerning return and deposit schemes, recycling and treatment of waste, etc. in relation to products,
- c) concerning the way in which products shall be designed or composed, and maximum limits for noise and release of polluting substances from products,
- d) to the effect that products may not be produced, imported or marketed without prior approval,
- e) prohibiting the production, import, marketing or use of products.

When necessary in order to prevent consumer services from causing damage to health, the King may make decisions:

- a) concerning the publication of warnings or information about safety,
- b) concerning requirements for qualifications on the part of those who carry out work in connection with the consumer service,
- c) concerning operating requirements,
- d) that the consumer service must be subject to approval,
- e) prohibiting the offering of the consumer service.

Decisions made pursuant to the first and second paragraphs shall in general be made in the form of regulations and shall apply to products and consumer services of a certain type. It may be laid down that they shall only apply to certain geographical areas.

1. Cf. sections 6 and 6a.

2. The Ministry of the Environment and the Ministry of Children and Family Affairs, pursuant to Royal Decree No. 730 of 7 September 1990.

3. See Regulations No. 12 of 21 April 1978 (deposits on automobiles), No. 5 of 16 June 1979 (PCB), No. 9025 of 15 January 1980 (compressors), No. 1 of 2 February 1980 (dispersants for oil spills), No. 217 of 18 January 1982 (power saws), No. 1034 of 28 May 1982 (motorized lawnmowers), No. 1511 of 13 October 1982 (excavators, etc.), No. 1635 of 26 November 1982 (chemicals), No. 1566 of 1 October 1983 (detergents), No. 427 of 13 February 1984 (textiles), No. 864 of 18 April 1985 (detergents), No. 2256 of 13 December 1985 (petrol), No. 214 of 24 January 1986 (coolant), No. 886 of 12 November 1987 (deposit schemes), No. 1114 of 22 December 1987 (deposit schemes), No. 447 of 25 May 1988 (childproof packaging), No. 651 of 17 July 1988 (products that can be used as offensive weapons), No. 537 of 30 June 1989 (anti-fouling substances), No. 545 of 7 July 1989 (exhaust systems for leisure craft), No. 1044 of 13 October 1989 (tobacco), No. 426 of 23 May 1990 (hazardous waste), No. 389 of 1 June 1990 (chemicals), No. 602 of 3 July 1990 (list of substances), No. 616 of 17 July 1990 (batteries), No. 55 of 21 January 1991 (CFC and halons), No. XXX of 30 December 1992 (toys).

Section 5. ¹ Duty to provide information

All persons² are obliged, when required by the King³, to provide the information necessary for the performance of activities in pursuance of this Act. Public authorities are obliged to provide information regardless of the duty of secrecy.

The King³ may require that any person who produces or imports products⁴ shall submit a representative sample of the product or initiate such investigations as may be necessary to evaluate the properties and effects of a product. The costs of such an investigation shall be borne by the producer or importer concerned, unless the King decides that the costs shall be borne in whole or in part by the public authorities.

The King may himself initiate such investigations, and may when appropriate require the producer or importer to bear the costs of the investigation. The costs provide enforceable grounds for attachment of property.

1. Amended in accordance with Act No. 86 of 26 June 1992 (entered into force on 1 January 1993 pursuant to Royal Decree No. 765 of 23 October 1992).

2. Cf. section 12.

3. The Ministry of the Environment and the Ministry of Children and Family Affairs, pursuant to Royal Decree No. 730 of 7 September 1990.

4. Cf. section 2.

Section 6. Temporary prohibition

When special reasons so indicate, the King¹ may impose a temporary prohibition² on the production, import, marketing, use or other handling of products, or on the offering of consumer services, until sufficient information has been submitted in accordance with section 5. The same applies if there is good reason to doubt the information so submitted.

When necessary in order to evaluate the properties of the product or the health risk of the consumer service and to lay down more detailed provisions pursuant to section 4, a prohibition may be imposed as mentioned in the first paragraph for a period not exceeding six months calculated from the time when adequate information is available. When special reasons so indicate, such a prohibition may be extended for a further six months.

1. The Ministry of the Environment and the Ministry of Children and Family Affairs, pursuant to Royal Decree No. 730 of 7 September 1990.

2. Cf. section 12.

Section 6a. ¹ Recalling, etc. of products and consumer services

The King may make decisions pursuant to this section if there is an unacceptable risk that a product could cause damage to health or disturbance of the environment as mentioned in section 1, first paragraph, or he may decide that a consumer service involves an unacceptable risk of damage to health.

The decision may involve issuing injunctions whereby any person producing, importing, processing, marketing, or in any other way handling a product shall take measures, alone or jointly, to reduce the risk attendant on the product, including the following:

- a) publishing warnings or the like to distributors or users of the product,
- b) recalling the product from users or distributors,
- c) rendering the product harmless.

With respect to consumer services, the decision may involve requiring the manager of the enterprise that has performed the service to:

- a) publish warnings to the users,
- b) correct the condition causing the risk of damage.

Decisions may also be made prohibiting the export of products that involve an unacceptable risk as mentioned in the first paragraph. The competent authority may itself implement measures pursuant to the second and third paragraphs. The person who could have been ordered to implement such measures may be required to reimburse these costs.

1. Added by Act No. 33 of 15 June 1990.

Section 6b.¹ Duty to report

A producer, importer or distributor who receives information indicating that a product marketed by him constitutes a substantial risk to health or the environment shall² immediately inform the product control authorities to this effect. The same applies to any person who owns or manages an enterprise and who receives information indicating that the consumer service he is offering constitutes a substantial risk to health.

1. Added by Act No. 33 of 15 June 1990.

2. Cf. section 12.

Section 7. Approval of products

Products and consumer services that are subject to approval pursuant to section 4 shall¹ be reported to the competent authority together with an application for approval. The application shall contain the information necessary to evaluate the properties and effects of the product or the consumer service as mentioned in section 1. The King² may lay down more detailed provisions concerning the contents of the application.

In decisions concerning approval, conditions considered necessary to prevent or limit possible detrimental effects may be laid down. The approval may be granted for a limited period of time.

Approval may be revoked by the King if:

- a) new information about or evaluations of the product or the consumer service or their effects make this desirable,
- b) the person to whom approval has been granted wilfully or negligently violates the conditions for the approval.

1. Cf. section 12.

2. The Ministry of the Environment and the Ministry of Children and Family Affairs, pursuant to Royal Decree No. 730 of 7 September 1990.

Section 8.¹ Supervision

The King² decides who is to supervise the implementation of this Act.

The supervisory authority shall have free access to buildings, means of transport, storage facilities, installations, areas, and the like where products that may have the effects mentioned in section 1 are present, or where consumer services that may cause damage to health are offered.

The supervisory authority may also undertake the necessary sampling and control of such products and of equipment, etc. used for such consumer services.

The King³ may issue regulations relating to internal control and internal control systems in order to ensure that requirements laid down in or pursuant to this Act are complied with.

1. *Added by Act No. 52 of 27 July 1990 (entered into force on 1 January 1992).*

2. *The Ministry of the Environment and the Ministry of Children and Family Affairs, pursuant to Royal Decree No. 730 of 7 September 1990.*

3. *Cf. section 12.*

Section 8a.¹ Fees

The King² may issue regulations relating to fees for dealing with applications for permits or the like pursuant to the provisions of this Act or regulations issued pursuant to this Act, and for control measures carried out to ensure that the provisions of the Act or decisions pursuant to it are complied with. The fees are fixed in such a way that their total amount does not exceed the costs incurred by the product control authorities in dealing with the case or in connection with the control system.

The fee may be collected by distraint.

1. *Added by Act No. 22 of 16 May 1986.*

2. *The Ministry of the Environment and the Ministry of Children and Family Affairs, pursuant to Royal Decree No. 730 of 7 September 1990.*

Section 9. (Repealed by Act No. 30 of 14 June 1991)

Section 10. (Repealed by Act No. 51 of 11 July 1986)

Section 11. The duty of secrecy

Subject to the restrictions imposed by the activities carried out by the person concerned under the Act, every person shall¹ observe secrecy concerning any information he may acquire during the performance of duties or work under the Act concerning a product's composition or properties, or concerning production methods, research findings, plans, prognoses, commercial analyses and calculations and other trade secrets in connection with the product that other enterprises may be able to exploit for their own use to the detriment of the enterprise that has provided the information. Nor may the information be used in connection with the person's own activities.

The duty of secrecy shall not prevent the providing of information on the effects of the product as mentioned in section 1, or when necessary an explanation of the causes of such effects.

The duty of secrecy applies in the same way and with corresponding restrictions to any knowledge acquired by a person during the performance of activities under the Act about a consumer service and service activities.

1. *Cf. section 12.*

Section 12.¹ Criminal liability

Any person who wilfully or negligently contravenes provisions laid down in or pursuant to this Act, or who violates conditions laid down pursuant to section 7, shall be penalized by fines, imprisonment for a term not exceeding three months or both unless more stringent penalty provisions apply. Contravention of section 3 shall be penalized only if such contravention is wilful or caused by gross negligence. Aiding and abetting is penalized in the same way.

Any person who contravenes the duty of secrecy laid down in section 11 of this Act shall be penalized by fines, imprisonment for a term not exceeding six months or both. If the contravention of the duty of secrecy is carried out for the purpose of acquiring unjust profit for oneself or others, a term of imprisonment not exceeding two years may be imposed.

1. Amended by Act No. 6 of 13 March 1981, Act No. 71 of 14 June 1985, and Act No. 66 of 20 July 1991, cf. sections 48a and 48b of the Penal Code (entered into force on 15 October 1991 pursuant to Royal Decree No. 571 of 6 September 1991).

Section 13.¹ Coercive fines

In the event of the violation of conditions, orders or prohibitions laid down pursuant to this Act, the King² may impose a coercive fine. An injunction imposing a fine provides enforceable grounds for attachment of property.³ The King may waive the coercive fine if this is considered appropriate.

1. Amended by Act No. 53 of 3 June 1977, Act No. 86 of 26 June 1992 (entered into force on 1 January 1993 pursuant to Royal Decree No. 765 of 23 October 1992).

2. The Ministry of the Environment and the Ministry of Children and Family Affairs, pursuant to Royal Decree No. 730 of 7 September 1990.

3. Cf. Chapter 8 of the Act relating to enforcement of claims.

Section 14. The territorial area of application of the Act

This Act applies in the realm, including Svalbard and Jan Mayen, on board Norwegian ships or aircraft in areas that are not subject to the sovereignty of any state and to installations and appliances on the Norwegian part of the continental shelf.¹ The King² may, by individual decisions³ or regulations⁴, make exceptions to the first sentence and lay down supplementary provisions concerning the scope of the Act.

1. Cf. Act No. 12 of 21 June 1963.

2. The Ministry of the Environment and the Ministry of Children and Family Affairs, pursuant to Royal Decree No. 730 of 7 September 1990.

3. Cf. Chapters IV-VI of the Act of 10 February 1967.

4. Cf. Chapter VII of the Act of 10 February 1967.

Section 15. Provisions for the implementation of the Act

The King¹ may lay down more detailed provisions² for the implementation of this Act, including provisions concerning cooperation between different authorities.

1. The Ministry of the Environment and the Ministry of Children and Family Affairs, pursuant to Royal Decree No. 730 of 7 September 1990.

2. Laid down pursuant to the Royal Decree of 5 August 1977, Amendment No. 731 of 7 September 1990, giving the Ministry of the Environment and the Ministry of Children and Family Affairs the authority to make amendments.

Section 16.¹ Entry into force - Repeal of and amendments to other Acts

This Act will enter into force on a date determined by the King.² Act No. 68 of 19 June 1970 relating to the right to prohibit the use of certain types of disposable packaging in the marketing of consumer products is repealed as from the same date.

As from the date decided by the King, the following amendments will be made in Act No. 5 of 20 June 1964 relating to drugs and poisons, etc.:³

1. Amended by Act No. 53 of 3 June 1977.

2. As of 1 September 1977, pursuant to the Royal Decree of 5 August 1977.

*3. As of 1 September 1977, pursuant to the Royal Decree of 5 August 1977, except for the repeal of Chapter ** of the Act with appropriate amendments. Complete entry into force on 1 March 1983 pursuant to Royal Decree No. 1629 of 26 November 1982.*