

NEW REGULATIONS OF THE LAW ON PROTECTION OF CONSUMER RIGHTS (AMENDED)

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After 12 years of implementation, the Law on Protection of Consumer Rights (LPCR) 2010 has significantly strengthened consumer rights protection and established a legal framework for this field in Viet Nam. However, the provisions of LPCR 2010 have revealed numerous limitations and challenges during its enforcement. Therefore, in order to adapt to the changing economic and social context and address the shortcomings of LPCR 2010, the National Assembly promulgated LPCR 2023 on June 20, 2023. In this Legal Newsletter, NHQuang&Associates will introduce some noteworthy provisions of the new LPCR 2023 that are likely to affect the business activities of enterprises so that Clients can have an overview of this document.

Supplementing the responsibilities of business organizations and individuals toward consumers in specific transactions

In accordance with Clause 8, Article 3 LPCR 2023, specific transactions include (i) remote transactions, (ii) transactions involving continuous supply of services, and (iii) direct sales between business organizations, individuals, and consumers. These are new provisions in Chapter III of LPCR 2023 with the aim of improving the legal provisions on new transactions to align with societal developments.

Firstly, supplementing regulations on remote transactions. LPCR 2023 defines remote transactions as transactions conducted online, by electronic means, or other means, in which consumers cannot physically check or have direct contact with products, goods, or services before making a transaction. LPCR 2023 stipulates the responsibilities of business organizations and individuals in remote transactions, such as providing accurate and complete information about such organizations and individuals, information on payment methods and deadlines; time, place, method



of sale, and supply of products, goods, and services; conditions and methods of exchange and return of products, goods, services, etc. Furthermore, LPCR 2023 also addresses the conclusion of contracts in remote transactions such as contract contents, consumers' rights in the cases where business organizations and individuals provide incorrect or incomplete information in the contract, and so on.

Secondly, supplementing regulations on a continuous supply of services (it means a supply of services for three months or more or for an indefinite term). Accordingly, business organizations and individuals providing continuous supply of services within Vietnamese territory are subject to publicly announce their legal representatives in Viet Nam; are not permitted to require upfront payments from consumers before providing services; are not permitted to unilaterally terminate contracts or suspend service provision against contracts or legal regulations and must regularly inspect the quality of the services they provide, ensure the service quality as committed to consumers. Contracts for a continuous supply of services shall meet the conditions related to contract forms and contents specified in Article 42 LPCR 2023.

Thirdly, supplementing regulations on direct selling. In LPCR 2023, direct selling encompasses three forms: (i) door-to-door sales, (ii) multi-level sales and (iii) sales at locations other than regular transaction locations. For each of these forms, the corresponding responsibilities of the selling organizations or individuals, and requirements for the contracts are specified. For example, in case of multi-level selling, LPCR 2023 stipulates (a) responsibilities of multi-level selling organizations such as adhering to operational rules, reward plans, and issuing invoices for each sales transaction; (b) responsibilities of participants in multi-level selling such as complying with the contract for participation in multi-level selling and operational

rules; (c) forms of contract between a multi-level selling organization and multi-level selling individual, and fundamental contents of a multi-level selling contract.

Amending and supplementing regulations on dispute resolution methods

During the implementation of LPCR 2010, according to statistics from the Ministry of Industry and Trade, the number of consumer complaints resolved each year ranges from 1,000 to 1,500 cases, which is significantly lower than the actual number of disputes. This reflects the inadequacy of consumer dispute resolution between consumers and business organizations and individuals. Therefore, to improve these provisions, LPCR 2023 has introduced several notable amendments namely:

- (i)** Supplementing provisions on allowing consumers to choose dispute resolution methods either directly or online when permitted by law.
- (ii)** For negotiation, LPCR 2023 supplements detailed regulations on procedures for negotiation, rights and responsibilities of the parties involved in the negotiation process as well as required contents of negotiation outcomes, etc.
- (iii)** For mediation, LPCR 2023 supplements regulations on procedures for mediation, regulations on mediators as well as amendments to provisions related to mediation results, recognition, and implementation of successful mediation outcomes.
- (iv)** For court-annexed dispute resolution, LPCR 2023 amends the provisions on conditions for settling civil cases on the protection of consumers' rights under summary procedures of the Civil Procedure Code. Accordingly, civil cases on protection of consumers' rights with a transaction value below 100 million Viet Nam dong shall be resolved through the summary procedures, while cases with a value exceeding 100 million Viet Nam dong will be resolved through the summary procedures when they meet the specific conditions stipulated in Clause 1, Article 317 Civil Procedure Code (e.g. the case has straightforward details, relevant legal relationships are clear, the involved parties acknowledge their obligations; documents and evidence are sufficient, ensuring sufficient grounds to resolve the case and the Court does not have to collect documents, evidence).

As can be observed, LPCR 2023 has added numerous new contents aiming at addressing the limitations and shortcomings of the LPCR 2010 while also

enhancing the effectiveness of dispute resolution methods. In addition, the clear stipulation on procedures and processes for dispute resolution methods helps consumers have a basis for demanding business organizations and individuals to comply with the regulations and also fosters a sense of responsibility among business organizations and individuals engaged in business towards consumers.

Supplementing regulations on standard-form contracts, general transaction conditions

According to the assessment by the Ministry of Industry and Trade, the provisions of LPCR 2010 that relate to contracts concluded with consumers, standard-form contracts, and general transaction conditions were not sufficiently precise, comprehensive, or clear, leading to difficulties and complications in enforcement. In order to overcome these hurdles, and enhance consumer protection, LPCR 2023 has amended and supplemented the regulations on standard-form contracts. Accordingly, the form of a standard-form contract shall comply with the provisions of civil law and other relevant laws, especially, the language and form of written contracts must be clearly and understandably expressed. It is worth noting that the standard-form contract must ensure eleven basic contents in accordance with Clause 3, Article 23 LPCR 2023. These additional provisions are intended to provide businesses with a legal basis for constructing contracts, ensuring legal compliance, better-safeguarding consumers' rights, and meeting practical requirements of law enforcement.

Furthermore, LPCR 2023 also amends and supplements clauses that are not allowed in contracts signed with consumers, standard-form contracts, and general transaction conditions; for instance those with the following contents:

- Allowing business organizations and individuals to unilaterally change the provisions of contracts that have been entered into with consumers;
- Allowing business organizations and individuals to change prices during the continuous supply of services without stipulating the consumer's right to terminate the contract;
- Specifying sanctions that are disadvantageous to consumers due to breach or termination of contract performance;
- Allowing business organizations and individuals to extend contracts agreed upon with consumers

without stipulating the obligation to provide prior notice or providing consumers with the option to extend or terminate the contract;

- Stipulating that consumers must agree for business organizations and individuals to collect, store, and use consumer information as a condition for entering into contracts and general transaction conditions, except otherwise provided for by law;
- Contravening the principle of good faith as prescribed by civil law, leading to an imbalance in the parties' rights and obligations, which is unfavorable for consumers.

Overall, LPCR 2023 has introduced progressive provisions that align with the economic and social realities in Viet Nam, enhancing the quality of consumer rights protection in various transactions. This Law shall officially take effect on July 1, 2024. Enterprises should update and study the provisions of LPCR 2023 to apply them effectively in production and business, especially transitional provisions related to the registration and amendment of standard-form contracts and general transaction conditions before the effective date of LPCR 2023. NHQuang will continue updating the guiding documents related to LPCR 2023 to help our Clients quickly understand and apply these provisions in practice.