



**MINISTÉRIO DA JUSTIÇA
E SEGURANÇA PÚBLICA**
Assessoria Especial Internacional

TRADUÇÃO DE LEGISLAÇÃO BRASILEIRA RELACIONADA À ÁREA DE JUSTIÇA E SEGURANÇA PÚBLICA PARA O INGLÊS E O ESPANHOL

Decreto nº 2.181, de 20 de março de 1997.

Dispõe sobre a organização do Sistema Nacional de Defesa do Consumidor - SNDC, estabelece as normas gerais de aplicação das sanções administrativas previstas na Lei nº 8.078, de 11 de setembro de 1990, revoga o Decreto Nº 861, de 9 julho de 1993, e dá outras providências.

VERSÃO EM INGLÊS



Projeto da Assessoria Especial Internacional

Como forma de divulgar o arcabouço legislativo brasileiro a autoridades estrangeiras e a Organismos Internacionais e, ainda, de aprimorar a cooperação internacional, em diversas áreas, a Assessoria Especial Internacional do Ministério da Justiça e Segurança Pública desenvolveu projeto para a compilação e tradução¹, para os idiomas inglês e espanhol, de parte das legislações brasileiras relacionadas às áreas de Justiça e Segurança Pública. A seleção das leis traduzidas ficou a cargo das áreas técnicas do Ministério, levando em consideração, igualmente, trabalhos já realizados por outros órgãos brasileiros, os quais serão disponibilizados como link externo no site da Assessoria Especial Internacional.



¹Traduções não juramentadas ou oficiais.

DECREE nº 2.181 of March 20th, 1997.

Regulates the organization of the National Consumer Defense System (SNDC in Portuguese), establishes the general provisions for applying administrative sanctions pursuant to Law nº 8,078 of September 11th, 1990, repeals Decree nº 861 of July 9th, 1993, and sets forth other provisions.

THE PRESIDENT OF BRAZIL, in the use of the attributions established by article 84, item IV, of the Constitution, and given the provisions of Law 8,078 of September 11th, 1990,

DECREES:

Art. 1. The National Consumer Protection System (SNDC in Portuguese) is organized and the general rules for the application of administrative sanctions are established, pursuant to Law nº 8,078 of September 11th, 1990.

CHAPTER I

NATIONAL CONSUMER PROTECTION SYSTEM

Art. 2. The National Consumer Secretariat of the Ministry of Justice and the other federal, state, Federal District, municipal, and civil consumer protection entities are a part of the SNDC. [\(Wording established by Decree nº 7,738 of 2012\).](#)

CHAPTER II

JURISDICTION OF THE SNDC BODIES

Art. 3. The National Consumer Secretariat of the Ministry of Justice shall coordinate the policy of the National Consumer Protection System with the following responsibilities: [\(Wording established by Decree nº 7,738 of 2012\).](#)

I - plan, prepare, propose, coordinate, and execute the national consumer protection and defense policy;

II - receive, analyze, evaluate, and investigate inquiries and complaints presented by representative entities or legal entities governed by public or private law or by individual consumers;

III - provide consumers with permanent guidance on their rights and guarantees;

IV - inform, raise awareness, and motivate the consumer through the different means of communication;

V - request the judicial police to initiate an inquiry to investigate the crime against the consumer, under the terms of current legislation;

VI - represent the competent Public Prosecutor's Office for the purpose of adopting procedural, criminal, and civil measures within the scope of its attributions;

VII - bring administrative offenses that violate the diffuse, collective, or individual interests of consumers to the attention of the competent bodies;

VIII - request the joinder of bodies and entities of the Union, states, Federal District, and municipalities, and assist in the inspection of prices, supply, quantity, and safety of products and services;

IX - encourage the creation of state and municipal consumer protection agencies, including with financial resources and other special programs, and the formation of citizen entities with the same objective;

X - inspect and apply the administrative sanctions provided for in [Law nº 8,078 of 1990](#) and other regulations relevant to consumer protection;

XI - request the joinder of bodies and entities of notable technical-scientific specialization to achieve their objectives;

XII - enter into agreements and terms of conduct adjustment, pursuant to [paragraph 6, of article 5, of Law nº 7,347 of July 24th, 1985](#); [\(Wording established by Decree nº 7,738 of 2012\)](#).

XIII - prepare and disseminate the national register of substantiated complaints against suppliers of products and services, referred to in [article 44 of Law nº 8,078 of 1990](#);

XIV - develop other activities compatible with its purposes.

Art. 4. The state, Federal District, and municipal consumer protection and defense agency, created in the form of the law specifically for this purpose, shall exercise, within the scope of its jurisdiction, the activities contained in items II to XII of article 3 of this Decree and:

I - plan, prepare, propose, coordinate, and execute the state, Federal District, and municipal consumer protection and defense policy, in their respective areas of activity;

II - provide service to consumers, regularly processing substantiated complaints;

III - inspect consumer relations;

IV - function as an instance of instruction and judgment, in the administrative procedure, within the scope of its jurisdiction, within the rules established by [Law nº 8,078 of 1990](#), supplementary legislation, and this Decree;

V – annually prepare and disclose the register of substantiated complaints against suppliers of products and services, referred to in [article 44 of Law nº 8,078 of 1990](#), within the scope of its jurisdiction,

and send a copy to the National Consumer Secretariat of the Ministry of Justice; [\(Wording established by Decree nº 7,738 of 2012\).](#)

VI - develop other activities compatible with its purposes.

Art. 5. Any federal, state, and municipal government entity or body destined to the defense of the interests and rights of the consumer, has the attribution to investigate and punish offenses to this Decree and legislation on consumer relations within the scope of its respective jurisdiction.

Sole paragraph. If more than one administrative proceeding is initiated by different legal entities of public law to determine the offense resulting from the same fact attributed to the same supplier, any conflict of jurisdiction shall be resolved by the National Consumer Secretariat of the Ministry of Justice and Public Security, which may listen to the National Council for Consumer Protection, considering the federative jurisdiction to legislate on the respective economic activity. [\(Wording established by Decree nº 10,417 of 2020\).](#)

Art. 6. The government entities and bodies destined to defend the interests and rights protected by the Consumer Protection Code may enter into behavior adjustment commitment to the legal requirements, pursuant to [paragraph 6, of article 5, of Law nº 7,347 of 1985](#), within the scope of their respective jurisdiction.

Paragraph 1. The celebration of a behavior adjustment term does not prevent another from being issued by any legal entity of public law that are part of the SNDC, provided it is more advantageous to the consumer.

Paragraph 2. The subscribing organ may rectify or complement the agreement signed at any time, in the face of new information or if the circumstances so require, determining other measures that may be necessary, under penalty of immediate invalidity of the act, proceeding with the administrative procedure eventually filed.

Paragraph 3. The behavior adjustment commitment shall contain, among others, clauses that stipulate conditions on:

I - the supplier's obligation to adapt its behavior to the legal requirements, within the adjusted term;

II - daily financial penalty for non-compliance with the adjusted amount, considering the following criteria:

a) the global value of the investigated operation;

b) the value of the product or service in question;

c) the breaching party's record;

d) the economic situation of the breaching party;

III - reimbursement of the costs of investigating the offense and instructing the administrative procedure.

Paragraph 4. The celebration of the adjustment commitment term shall suspend the course of the administrative procedure, if instituted, which shall only be filed after all the conditions established in the respective term are met.

Art 7. It is incumbent upon the other federal, state, Federal District, and municipal public bodies that become a part of the SNDC to supervise consumer relations, within the scope of their jurisdiction, and to authorize those liable for practices that violate consumer rights, in accordance with the legislation.

Art. 8. The civil entities of consumer protection and defense, legally constituted, may:

I - forward complaints to public consumer protection and defense agencies, for the appropriate legal measures;

II - represent the consumer in court, observing the provisions of [item IV, of article 82, of Law nº 8,078 of 1990](#);

III - perform other related activities.

CHAPTER III

INSPECTION, VIOLATING PRACTICES, AND ADMINISTRATIVE SANCTIONS

SECTION I

Inspection

Art. 9. The inspection of the consumer relations referred to in [Law nº 8,078 of 1990](#), this Decree, and other consumer protection regulations shall be exercised throughout the national territory by the National Consumer Secretariat of the Ministry of Justice, by federal bodies that are part of the National Consumer Protection System, by the bodies associated with the Secretariat, and by the consumer protection and defense bodies created by the states, Federal District, and municipalities, in their respective areas of expertise and jurisdiction. [\(Wording established by Decree nº 7,738 of 2012\).](#)

Art. 10. The inspection referred to in this Decree shall be conducted by tax agents officially designated and linked to the respective consumer protection and defense bodies, at the federal, state, Federal District, and municipal levels, duly accredited through the Tax Identification Card, admitting delegation by agreement.

Art. 11. The agents referred to in the previous article shall answer for the acts they practice when invested in the inspection action, without excluding the responsibility of the bodies that make up the SNDC.

SECTION II

Violating Practices

Art. 12. The following practices are considered a violation:

I - condition the supply of a product or service to the supply of another product or service, as well as their quantitative limits, without just cause;

II - refuse to meet the demands of consumers in the exact measure of their availability of stock and in accordance with the uses and customs;

III –refuse to meet the demand of service consumers without a justified reason;

IV - send or deliver to the consumer any product or provide any service, without prior request;

V - take advantage of the consumer's weakness or ignorance, given his/her age, health, knowledge, or social condition, to impose its products or services;

VI - demand from the consumer a manifestly excessive advantage;

VII - perform services without prior budgeting and self-consumption, except when arising from previous practices between the parties;

VIII - pass on derogatory information regarding an act practiced by the consumer in the exercise of his/her rights;

IX - place any product or service into the consumer market:

a) which is in disagreement with the rules issued by the competent official bodies, or, by the lack of such rules, by the Brazilian Association of Technical Standards (ABNT in Portuguese) or another entity accredited by the National Council for Metrology, Standardization, and Industrial Quality (CONMETRO in Portuguese);

b) which entails risks to the health or safety of consumers and has no overt and adequate information;

c) which is in disagreement with the indications on the container, packaging, labeling, or advertising message, with due regard for variations arising from its nature;

d) improper or inappropriate for the intended consumption or that reduces its value;

X - fail to rerun the services, when applicable, at no additional cost;

XI - fail to set a term for the fulfillment of its obligation or leave the setting or variation of its initial term at its sole discretion.

Art. 13. The following practices shall also be considered a violation according to the provisions of [Law nº 8,078 of 1990](#):

I - offer products or services without the correct, clear, precise, and overt information, written in Portuguese, regarding their characteristics, quality, quantity, composition, price, terms of payment, interest, charges, warranty, validity, and origin, among other relevant data;

II - fail to communicate to the competent authority the risk level of the product or service when they are launched on the consumer market or when the risk is subsequently verified;

III - fail to communicate to consumers the risk level of the product or service through advertising when they are launched in the consumer market or when the risk is subsequently verified;

IV - fail to repair the damage caused to consumers by defects resulting from designs, manufacture, construction, assembly, handling, presentation, or packaging of their products or services, or by insufficient or inadequate information regarding their use and risk;

V – cease to employ original, suitable, and new replacement components, or those that maintain the manufacturer's technical specifications, unless authorized by the consumer;

VI - fail to precisely fulfill the offer, advertised or not, except in the case of incorrectness rectified in a timely manner or exclusively attributable to the communication vehicle, without prejudice to the forced fulfillment of the announcement or the compensation of losses and damages suffered by the consumer, ensuring the right of the advertiser to recourse against its insurer or directly responsible;

VII - omit the name and address of the manufacturer or importer on the packaging, advertising, and printed material used in the commercial transaction in electronic offers or sales done by telephone or postal refund;

VIII - fail to comply with the price regime tabulated, frozen, administered, fixed, or controlled by the government in the case of the supply of products and services;

IX - subject the defaulting consumer to ridicule or any type of constraint or threat;

X - prevent or hinder the consumer's free access to the information regarding him/herself and the respective sources in personal and consumption registrations, records, or data records;

XI - prepare consumption records with unreal or inaccurate data;

XII - maintain records and consumer data with negative information, diverging from those of legal protection;

XIII - fail to communicate to the consumer, in writing, the opening of personal and consumption data registration, form, and records when not requested by him/her;

XIV - fail to correct the inaccuracy of data and records when requested by the consumer, immediately and free of charge;

XV - fail to communicate to the consumer the corrections requested by him/her within five working days;

XVI - prevent, hinder, or deny the fulfillment of the declarations contained in private writings, receipts, and pre-contracts concerning consumer relations, without just cause;

XVII - omit in printed forms, catalogs, or communications, prevent, hinder, or deny the contractual withdrawal within up to seven days of its signing or act of receiving the product or service, whenever the contracting takes place outside the commercial establishment, especially by phone or at home;

XVIII - prevent, hinder, or deny the return of the amounts paid, monetarily updated, during the reflection period, in case the consumer withdraws from the contract;

XIX - fail to deliver the warranty term, duly filled in with the information provided for in the sole paragraph of [article 50, of Law nº 8,078 of 1990](#);

XX - fail to properly inform the consumer in advance of the price of the product or service in national currency, the amount of interest arrears and the effective annual interest rate, the legally and contractually expected increases, the number and frequency of installments and, with equal emphasis, the total sum to be paid, with or without financing, in contracts involving credit or credit card sales, including in advertising communications;

XXI - fail to ensure the supply of components and spare parts, until the manufacture or import of the product is stopped, and, if so, maintain the supply of components and spare parts for a reasonable period, never less than the useful life of the product or service;

XXII - propose or apply indexes or alternative forms of adjustment, and do so in disagreement with that which is legally or contractually permitted;

XXIII – directly refuse the sale of products or provision of services publicly offered to those who are willing to purchase them upon prompt payment, except in cases regulated by special laws;

XXIV - fail to exchange the inappropriate, inadequate, or reduced value product for another of the same kind, in perfect condition of use, or to immediately refund the amount paid, duly corrected, or to make proportional reduction of the price, at the consumer's discretion.

Art. 14. Any type of information or communication of an advertising nature that is wholly or partially false, or even omitted, capable of misleading the consumer regarding the nature, characteristics, quality, quantity, property, origin, price, or any other data regarding products or services is misleading.

Paragraph 1. The advertising that fails to inform the essential data of the product or service to be made available to consumers is misleading by omission.

Paragraph 2. The discriminatory advertising of any kind, which incites violence, exploits fear or superstition, exploits the child's poor judgment and inexperience, disrespects environmental values, is capable of inducing consumers to behave in a way that is harmful or dangerous to his/her health or safety, or that violates legal or regulatory rules governing advertising is abusive.

Paragraph 3. The burden of proof of veracity (non-deceit) and correction (non-abuse) of information or advertising communication rests with the sponsor.

Art. 15. If the same company is being sued in more than one federated state for the same fact that generates an violating practice, the maximum authority of the state system may refer the case to the coordinating body of the SNDC, which shall investigate the fact and apply the respective sanctions.

Art. 16. In cases of administrative proceedings, which involve diffuse or collective interests, pending in more than one state, the National Consumer Secretariat of the Ministry of Justice and Public Security may summon them after hearing the National Council for Consumer Protection, and the top authorities of the state systems. [\(Wording established by Decree nº 10,417 of 2020\).](#)

Art. 17. The violating practices are classified into:

I - light: those in which only attenuating circumstances are verified;

II - serious: those in which aggravating circumstances are verified.

SECTION III

Administrative Sanctions

Art. 18. Failure to comply with the rules contained in [Law nº 8,078 of 1990](#) and other consumer protection regulations shall constitute a violating practice and shall subject the supplier to the following sanctions, which may be applied separately or cumulatively, including as a precautionary, antecedent, or incident in the administrative procedure, without prejudice to those of a civil or criminal nature and to those defined in specific rules:

I - fine;

II - seizure of the product;

III – destruction of the product;

IV - revocation of the product registration with the competent body;

V - prohibition of manufacturing the product;

VI - suspension of the supply of products or services;

VII - temporary suspension of activity;

VIII - revocation of a concession or permission to use;

IX - revocation of license of the establishment or activity;

X - total or partial interdiction of the establishment, work, or activity;

XI - administrative intervention;

XII - imposition of counter advertisement.

Paragraph 1. Whoever causes an action or omission to compete, conduct a jointer practice or benefit from it shall be liable for the violating practice and subject to the administrative sanctions provided for in this Decree.

Paragraph 2. The sanctions provided for in this article shall be applied by official bodies that integrate the SNDC, without prejudice to the attributions of the normative or regulatory body of the activity, according to the legislation in force.

Paragraph 3. The sanctions provided for in items III to XI of this article are subject to subsequent confirmation by the normative or regulatory body of the activity, within the limits of its jurisdiction.

Art. 19. Any natural or legal person who makes or promotes misleading or abusive advertising shall be subject to a fine in addition to those provided for in the previous article, without prejudice to the jurisdiction of other administrative bodies.

Sole paragraph. The sanctions of this article also apply to suppliers who:

a) fail to organize or deny to the legitimate interested parties the factual, technical, and scientific data that support the advertising message;

b) carry advertising in such a way that the consumer cannot easily and immediately identify it as such.

Art. 20. Public agencies that, by themselves or their concessionaire companies, permit holders, or under any other form of enterprise, fail to provide adequate, efficient, safe, and continuous services, regarding the essential services, are subject to a fine.

Art. 21. The application of the sanction provided for in item II of article 18 shall take place when the products are marketed in disagreement with the technical specifications established in specific legislation, [Law nº 8,078 of 1990](#), and this Decree.

Paragraph 1. The assets seized at the discretion of the authority may be kept under the custody of the owner, responsible, representative, or employee, who is responsible for the management of the business, appointing a loyal depositary through a specific term, prohibited the total or partial sale, use, replacement, subtraction, or removal of said assets.

Paragraph 2. The withdrawal of the product by the inspecting authority may not affect a quantity superior to that necessary to conduct the expert analysis.

Art. 22. A fine shall be imposed on the supplier of products or services that directly or indirectly insert, circulate, or use an abusive clause, regardless of the type of consumer contract, including insurance, banking, consumer credit, deposit, savings, loan, or financing, especially when:

I - making it impossible, exonerating, or mitigating the supplier's liability for vices of any nature of the products and services or imply the waiver or provision of the consumer's right;

II - fail to reimburse the consumer the amount already paid, in the cases provided for in [Law nº 8,078 of 1990](#);

III - transfer responsibilities to third parties;

IV - establish obligations considered to be unjust or abusive, which put the consumer at an excessive disadvantage, incompatible with good faith or equity;

V - establish an inversion of the burden of proof to the detriment of the consumer;

VI - determine the compulsory use of arbitration;

VII - impose a representative to conclude or conduct another legal transaction for the consumer;

VIII - leave the supplier the option of concluding the contract or not, although obliging the consumer;

IX - allow the supplier the direct or indirect unilateral change of price, interest, charges, form of payment, or monetary adjustment;

X - authorize the supplier to cancel the contract unilaterally, without the same right being granted to the consumer, or allow the cancellation of long-term contracts or successive contracts without just cause and motivation, even if the consumer is given the same option;

XI - oblige the consumer to reimburse the costs of his/her collecting obligation, without the same right being conferred against the supplier;

XII - authorize the supplier to, unilaterally, modify the content or quality of the contract after its conclusion;

XIII - breach environmental norms or allow their violation;

XIV - allow the waiver of the right to compensation for necessary improvements;

XV - restrict fundamental rights or obligations to the nature of the contract, in such a way as to threaten its object or the contractual balance;

XVI - burden the consumer excessively, considering the nature and content of the contract, the interest of the parties, and other circumstances peculiar to the species;

XVII – determine the total loss of the installments paid in the purchase and sale contracts foreseeing payment in installments or in fiduciary disposals in guarantee, to the benefit of the creditor who seeks the termination of the contract and the resumption of the product disposed of due to default, except for the judicial collection of losses and damages proven to be suffered;

XVIII - announce, offer, or stipulate payment in foreign currency, except in cases provided for by law;

XIX - charge late payment fines of more than two percent, resulting from the breach of obligation at its end, in accordance with the provisions of [paragraph 1, of article 52, of Law nº 8,078 of 1990](#), with wording established by [Law nº 9,298 of August 1st, 1996](#);

XX - prevent, hinder, or deny the consumer the early settlement of the debt, in whole or in part, by the proportional reduction of interest, charges, and other additions, including insurance;

XXI - include in the contract any of the abusive clauses referred to in article 56 of this Decree;

XXII - elaborate a contract, including the adhesion contract, without using clear terms and ostensible and legible characters, which allow its immediate and easy understanding, highlighting the clauses that imply obligation or limitation of the consumer's contractual rights, including the use of different fonts and colors, among other graphic and visual resources;

XXIII - that prevents the exchange of inappropriate, inadequate, or reduced value products, for another of the same kind, in perfect conditions of use, or the immediate refund of the amount paid, monetarily corrected, or making the proportional reduction of the price, at the discretion of the consumer.

Sole paragraph. The fine may be combined with other sanctions provided for in article 18, without prejudice to the jurisdiction of other administrative bodies, depending on the seriousness of the violation provided for in the items of arts. 12 and 13 and this article.

Art. 23. The services provided and the products sent or delivered to the consumer, in the event provided for in item IV of article 12 of this Decree are equivalent to free samples, with no payment obligation.

Art. 24. The following aspects shall be considered for the imposition of the sanction and its gradation:

I - mitigating and aggravating circumstances;

II - the record of the breaching party, pursuant to article 28 of this Decree.

Art. 25. Mitigating circumstances are considered those in which:

I - the breaching party's action has not been fundamental to the achievement of the fact;

II – the breaching party is a primary offender;

III - the breaching party has taken the relevant measures to minimize or immediately repair the effects of the harmful act.

Art. 26. Aggravating circumstances are considered those in which:

I – the breaching party is a repeat offender;

II – it has been proven that the breaching party has committed the violating practice to obtain undue advantages;

III - the violating practice causes harmful consequences to the health or safety of the consumer;

IV - having knowledge of the harmful act, the breaching party takes no measures to avoid or mitigate its consequences;

V - the breaching party has acted with intent;

VI – the violation causes the practice of collective harm or has a repetitive character;

VII - the violating practice occurred to the detriment of children under eighteen, adults over sixty years of age, or people with physical, mental, or sensory disabilities, whether or not interdicted;

VIII – the breaching party conceals the illicit nature of the act or activity;

IX - the violating conduct is practiced taking advantage of a serious economic crisis or the victim's cultural, social, or economic condition, or even in the event of calamity.

Art. 27. A repetition of a violation of any nature to the consumer protection rules is considered a repeat violation, punished by an unappealable administrative decision.

Sole paragraph. For the purpose of recidivism, the previous sanction does not prevail, if a period of time superior to five years has passed between the date of the final administrative decision and that of the subsequent practice.

Art. 28. Subject to the provisions of article 24 of this Decree by the competent authority, the fine shall be fixed considering the gravity of the violating practice, the extent of the damage caused to consumers, the advantage obtained with the violating act, and the economic condition of the breaching party, respecting the parameters established in the [sole paragraph of article 57, of Law nº 8,078 of 1990](#).

CHAPTER IV

DESTINATION OF THE FINE AND RESOURCE ADMINISTRATION

Art. 29. The fine referred to in [item I of article 56 and head provision of article 57, of Law nº 8,078 of 1990](#) shall revert to the Fund pertinent to the public legal entity that imposes the sanction, managed by the respective Management Council.

Sole paragraph. The fines collected by the Union and federal agencies shall revert to the Diffuse Rights Fund referred to in [Law nº 7,347 of 1985](#) and [Law nº 9,008 of March 21st, 1995](#), managed by the Federal Management Council of the Fund for the Defense of Diffuse Rights (CFDD in Portuguese).

Art. 30. The fines collected shall be used to finance projects related to the objectives of the National Consumer Relations Policy, the defense of basic consumer rights, and the administrative modernization of public consumer protection agencies, after approval by the respective Management Council, in each federative unit.

Art. 31. In the absence of municipal funds, the resources shall be deposited in the Fund of the respective state and, failing this, in the Federal Fund.

Sole paragraph. The Federal Management Council for the Fund for the Defense of Diffuse Rights (FDR) shall assess and authorize resources for special projects by federal, state, and municipal consumer protection agencies and entities.

Art. 32. In the event of a fine imposed by the SNDC coordinating body in the cases provided for in article 15 of this Decree, the Federal Management Council of the FDR shall refund the percentage of up to eighty percent of the amount collected to the funds of the states involved.

CHAPTER V

ADMINISTRATIVE PROCEDURE

SECTION I

General Provisions

Art. 33. Practices that violate consumer protection and defense standards shall be investigated in an administrative procedure, which shall begin through:

I – an act, in writing, of the competent authority;

I - issuing of an offense notice;

III - complaint.

Paragraph 1. The competent authority may open a preliminary investigation before beginning the administrative procedure. It is therefore necessary to request information from the suppliers on the issues investigated, safeguarding industrial secrecy, as provided for in [paragraph 4 of article 55, of Law nº 8,078 of 1990](#).

Paragraph 2. The refusal to provide information or the disrespect for the determinations and convocations of SNDC bodies characterize disobedience, in the form of article 330 of the Brazilian Criminal Code, empowering the administrative authority to determine the immediate cessation of the practice and the imposition of applicable administrative and civil sanctions.

SECTION II

Complaint

Art. 34. The consumer may submit his/her complaint in person or by letter, telex, facsimile, or any other means of communication, to any of the official consumer protection and defense bodies.

SECTION III

Notices of Violation and Seizure, and Term of Deposit

Art. 35. The Notices of Violation and Seizure and the Term of Deposit must be printed, numbered in series, and filled out in a clear and precise manner, without any lines, erasures or amendments, mentioning:

I – in the Notice of Violation:

- a) the place, date, and time of issue;
- b) the name, address, and qualification of the assessed person;
- c) a description of the fact or act constituting the violation;
- d) the legal device violated;
- e) the determination of the requirement and the summons to comply with or challenge it within ten days;
- f) the identification of the authority, his/her signature, the indication of his/her position or function, and his/her registration number;
- g) the designation of the judging body and the respective address;
- h) signature of the defendant;

II – in the Seizure Notice and the Term of Deposit:

- a) the place, date, and time of issue;
- b) the name, address, and qualification of the depositary;
- c) the description and quantity of the seized products;
- d) the reasons and grounds for the seizure;
- e) the place where the product shall be stored;
- f) the amount of samples taken for analysis;
- g) the identification of the authority, his/her signature, the indication of his/her position or function, and his/her registration number;
- h) the depositary's signature;
- i) the prohibitions contained in paragraph 1 of article 21 of this Decree.

Art. 36. The Notices of Violation and Seizure and the Term of Deposit shall be issued by the assessing agent who has verified the violating practice, preferably where the irregularity was proven.

Art. 37. The Notices of Violation and Seizure and the Term of Deposit shall be issued in a specific form, composed of three copies numbered typographically.

Paragraph 1. When necessary, the case records shall be accompanied by an expert report to prove a violation.

Paragraph 2. When the verification of the defect related to the quality, offer, and presentation of products does not depend on expertise, the competent agent shall record the fact in the respective Notice.

Art. 38. The signature in the Notices of Violation and Seizure and the Term of Deposit, by the assessed person, upon receiving copies, constitutes a notification, without implying confession, for the purposes of article 44 of this Decree.

Sole paragraph. In case of refusal of the assessed person to sign the Notices of Violation and Seizure and the Term of Deposit, the competent authority shall consign the fact in the Notices and Term, sending them to the breaching party by post, with Receipt of Notice or another equivalent procedure, having the same effects as the head provision of this article.

SECTION IV

Institution of the Administrative Procedure by an Act of Authority

Jurisdiction

Art. 39. The administrative procedure referred to in article 33 of this Decree may be instituted upon a complaint by the interested party or on the initiative of the competent authority.

Sole paragraph. In the event that the preliminary investigation does not result in an administrative procedure based on a complaint submitted by a consumer, the consumer must be informed of the reasons for filing by the competent authority.

Art. 40. The administrative procedure, in the form of this Decree, must contain:

- I - the identification of the breaching party;
- II - the description of the fact or act constituting the violation;
- III - the legal provisions violated;
- IV - the signature of the competent authority.

Art. 41. The administrative authority may determine a preliminary verification of the occurrence of a presumed violating practice, through an act of its own.

SECTION V

Notification

Art. 42. The competent authority shall issue a notification to the breaching party, setting a period of ten days, counting from the date of its receipt, to present a defense, in the form of article 44 of this Decree.

Paragraph 1. The notification, accompanied by a copy of the initial administrative proceeding referred to in article 40, shall be done as follows:

I – in person to the breaching party or his/her agent;

II - by registered letter to the breaching party or his/her agent, with Notice of Receipt.

Paragraph 2. When the breaching party or his/her agent cannot be notified, in person or by post, the notification shall be made through a notice to be posted on the premises of the respective body, in a public place, for ten days, or disclosed at least once in the official press or in a local newspaper.

SECTION VI

Objection and Trial of the Administrative Procedure

Art. 43. The administrative procedure resulting from the Notice of Violation, act of an official authority, or a complaint shall be instructed and tried in the sphere of attribution of the body that has instituted the Notice.

Art. 44. The breaching party may object to the administrative procedure within ten days, counted from his/her notification, indicating in his/her defense:

I - the trying authority to whom it is addressed;

II - the qualification of the objectant;

III - the factual and legal reasons that underlie the objection;

IV - the proof that support it.

Art. 45. After the objection period has elapsed, the trying body shall determine the due diligence and may dispense with merely delaying or irrelevant diligence and request the necessary information and documents from the breaching party, any natural or legal persons, bodies or public entities, to be presented within the established deadline.

Art. 46. The administrative decision shall contain a report of the facts, the respective legal framework and, if condemning, the nature and gradation of the sentence.

Paragraph 1. Before the Trial, the competent administrative authority shall assess the defense and the evidence produced by the parties and is not bound by the report of its legal advice or similar body, if any.

Paragraph 2. Once the procedure is tried and the fine fixed, the breaching party shall be notified to make its payment within ten days or to appeal.

Paragraph 3. In case the appeal is granted, the amounts collected shall be returned to the applicant in the manner established by the Fund's Management Council.

Art. 47. When the imposition envisaged is the counter-advertisement, the procedure may be instructed with technical-advertising indications, from which the assessment shall be summoned, in compliance with the execution of the respective decision, according to the conditions established in [paragraph 1 of article 60, of Law nº 8,078 of 1990](#).

SECTION VII

Nullities

Art. 48. Failure to observe the form shall not imply in the nullity of the act if there is no damage to the defense.

Sole paragraph. Nullity only affects acts subsequent to the act declared null and directly dependent on it or that are its consequence, and the authority that declares shall indicate such acts and determine the appropriate sanitation procedure, if applicable.

SECTION VIII

Administrative Appeals

Art. 49. The decisions of the competent authority of the public agency that applied the sanction shall be subject to appeal, without suspensive effect, within ten days counted from the date of the decision's summons, to its hierarchical superior, who shall render a final decision.

Sole paragraph. In the case of fines, the appeal shall be received by the higher authority, with suspensive effect.

Art. 50. When the procedure is conducted within the scope of the Department of Protection and Defense of the Consumer, the trial the fact shall be the responsibility of the Director of that body, with appeal to the holder of the National Consumer Secretariat, within ten days counted from the date of the summons of the decision, as a second and final appeal. [\(Wording established by Decree nº 7,738 of 2012\)](#).

Art. 51. The appeal filed outside the terms and conditions established in this Decree shall not be known.

Art. 52. If the violation is deemed unsubstantiated, the trying authority shall appeal to the immediately superior authority, under the terms established in this Section, by means of a declaration in the decision.

Art. 53. The decision is final when there is no longer an appeal, whether formal or material.

Art. 54. All terms referred to in this Section are preclusive.

SECTION IX

Registration as an Overdue Tax Liability

Art. 55. If the amount of the fine is not collected in thirty days, the debt shall be registered as an overdue tax liability of the agency that applied the sanction, for subsequent executive collection.

CHAPTER VI

LIST OF ABUSIVE CLAUSES AND SUPPLIER REGISTRATION

SECTION I

List of Abusive Clauses

Art. 56. In the form of [article 51 of Law nº 8,078 of 1990](#) and with the purpose of guiding the National Consumer Protection System, the National Consumer Secretariat shall annually disclose a complementary list of contractual clauses considered abusive, notably to apply the provisions of item IV of the head provision of article 22. [\(Wording established by Decree nº 7,738 of 2012\).](#)

Paragraph 1. In the elaboration of the list referred to in the head provision and subsequent inclusions, consideration of the abuse of contractual clauses shall take place in a generic and abstract manner.

Paragraph 2. The list of clauses considered to be abusive is of an exemplary nature, not preventing others from being considered by the government bodies charged with defending the interests and rights protected by the Consumer Protection Code and related legislation.

Paragraph 3. The assessment of the abusiveness of contractual clauses, for the purpose of their inclusion in the list referred to in the head provision of this article, shall be made on their own initiative or at the provocation of the legitimate parties referred to in [article 82 of Law nº 8,078 of 1990](#).

SECTION II

Supplier Registration

Art. 57. The records of substantiated complaints against suppliers are an essential instrument for the defense and guidance of consumers. The competent public bodies must ensure their advertising, accounting, and continuity, pursuant to [article 44 of Law nº 8,078 of 1990](#).

Art. 58. For the purposes of this Decree, the following definitions are considered:

I - registration: result of the records made by public consumer protection agencies of all substantiated complaints against suppliers;

II - substantiated complaint: the news of injury or threat to consumer rights analyzed by a public consumer protection agency, at request or *ex officio*, considered valid by final decision.

Art. 59. Public consumer protection agencies must provide periodic disclosure of updated records of substantiated complaints against suppliers.

Paragraph 1. The registration referred to in the head provision of this article must be published in the local official press, and the responsible entity must give it the greatest possible publicity through the media, including electronic.

Paragraph 2. The registration shall be released annually, and the responsible agency may do so in a shorter period, whenever it deems necessary. The registration shall contain objective, clear, and true information regarding the object of the complaint, the identification of the supplier, and the fulfillment or not of the complaint by the supplier.

Paragraph 3. The registrations must be permanently updated with annotations and cannot contain negative information about suppliers referring to a period exceeding five years counted from the date of the summons of the final decision.

Art. 60. The records of substantiated complaints against suppliers are considered public archives, with information and sources accessible to all, free of charge. The abusive use of their use in any other form alien to the defense and guidance of consumers is prohibited, except in the event of comparative advertising.

Art. 61. The consumer or supplier may request the rectification of inaccurate information contained therein and the inclusion of omitted information within five days from the disclosure of the registration and upon reasoned request. The competent authority shall give a reasoned opinion on the merits or rejections of the request within ten working days.

Sole paragraph: In the case of acceptance of the request, the competent authority shall provide the rectification or inclusion of information and its dissemination within the term of this article, in accordance with paragraph 1 of article 59 of this Decree.

Art. 62. The specific records of each public consumer protection agency shall be consolidated into general registers at the federal and state levels, to which the provisions of the articles of this Section apply.

CHAPTER VII

General Provisions

Art. 63. The National Consumer Secretariat may issue administrative acts aiming at the faithful observance of consumer protection and defense rules based on [Law nº 8,078 of 1990](#) and supplementary legislation ([Wording established by Decree nº 7,738 of 2012](#)).

Art. 64. Proof or Finding Notices may be issued to establish the real market situation in a specific place and time, following the appropriate procedure.

Art. 65. In case of impediment to the application of this Decree, the competent authorities are authorized to request the use of police force.

Art. 66. This Decree comes into force on the date of its publication.

Art. 67. [Decree nº 861 of July 9th, 1993](#) is repealed.

Brasília, March 20th, 1997; 176th of the Independence and 109th of the Republic.

FERNANDO HENRIQUE CARDOSO

Nelson A. Jobim

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