

DEPARTMENT ADMINISTRATIVE ORDER NO. 16-03

Series of 2016

Subject: IMPLEMENTING RULES AND REGULATIONS OF REPUBLIC ACT NO. 10909, "AN ACT PROHIBITING BUSINESS ESTABLISHMENTS FROM GIVING INSUFFICIENT OR NO CHANGE TO CONSUMERS AND PROVIDING PENALTIES THEREFOR"

Pursuant to Section 7 of Republic Act No. 10909, the following rules and regulations are hereby promulgated to implement the provisions of the said Act:

RULE I
Preliminary Provisions

Section 1. Title. – These Rules shall be referred to as the Implementing Rules and Regulations of Republic Act No. 10909, or the "No Shortchanging Act of 2016".

Section 2. Declaration of Policy. - It is the policy of the State to protect the interest and promote the general welfare of the consumer as well as establish standards of conduct for business and industry.

Section 3. Objectives. - The State shall implement measures to achieve the following objectives:

- 3.1 Protection of consumers against deceptive, unfair and unconscionable sales acts and practices;
- 3.2 Institutionalization of the industry practice of giving exact change to consumers of goods and services;
- 3.3 Provision of information and education to facilitate sound choice and the proper exercise of rights by the consumer;
- 3.4 Provision of adequate rights and means of redress for consumers; and
- 3.5 Provision of penalties for offenders.

Section 4. Definition of Terms. – For purposes of this IRR, the following terms and phrases shall mean or be understood as follows:

- 4.1 *Business establishment* - any person, natural or juridical, whether single proprietorship, partnership or corporation, including a government-owned and – controlled corporation or a government entity exercising its proprietary functions, engaged in, or doing business in the Philippines, either in selling goods or providing services;

Enabling Business, Empowering Consumers

OFFICE OF THE SECRETARY

5F Industry and Investments Building, 385 Sen. Gil J. Puyat Avenue, 1200 Makati City, Philippines
Telephone (+632) 899.7450 Fax (+632) 896.1166 E-mail: secretary@dti.gov.ph
www.dti.gov.ph

IMPLEMENTING RULES AND REGULATIONS OF REPUBLIC ACT NO. 10909, "NO SHORTCHANGING ACT OF 2016"

- 4.2 *Change* - the excess in the payment given by a consumer for goods and services purchased or received from a business establishment;
- 4.3 *Consumer* - a natural person who purchases goods or services in cash;
- 4.4 *Goods* - all types of tangible property that could be bought and sold, and the possession of which could be transferred in whole or in part, temporarily or permanently;
- 4.5 *Gross sales* - the total invoice value of sales, before deducting for customer discount, allowances and returns;
- 4.6 *Informal/unregistered business establishment* - refers to any person engaged in, or doing business in the Philippines without business permit, either in selling goods or providing services, regularly in a permanent place or stall or moving from one place to another such as, but not limited to, ambulant vendors, peddlers, pedicabs, tricycle, e-trikes, "tiangge";
- 4.7 *Insufficient change* - a change that is less than what is due the consumers;
- 4.8 *License to operate business* – refers to special licenses which allow business establishments, particularly corporations and partnerships, to engage in certain kinds of activities or to operate its business;
- 4.9 *Price tag* - any device written, printed, affixed or attached to a good, or displayed in a consumer retail or service establishment for the purpose of indicating the retail price per unit or services;
- 4.10 *Services* - all types of commercial activities which enable the supply, access to, consumption or use of goods, intellectual property or other services; and
- 4.11 *Shortchange* - the act of giving insufficient or no change to a consumer who purchased a product or service.

Rule II
Scope and Coverage

Section 1. Scope and Coverage. – These rules shall apply to all business establishments, registered or not.

Rule III
Delineation of Responsibilities

Section 1. Department of Trade and Industry - Consumer Protection Advocacy Bureau (DTI-CPAB). - The DTI-CPAB shall perform the following responsibilities:

- 1.1 Develop rules and regulations, policies or guidelines to effectively implement the provisions of RA 10909 (Act), in consultation with the relevant stakeholders and other government agencies;
- 1.2 Implement an education campaign through quad media to inform consumers of the provisions of this Act and its IRR;

IMPLEMENTING RULES AND REGULATIONS OF REPUBLIC ACT NO. 10909, "NO SHORTCHANGING ACT OF 2016"

- 1.3 Regularly publish a quarterly list of the establishments found to have violated any provision of this Act and its IRR.

Section 2. Department of Trade and Industry - Fair Trade Enforcement Bureau (FTEB) and Regional Operations Group (ROG). – The DTI-FTEB and DTI-ROG through its field offices shall perform the following functions:

- 2.1 Monitor and enforce compliance to the provisions of this Act and its IRR;
- 2.2 Receive and handle complaints against business establishments violating the provisions of this Act and its IRR;
- 2.3 Provide the DTI-CPAB the list of business establishments found to have violated the provisions of this Act and its IRR; and
- 2.4 Coordinate with concerned government agencies the revocation of the license to operate of the business establishments found to be violating the provisions of this Act and its IRR.

Section 3. Bangko Sentral ng Pilipinas (BSP). - The BSP shall perform the following responsibilities:

- 3.1 Ensure efficient production, delivery, distribution and circulation of notes and coins;
- 3.2 Conduct extensive information or awareness campaign on currency matters to encourage consumers to support the BSP's Coin Recirculation Program, among others.

Section 4. Bureau of Internal Revenue (BIR). - The BIR shall be responsible for overseeing compliance of business establishments in the issuance of Sales Invoices or Official Receipts for the sale of goods and services, as applicable.

Section 5. Local Government Units (LGUs). - The LGUs shall be responsible in ensuring that formal or registered business establishments operating under their respective areas of jurisdiction have business permits.

With regards to complaint on shortchanging involving informal or unregistered business establishments, the DTI may ask assistance from the LGUs in the investigation of the complaint by providing the necessary information and details of the respondent.

Section 6. Land Transportation Franchising and Regulatory Board (LTFRB). - The LTFRB shall be responsible in coordinating and cooperating with the Department of Trade and Industry (DTI) – Fair Trade Enforcement Bureau (FTEB) and Regional Operations Group with respect to their investigation of complaints for violation of this Act committed by PUV operators, their drivers, conductors or other personnel which includes providing the necessary information and details of respondent PUV operators to aid the DTI-FTEB in the conduct of their investigation.

Section 7. Other Concerned Government Agencies. - To effectively carry out the provisions of this Act and its IRR, the DTI may coordinate with other concerned government agencies, bureaus or offices.

Rule IV
Duties of the Parties

Section 1. Business Establishments. - It shall be the duty of the business establishments to:

- 1.1 Give exact amount of change to the consumer without waiting for the consumer to ask for the same. The cashier or staff clerk or their equivalent, of the business establishments shall count the change in front of the consumer and place the same on the hand of the consumer or on the change tray, whichever is applicable;
- 1.2 Use price tags, when appropriate, indicating the exact retail price per unit or service which already includes the taxes applicable to the goods or services being offered. The use of price tags shall be in accordance with the provisions of Article 81-83 of Republic Act 7394 or the Consumer Act of the Philippines and its IRR;
- 1.3 Issue Official Receipts or Sales Invoices, as may be applicable, to the consumers;
- 1.4 Put signs in conspicuous places within the establishments or reflect in the Official Receipts or Sales Invoices issued, the taxes incorporated in the retail price per unit of goods or services;
- 1.5 Post notices in every counter to ensure/remind their cashiers to give exact amount of change e.g. "*Please demand for your exact change*" or any language or literature to such effect; and
- 1.6 Provide the DTI documents on gross sales for the day of the concerned business establishment and other pieces of evidence that are material in the determination of any alleged violation of the provisions of this Act and its IRR.

Section 2. Consumers. - It shall be the duty of the consumers to:

- 2.1 Ensure exact amount of change is received immediately after every transaction;
- 2.2 The consumer may report to the business establishment's consumer welfare desk all instances of short changing for immediate action/remedy or write and submit a letter of complaint to the DTI not later than ten (10) working days after a violation has been committed. In case of the former, it shall not toll the running of the reglementary period.

Rule V
Prohibited Acts

Section 1. Prohibitions. - The following practices of business establishments shall be prohibited:

- 1.1 Shortchanging a consumer, even if such change is only of a small amount. Shortchanging is not to be construed as restricting a business establishment from giving an amount greater than the sufficient change.

- 1.2 Changing in any form other than the present currency.
- 1.3 Asking the consumers for permission to be exempted from the provisions of this Act and its IRR for any reason, including the non-availability of small bills or coins without prejudice to Section 1.1 above.

Rule VI Procedures in Filing a Complaint

Section 1. *Procedures in Filing a Complaint on Violation of this Act.* - This Rule shall be supplemented by the provisions of Department Administrative Order No. 07, Series of 2006 (Institutionalizing the Simplified and Uniform Rules of Procedure for Administrative Cases Filed with the Department of Trade and Industry (DTI) for Violations of the Consumer Act of the Philippines and Other Trade and Industry Laws).

- 1.1 The consumer shall submit a letter of complaint together with a copy of documentary evidence to the DTI not later than ten (10) working days after the violation was committed.

Documentary evidences include, but not limited to, official receipt, sales invoice, proof of transaction, police reports or other related documents.

Failure to submit the letter of complaint within the prescribed time or attach the required documentary evidences shall be a ground for the dismissal of the complaint.

- 1.2 The DTI, through its FTEB-Enforcement Division or Regional or Provincial Office shall conduct an investigation within ten (10) working days from the date the sworn complaint was received. If and when the FTEB Director, the Regional Director or the Provincial Director or his authorized representative believes that a *prima facie* case exist based, on the allegations in the complaint and on the result of the investigation, he shall file a formal charge against the business establishment and elevate the case for adjudication.
- 1.3 After the filing of the formal charge, the concerned DTI Adjudication Officer shall issue notice/summons requiring respondent to file written answer within ten (10) working days from receipt of notice/summons. The Adjudication Officer may require the submission of Position Papers as it may be deemed necessary.
- 1.4 The concerned DTI Adjudication Officer, after a full investigation/hearing shall have been made shall issue a decision and findings not later than thirty (30) days from receipt of the verified complaint or formal charge.
- 1.5 In case of an appeal from the decision of the Adjudication Officer, the rules provided under Department Administrative Order No. 07, Series of 2006 (Institutionalizing the Simplified and Uniform Rules of Procedure for Administrative Cases Filed with the Department of Trade and Industry (DTI) for Violations of the Consumer Act of the Philippines and Other Trade and Industry Laws) shall also be observed.

Nothing herein shall be construed to limit or impair the rights and remedies of a consumer under any other law.

Rule VII Penalties

Section 1. *Fines and Penalties.* - Violations of this Act and its IRR, shall, upon notice and hearing, be subject to the following fines and penalties:

- 1.1 **First Offense:** P500.00 or three percent (3%) of the gross sales of the business establishment on the day of the violation, whichever is higher;
- 1.2 **Second Offense:** P5,000.00 or five percent (5%) of the gross sales of the business establishment on the day of the violation, whichever is higher;
- 1.3 **Third Offense:** P15,000.00 or seven percent (7%) of the gross sales of the business establishment on the day of the violation, whichever is higher, and the license to operate of the business establishment shall, upon the recommendation of the DTI, be suspended for three (3) months by the appropriate government agency;
- 1.4 **Fourth Offense:** P25,000.00 or ten percent (10%) of the gross sales of the business establishment on the day of the violation, whichever is higher, and the license to operate of the business establishment shall, upon the recommendation of the DTI, be revoked by the appropriate government agency.

For purposes of this Section, the gross sales of the particular branch where the shortchange was committed shall be the basis for computing the imposable penalty.

With regards to complaints against GOCCs and government entities exercising proprietary functions, the concerned government officials and employees shall be accountable for violation of this Act without prejudice to the filing of anti-graft and/or criminal case against them.

Section 2. *Shortchange Amount.* - In addition to the amount of the fine mentioned above, the total amount of change the establishment failed or refused to give, as determined from the audit of DTI, shall be paid by the said establishment to the complainant.

Rule VIII Other Provisions

Section 1. *Separability Clause.* - In the event that any provision of this Order is declared unconstitutional, the validity of the other provisions shall not be affected by such declaration.

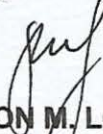
Section 2. *Repealing Clause.* - All laws, decrees, executive orders, issuances, rules and regulations or parts thereof which are inconsistent with the provisions of this Act are hereby repealed, amended or modified accordingly.

IMPLEMENTING RULES AND REGULATIONS OF REPUBLIC ACT NO. 10909, "NO SHORTCHANGING ACT OF 2016"

Section 3. Effectivity. - This IRR shall take effect immediately after its publication in the Official Gazette or in at least two (2) newspapers of general circulation, whichever comes first, and copy thereof furnished the Office of the National Administrative Register at the UP Law Center, University of the Philippines, Diliman, Quezon City.

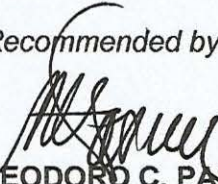
Issued this 21st day of December 2016 in Makati City, Philippines.

Approved by:



RAMON M. LOPEZ
Secretary of Trade and Industry

Recommended by:



Atty. TEODORO C. PASCUA
Undersecretary
Consumer Protection Group
Department of Trade and Industry