

Bird & Bird

New Consumer Protection Act

Slovakia

Have you had time to familiarize yourself with it yet?



New legislation

Key facts

1 July 2024

- **New Act No. 108/2024 Coll. on Consumer Protection** and on Amendments to Certain Acts (the "Act") entered into force in Slovakia.

Objective of the adoption of the Act

- Striking a balance between the rights and obligations of traders and consumers
- Strengthening consumer protection
- Definition of key terms and the related adjustment of terminology
- Making supervisory authorities more efficient.

News

- The Act **repeals and replaces** certain existing legislation in the field of consumer protection, including, in particular, Act No. 250/2007 Coll. and Act No. 102/2014 Coll., regulating the sale of goods or provision of services on the basis of a contract concluded at a distance and off-premises.
- In total, the Act amends up to 23 pieces of legislation. For example, Act No. 40/1964 Coll., the **Civil Code** (the "Civil Code") has undergone a significant change, which contains detailed specified requirements for goods, claims, and key terms related to digital content.

Related laws

- The Act is followed by two new laws adopted in 2023:
 - **The General Product Safety Act** regulating the requirements for products and the obligations of importers or traders (the "General Product Safety Act").
 - **The Consumer Collective Redress Act** regulates the "opt-in" mechanism for consumer claims.

Rights and obligations

Key changes in relation to stakeholders

Consumers

Some existing **rights are extended or supplemented**, for **example**:

- the right to redress from the trader if the trader has engaged in unfair commercial practices, including the right to withdraw from the contract,
- the right to withdraw from the contract within an extended 30-day period without giving a reason in the case of contracts concluded during a sales event or in connection therewith, or in cases of unsolicited visits to consumers' homes,
- the right to increased protection in the online environment against so-called non-transparent shopping and fake reviews, as well as from artificially inflating prices in the event of sales and discounts.

Traders

Information obligations, including of online market operators towards consumers, **are being extended**, for example:

- the obligation to inform about price reductions,
- the obligation to provide information on after-sales service, including contact details of the trader.

Some **obligations are deleted**, for **example**:

- duplicate modification of proof of purchase document particulars,
- obligation to publish a notice of the planned temporary closure of an establishment.

Supervisory authorities

Supervisory authorities are explicitly defined in the field of consumer protection and their scope of supervision - these include, for example, the National Bank of Slovakia, the Public Health Office of the Slovak Republic or the Office for Regulation of Network Industries.

The **broadest scope of competence is** established for the Slovak Trade Inspection (SOI), which supervises all parts of the market where no special supervisory authority has been established.

Closer to the changes for traders

Other deleted obligations

- The Act **does not contain an obligation to sell goods and to provide services of ordinary quality, nor is there an obligation to ensure that goods are sold and services are provided** in a manner that enables **them to be used properly and safely**. However, this requirement is now a requirement of the Civil Code and the General Product Safety Act.
- The Act **does not contain detailed requirements regarding proof of purchase**, but only the obligation to provide the consumer with confirmation of payment of the price for the goods or services, which may be, for example, be a cash receipt or an invoice.
- The Act also does not define notification obligations concerning notification of the temporary closure of an establishment or its complete closure and the identification of the employees of the establishment.
- It is important to note, however, that **the conduct that was previously sanctionable under provisions that are no longer in the Act may continue to satisfy the facts of one of the provisions of the Act.**

New information obligations

- In addition to the aforementioned obligations, the Act introduces specific **information obligations** for traders.
- The new information obligation for traders will also include an **instruction on the consumer's right to submit a request for redress to the trader**, as well as a link to the website where information is available on a relevant alternative dispute resolution body.
- Another novelty is the aforementioned **introduction of information obligations for online market operators**. One of the obligations is to inform consumers whether the person offering the product on the online marketplace is a trader. If they are not, consumers must be informed that the goods purchased will not be covered by consumer protection legislation, as this will be a standard private law relationship.
- The trader will now have to **disclose the lowest price at which the goods were sold in the 30 days immediately prior to the implementation of a discount for discounted goods**.

New terminology

Selected modified concepts and new legal institutes

Merchant

- Uniform term, by which the Act partially eliminates the diversity of terms referring to an entrepreneur who sells goods or services to consumers.
- However, the Civil Code has not completely abandoned the use of the customary term "**seller**" in the case of a so-called consumer sales contract.

Goods

- It replaces the term product.
- Goods are defined as any movable thing and may include, in certain circumstances, electricity, water or gas.
- However, the term "**thing**" continues to be used in the Civil Code, and the General Product Safety Act has also retained the term product.

Digital content

- It replaces the concept of electronic content.
- This concept is based on the European Directive 2019/7709 and is newly defined in the Civil Code.

Thing with digital elements, digital service, digital fulfilment

- New concepts introduced by the amended Civil Code. At the same time, the Civil Code has been supplemented by the regulation of so-called consumer contracts with digital performance.

Durable medium

- It replaces the term durable carrier - the original meaning is retained.

Consumer organisation

- It replaces the term association, which means a legal person established or constituted for the purpose of consumer protection.

Some changes in the Civil Code

Liability for defects

- The Act **no longer regulates** complaints in a manner similar to the repealed Consumer Protection Act. However, the regulation of complaints, including, in particular, the process for submitting a complaint and the enforcement of liability for defects, is now included in the Civil Code (§ 618 to § 624) and, in the case of the enforcement of liability for defects in digital content and digital services, in the Civil Code (§ 852h to § 852m).
- In the case of so-called consumer contracts, **traders are now obliged to immediately provide consumers with written confirmation of a defect** and information on the period of time within which the defect will be rectified (which may not be more than **30 days**, except where a longer period of time would be justified for an objective reason beyond the trader's control). If the trader rejects liability for defects in the service, he is obliged to notify the consumer in writing of the reasons for rejecting liability.
- The Act establishes a general **two-month "subjective" period** for pointing out a defect that is available to consumers from the time a defect is discovered - two months to complain to a trader about a defect.
- The concept of **defect of goods** is regulated in the Civil Code (§ 616 and § 617). **Defects in digital content and digital services are defined** in the Civil Code (§ 852d to § 852g).

Sanctions

Second Chance Institutions

- Novelty in relation to sanctioning.
- The second chance is a system whereby, if a trader voluntarily stops infringing and, where applicable, compensates the consumers affected, the competent authority may decide to waive or reduce the amount of the fine.

The so-called second chance institutes include in particular:

- **Adoption of a voluntary measure** to put an end to a trader's infringement and to remedy it for the benefit of aggrieved consumers.
- **Entering into an agreement with the aggrieved consumer** to remedy or minimise the effect of the trader's infringement.

Fixing the upper limit of the fine

- In the most serious cases of breach of the obligations set out in the Act, the supervisory authority may impose a fine **of up to 5% of the turnover** for the preceding accounting period.

Blocking the online interface

- A new type of sanction that can be imposed on a trader in addition to a fine.
- The specific sanction would take the form of an obligation to remove or modify the content published in the online interface or an obligation to ensure the deletion of the domain.
- However, blocking the online interface should only occur when other remedies have failed and serious harm is imminent. A trader may **object** to a measure ordering the blocking of an online interface.

And what next ...

What does the new legislation mean for traders in practice?

Familiarity with new or amended consumer protection legislation.

Analysis and review of terms and conditions, related internal documentation and review of internal processes.

Modification of terms and conditions and related internal documentation to comply with the new or amended legislation.

Adjusting the settings and optimization of internal processes.



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