

(LOGO) Summary of the Key Provisions of the Consumer Organization Council Act, 2019

1. Origin of this Act:

Section 46 of the Constitution of the Kingdom of Thailand stipulates that "Consumers' rights shall be protected. Individuals have the right to collectively establish consumer organizations to protect and uphold consumer rights. These consumer organizations have the right to collectively form independent entities to enhance their capacity to protect and uphold consumer rights with state support. The criteria and procedures for establishment, authority to represent consumers, and financial support from the state shall be as prescribed by law."

2. Principles and Rationale:

Section 46 of the Constitution of the Kingdom of Thailand ensures the protection of consumer rights. It allows individuals to collectively form consumer organizations to protect and uphold consumer rights. These organizations have the right to form independent entities to enhance their capacity for consumer protection, supported by the state. The criteria and procedures for their establishment, authority to represent consumers, and state financial support are to be determined by law.

3. Definition of Consumer Organizations:

"Consumer Organization" refers to an organization established by at least ten consumers who are natural persons, with the objective of protecting consumer rights and operating on a non-profit basis, regardless of its organizational form or legal status. This also includes legal entities with similar objectives (Section 3).

4. Eligibility for Registration as a Consumer Organization:

4.1. It must be an organization established by at least ten consumers who are natural persons, with the objective of protecting consumer rights and operating on a non-profit basis, regardless of its organizational form or legal status. This also includes legal entities with similar objectives (Section 3).

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4.2. (1) It must not be an organization directly or indirectly established, dominated, or influenced by business operators, directors, or executives of such businesses, state agencies, government officials, or political parties.

(2) It must not receive direct or indirect financial support from the aforementioned entities, except for support from state agencies or officials as provided by this Act (Section 5).

4.3. The organization must provide evidence of its consumer protection activities for at least two years prior to the registration date (Section 6, Paragraph 2).

5. Procedure for Registering as a Consumer Organization:

5.1. Consumer organizations can register with either the Central Registrar or the Provincial Registrar. "Registrar" refers to either the Central Registrar or the Provincial Registrar. "Central Registrar" refers to the Secretary-General of the Office of the Prime Minister or an appointee. "Provincial Registrar" refers to the Provincial Governor or an appointee (Section 3).

5.2. The Central Registrar, the Secretary-General of the Office of the Prime Minister or an appointee, is responsible for receiving registrations nationwide and other duties under this Act.

The Provincial Registrar, the Provincial Governor or an appointee, is responsible for receiving registrations within the province and promptly forwarding the list of registered consumer organizations to the Central Registrar for public announcement (Section 7).

5.3. Any consumer organization that meets the criteria in Section 5 (1) and (2) wishing to join, establish, or become a member of the Consumer Organization Council must register with the Registrar, either the Central Registrar or the Provincial Registrar where the organization is domiciled (Section 6, Paragraph 1).

Registration must follow the form and procedures set by the Central Registrar, which may include electronic or other convenient methods (Section 6, Paragraph 3).

Upon the registration and it is deemed as the consumer organization that meets the criteria in Section 5, the Registrar will issue a registration certificate and the Central Registrar will publicly announce the registration through accessible means (Section 6, Paragraph 5).

6. Establishment of the Consumer Organization Council

- The "Consumer Organization Council" refers to the council of consumer organizations established under this Act (Section 3).

6.1. Consumer organizations have the right to collectively establish the Consumer Organization Council according to this Act (Section 4).

6.2. Application for the establishment of the Consumer Organization Council:

Upon the Central Registrar's announcement of the status of a consumer organization to the organizations that have submitted requests as per Section 3, these consumer organizations may unite to form the Consumer Organization Council under the following criteria:

6.2.1. No fewer than one hundred and fifty consumer organizations, as defined in Section 5, have the right to collectively notify the Central Registrar to initiate the establishment of the Consumer Organization Council (Section 9, Paragraph 1).

6.2.2. After notifying the Central Registrar, the initiators must gather consent from consumer organizations willing to participate in the establishment of the Consumer Organization Council. The number of consenting organizations must be no less than half of the consumer organizations that the Central Registrar has listed in the last announcement before the notification date specified in Section 9, Paragraph 1. This must be completed within ninety days from the notification date (Section 9, Paragraph 2).

6.2.3. In the process of gathering participating consumer organizations, the initiators may request the Central Registrar to publicly invite consumer organizations to express their consent to participate (Section 9, Paragraph 3).

6.2.4. Once the initiators have gathered the required number of consumer organizations within the specified timeframe as per Section 9, Paragraph 2, they must notify the Central Registrar along with evidence of the organizations' consent to participate (Section 9, Paragraph 4).

6.2.5. The Central Registrar may also publicly invite consumer organizations to express their consent to participate as initiators (Section 9, Paragraph 5).

6.3. Announcement of the establishment of the Consumer Organization Council:

6.3.1. Once the Central Registrar receives the notification and evidence of consent from the consumer organizations, as submitted by the initiators according to Section 6.2.4, and after verifying their accuracy and completeness, the Central Registrar shall announce the establishment

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of the Consumer Organization Council in the Government Gazette and via information technology systems (Section 9, end of Paragraph 4).

6.3.2. The Central Registrar must complete the announcement of the establishment of the Consumer Organization Council within thirty days from the date of notification under Section 9, Paragraph 4, or from the date the Central Registrar gathers the required number of consumer organizations as per Section 9, Paragraph 5 (Section 9, Paragraph 6).

7. Consumer Organizations Council

The Consumer Organizations Council, established under Section X, shall be recognized as a legal entity with the objective of protecting consumers in all aspects and performing other actions as stipulated in this Act. It shall be considered that the consumer organizations which initiated the formation and those who have signed consent to participate in the establishment of the Consumer Organizations Council under Section 9 are members of the Consumer Organizations Council from the date of its establishment announcement.

The Consumer Organizations Council shall operate independently, free from directives, influence, or control, either directly or indirectly, from state agencies, government officials, political parties, businesses, or employees of business entities (Section 10).

8. Duties and Powers of the Consumer Organizations Council

8.1 Upon the establishment of the Consumer Organizations Council as per the relevant section, the founding committee shall draft the regulations of the Council and convene a meeting of the members within thirty days from the date of its establishment announcement in the Royal Gazette to conduct the following activities:

1. Formulate the regulations of the Consumer Organizations Council (Section 12).
2. Elect the President and Policy Committee of the Consumer Organizations Council (Section 13).
3. Set policies, guidelines, or plans concerning consumer protection.
4. Undertake other activities deemed appropriate by the founding committee (Section 11).

8.2 The Consumer Organizations Council is responsible for organizing at least one annual meeting of its members and interested consumers to report on the Council's operations, gather feedback, and receive suggestions beneficial to consumer protection and improving the Council's operations (Section 15).

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8.3 To promote efficiency and oversight of the Council's operations in line with its objectives, the Consumer Organizations Council shall conduct performance evaluations as determined by the Council, but not exceeding a three-year interval (Section 17).

8.4 The Consumer Organizations Council shall prepare an annual performance report, including problems and obstacles, to be disseminated to the public and submitted to the Cabinet, House of Representatives, and Senate within six months from the end of the calendar year (Section 18).

8.5 Additional Powers of the Consumer Organizations Council, upon its foundational objectives, the Consumer Organizations Council, as the representative of consumers, is empowered to undertake the following actions:

1. Protect and uphold consumer rights and propose policies on consumer protection to the Cabinet or relevant state agencies.

2. Support and conduct inspections, monitoring, and surveillance of issues related to products and services. This includes disseminating information or issuing warnings about products or services that may impact consumer rights or cause harm or damage to consumers, with the option to name specific products, services, or businesses.

3. Report actions or omissions that affect consumer rights to relevant state agencies or responsible entities and inform the public.

4. Support and assist consumer organizations in effectively safeguarding consumer interests and building credibility, as well as promoting the formation of consumer organizations at provincial and local levels, as outlined in the Council's regulations.

5. Support education and research beneficial to the protection and advocacy of consumer rights.

6. Support and assist members in mediating or settling disputes related to consumer rights violations, both before and during court proceedings.

7. Undertake litigation concerning consumer rights violations as deemed appropriate, or upon request, and provide legal assistance to consumers or consumer organizations sued for exercising their rights. This includes the power to settle disputes.

8. Compile and disseminate information on products or services that would aid consumers in making informed purchasing decisions, ensuring easy public access.

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Actions under items (1), (2), (3), (7), or (8) carried out in good faith shall exempt the Consumer Organizations Council from liability.

In pursuing litigation under item (7), the Consumer Organizations Council is authorized to file civil, criminal, administrative, and consumer cases, similar to the rights of an aggrieved party under the civil procedure code, criminal procedure code, administrative court establishment and procedures act, and consumer case procedure act, as well as to act as a party in administrative proceedings. If the court rules that a business operator has violated or breached a contract with a consumer, the court shall order the business operator to pay the Consumer Organizations Council no less than twenty-five percent and not more than fifty percent of the damages and compensation awarded to the consumer, unless the Council can prove higher expenses, in which case the court shall order the business operator to pay the actual expenses and an equivalent amount as compensation (Section 14).

9. Duties of the Office of the Permanent Secretary, Office of the Prime Minister:

9.1. It shall be the duty of the Office of the Permanent Secretary, Office of the Prime Minister, to propose to the Cabinet the annual allocation of non-repayable grants to the Consumer Organization Council as requested by the Consumer Organization Council. In the allocation of such grants, the Cabinet shall ensure sufficient funding for the independent operations of the Consumer Organization Council (Section 16).

9.2. Upon the initial announcement of the establishment of the Consumer Organization Council under Section 8, Paragraph 4, following the enactment of this Act, the government shall allocate an initial non-repayable grant of no less than 350 million baht to the Office of the Permanent Secretary, Office of the Prime Minister, as seed funding for the newly established Consumer Organization Council. This funding is intended to cover initial expenses to facilitate comprehensive and effective consumer organization formation, in accordance with the constitutional intent. This allocation shall be made within 60 days from the announcement date of the establishment of the Consumer Organization Council. The disbursement of these grants to the Consumer Organization Council shall be in accordance with the regulations set by the Office of the Permanent Secretary, Office of the Prime Minister (Section 19).

Consumer Organization Affairs Office, Central Legal and Regulatory Office,
Office of the Permanent Secretary, Office of the Prime Minister