

Republic of the Philippines
DEPARTMENT OF TRADE AND INDUSTRY
DEPARTMENT OF HEALTH
DEPARTMENT OF AGRICULTURE
JOINT DTI-DOH-DA ADMINISTRATIVE ORDER NO. 1
Series of 1993

**SUBJECT: RULES AND REGULATIONS IMPLEMENTING THE PROVISIONS OF CHAPTER
III TITLE V OF REPUBLIC ACT NO. 7394 OTHERWISE KNOWN AS THE
CONSUMER ACT OF THE PHILIPPINES**

Pursuant to the provisions of Title X, Book IV of the Administrative Code of 1987 and to more effectively implement Republic Act No. 7394, otherwise known as the Consumer Act of the Philippines, the following rules and regulations are hereby promulgated.

RULE I

COMMENCEMENT OF ACTION

SECTION 1. Commencement of Investigation of Consumer Complaint – The concerned department, Departments of Trade and Industry, Health and Agriculture, may commence an investigation upon petition or upon letter complaint under oath from any consumer for violation/s of Republic Act 7394, within their respective jurisdiction.

SECTION 2. Contents – The complaint shall state among other things, the following:

- A. The names and addresses of the complainant and respondent;
- B. A brief statement of the facts giving the background and the particular act/s and/or omission/s complained of, the approximate time of the commission of the offense or the approximate time of the discovery of such commission;
- C. Sworn statement/s of witness and/or documentary evidence, if any;
- D. The relief prayed for, and preliminary or preventive measures or orders sought; and
- E. Such other matters or details that shall guide the Arbitration Officer in appraising the nature of the complaint and the extent of the violation/s committed.

SECTION 3. Where to File Complaint – The complaint shall be filed in duplicate with the Provincial Office of the department having jurisdiction over the subject of the complaint. In areas where there are no provincial offices, the complaint shall be filed in the Regional Office.

In cases where the complainant and respondent are situated in different provinces, the complainant has the option to choose the place where to file the complaint.

In the National Capital Region, the complaints shall be filed in the following offices:

For the Department of Trade and Industry – DTI-NCR

For the Department of Health – Bureau of Food and Drugs

For the Department of Agriculture – Legal Department, Department of Agriculture

SECTION 4. Consumer Complaint, Received – As soon as the complaint is instituted, the Arbitration Officer shall notify the parties to appear before him for purposes of mediating/conciliating the controversy.

The notice shall indicate the date, time and place of hearing together with a copy of the complaint.

SECTION 5. When to File Complaint – The complaint shall be filed within two (2) years from the time the consumer transaction was consummated or the deceptive or unfair and unconscionable act or practice was committed and in the case of hidden defects, from the discovery thereof.

RULE II

JURISDICTION/POWERS AND DUTIES OF CONSUMER ARBITRATION OFFICERS

SECTION 1. Jurisdiction of Consumer Arbitration Officers – The Consumer Arbitration Officers shall have original and exclusive jurisdiction to mediate, conciliate, hear and adjudicate all consumer complaints. *Provided, however,* that this does not preclude the parties from pursuing the proper judicial action.

In consumer complaints, the complainant must be a natural person and the subject of the complaint is a consumer product or service as defined under the Consumer Act.

SECTION 2. Powers and Duties of Consumer Arbitration Officers – The Consumer Arbitration Officers shall exercise the following powers and duties.

- A. Summon witnesses
- B. Administer oaths and affirmation
- C. Conduct the mediation/arbitration hearing as scheduled.
- D. Regulate the proceedings and maintain order during the hearing
- E. Issue subpoena/s or *sub-poena-duces tecum* when requested to compel attendance of witnesses or production of documents during the hearing
- F. Receive all relevant evidence which may help in giving a fair award
- G. Rule upon offers of proofs
- H. Take or cause deposition to be taken whenever the end of justice would be served thereby
- I. Rule on any procedural request on similar matters
- J. Promulgate award/decision within fifteen (15) days from the time the investigation was terminated.

RULE III

MEDIATION/CONCILIATION OF CONSUMER COMPLAINT

SECTION 1. Procedure for Mediation/Conciliation – In mediating/conciliating consumer complaint the Arbitration Officer shall:

- A. Explain to complainant, the concerned department's jurisdiction under the Consumer Act, the available remedies and ask from complainant the relief sought;
- B. Explain to Respondent, the nature of the complaint, inquire whether he (respondent) is willing to settle complaint amicably and if so, ask for his best offer to settle complaint;

C. The Arbitration Officer shall:

- C.1** Exert effort to convince both parties to settle case amicably by explaining the advantages of mediating/conciliating the complaint, e.g. less expense and speedy recourse to redress (for the complainant) and protect/create goodwill of the company (for the respondent);
- C.2** Propose alternative solution/s to offers and counter-offers of parties in order to make the term more reasonable and acceptable.

SECTION 2. Mediation Period – the Arbitration officer has fifteen (15) working days from the time the complaint was filed within which to mediate the case. The time during which the Notice of Mediation is in the mail and/or the complaint is being amended, shall be deducted in the computation of the said period.

SECTION 3. Compromise/Mediation Agreement – If the parties agree on an amicable settlement of the complaint, they shall sign an agreement indicating the terms and conditions thereof. The agreement shall not be contrary to law, morals, good customs, public order and policy. The Arbitration Officer shall render a decision based on the compromise agreement.

SECTION 4. Right of the Aggrieved Party in case of failure or refusal to abide by the Compromise/Mediation Agreement – If one of the parties to the compromise/mediation agreement fails to abide by the said agreement, the other party may file a motion for execution of judgment.

RULE IV

ARBITRATION OF CONSUMER COMPLAINT

SECTION 1. Sending of Summons and Notice of Hearing – If after mediation/conciliation of the complaint, there was no amicable settlement agreed upon, the Arbitration Officer shall prepare and serve summons to the respondent by personal service, mail or publication as the case maybe. Upon receipt of the answer, the parties shall be notified of the date, time and place of hearing.

SECTION 2. Summons and Answers – The summons shall require respondent to answer the complaint (and not file a Motion to Dismiss) within ten (10) days from service thereof. The Respondent shall answer the complaint in writing, together with his sworn statement and those of his witnesses and his documentary evidence and serve copies thereof upon the complainant.

The voluntary appearance of the Respondent in the action is equivalent to service of summons.

SECTION 3. Dismissal and Default – if the complainant does not appear at the time and place designated in the Notice of Hearing or in a subsequent order, the complaint may be dismissed for failure to prosecute. For this purpose, the Arbitration officer shall send two (2) notices before an order to dismiss shall be issued.

- A.** Within three (3) days after receipt of the Order of Dismissal, the complainant may file a motion to set it aside if his failure to so appear was by reason of fraud, accident, mistake or excusable negligence.
- B.** In the event that the complainant fails to prosecute the complaint and there is a prima facie violation of R.A. 7394 and its implementing rules and regulation, the case may be prosecuted

in accordance with procedure and penalties provided under existing laws, rules and regulation of the concerned department.

- C. If the Respondent fails to answer within the period provided in Section 2 hereof, the Arbitration officer upon motion of the complainant *shall motu proprio* declare the said respondent in default, in which case, he shall receive evidence *ex parte*.

In case the respondent is declared in default, he is not entitled to receive service of papers except substantially amended or supplemental pleading and final orders or decision. However, if he files a motion to set aside the order of default within three (3) days from receipt thereof on any of the four grounds mentioned in subsection (a) hereof, in which case, he shall be entitled to notice of all further proceedings regardless of whether the order of default is set aside or not.

SECTION 4. Procedure for Arbitration

A. Preliminary Conference –

On the first day of the hearing, the Arbitration Officer shall talk to the parties for a last attempt to mediate/conciliate the complaint.

- a.1 If no settlement is reached, he shall explain the hearing procedures; schedule continuous date, time of hearing; ask parties for stipulation of facts/simplification of issues and the existence of certain documents; and such other matters as would aid in the fair and speedy disposition of the case.

B. Hearing Proper-

The Arbitration Officer shall call the case for hearing and the parties/lawyers shall enter their appearances.

- b.1 The complainant or his counsel shall present his witness/es. The testimonies of witness/es must be in affidavit form duly subscribed before a notary public or the Arbitration Officer. Documents formally presented as exhibits shall be duly marked. The Arbitration Officer may ask for clarificatory questions when needed.
- b.2 After complainant or his counsel has presented his witnesses and/or documents, the respondent or counsel is entitled to cross examine the witnesses.

When the respondent or his counsel presents his defense, the procedure provided for under b.1 and b.2 shall be followed.

In hearing the complaint, the Arbitration officer shall use every and all reasonable means to ascertain the facts in each complaint, speedily and objectively without regard to strict rules of evidence prevailing in suits before courts.

The Arbitration Officer may ask or require submission of documents prayed for by either party which were not submitted during the hearing. He may hear the summation presented by the parties if desired. He may also require the parties to submit their respective memoranda. He shall conclude the hearing/s and advise the parties that the decision will be promulgated within fifteen (15) days, after the end of hearing or upon submission of required documents/memoranda. In case of

failure to submit memoranda within the period, the case shall be deemed submitted for resolution.

RULE V

ADMINISTRATIVE SANCTION

SECTION 1. After investigation, any of the following administrative penalties may be imposed even if not prayed for in the complaint:

- A. The issuance of a cease and desist order, *Provided, however,* That such order shall specify the acts that respondent shall cease and desist from and shall require him to submit a report of compliance therewith within a reasonable time;
- B. The acceptance of a voluntary assurance of compliance or discontinuance from the respondent which may include any or all of the following terms and conditions:
 - b.1 an assurance to comply with the provisions of R.A. 7394 and its implementing rules and regulations;
 - b.2 an assurance to refrain from engaging in unlawful acts and practices or unfair or unethical trade practices subject of the formal investigation;
 - b.3 an assurance to comply with the terms and conditions specified in the consumer transaction subject of the complaint;
 - b.4 an assurance to recall, replace, repair or refund the money value of defective products distributed in commerce;
 - b.5 an assurance to reimburse the complaint out of any money or & property in connection with the complaint, if any and to file a bond to guarantee compliance therewith.
- C. Restitution or rescission of the contract without damages;
- D. Condemnation and seizure of the consumer product found to be hazardous to health and safety unless the respondent files a bond to answer for any damages or injury that may arise from the continued use of the product;
- E. The imposition of administrative fines in such amount as deemed reasonable by the Secretary, which shall in no case be less than Five Hundred pesos (P500.00) nor more than Three Hundred Thousand pesos (P300,000.00) depending on the gravity of the offense, and the additional fine of not more than One thousand pesos (P1,000.00) for each day of continuing violation.

RULE VI

RESOLUTION/DECISION

SECTION 1. The Arbitration Officer shall resolve the complaint, after formal hearing, by rendering a resolution/decision, which shall dispose of the claim. The decision shall briefly explain findings of facts and the evidence and the law relied upon. It must be specific in the nature and quantity of the relief sought.

The decision, when warranted, even if not prayed for may impose any of the administrative sanction provided under Rule 5 hereof.

The Arbitration Officer shall render the decision within fifteen (15) days from the time the hearing was terminated. A copy of the decision may be received personally by either party or their authorized representative or it may be sent by registered mail to the parties or their counsel.

RULE VII

APPEALS

SECTION 1. Appeal from Orders – Any order, not interlocutory, of the Consumer Arbitration Officer, becomes final and executory unless appealed to the Department Secretary concerned within fifteen (15) days from receipt of such order. An appeal may be entertained only on any of the following grounds:

- A. grave abuse of discretion;
- B. the order is in excess of the jurisdiction or authority of the consumer arbitration officer;
- C. the order is not supported by the evidence or there is serious error in the findings of facts.

SECTION 2. Decision on Appeal – The Secretary shall decide the appeal within thirty (30) days from receipt thereof. The decision becomes final after fifteen (15) days from receipt thereof unless a petition for certiorari is filed with the proper court.

RULE VIII

EXECUTION OF DECISION

SECTION 1. As soon as a decision has become final and executory, the Arbitration Officer, shall on motion of the interested party issue an Order of Execution and the Corresponding Writ of Execution deputizing and requiring the Philippine National Police, the National Bureau of Investigation or any other law enforcement or investigation agency of the government, or any public officer, in the enforcement of any of his decision or orders.

RULE IX

AUTHORITY OF CONCERNED DEPARTMENT TO ISSUE SEPARATE RULES

SECTION 1. Notwithstanding the provisions of this Joint Administrative Order, each concerned Department may issue separate rules to govern the Arbitration of Consumer Complaint within their respective jurisdiction.

RULE X

SEPARABILITY CLAUSE

SECTION 1. In the event that any provision/s of these rules and regulations or the application of any of such provision/s to any person or circumstances, is declared invalid all other provisions unaffected shall continue to remain in full force and effect.

RULE XI

EFFECTIVITY

SECTION 1. **Publication and Effectivity** – These rules and regulations shall be published in full test in the Official Gazette of the Philippines and shall take effect fifteen (15) days after its publication.

DONE in Makati, Metro Manila, this 27th day of December 1993.

APPROVED BY:

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