

The *Saeima*¹ has adopted and the President has proclaimed the following Law:

Unfair Retail Trade Practices Prohibition Law

Section 1. Terms Used in this Law

The following terms are used in this Law:

- 1) **retailer** – a retailer of food products or a retailer with a significant influence on the trade of non-food products;
- 2) **retailer of food products** – a performer of economic activity who sells food products in retail at a permanent sales location, or an association of performers of economic activity who sell food products;
- 3) **retailer with a significant influence on the trade of non-food products** – a performer of economic activity or several performers of economic activity who, considering their buying power for a sufficient period of time and the dependency of suppliers in the relevant market, have the capacity of directly or indirectly applying or imposing unfair and unjustified provisions, conditions or payments upon suppliers and may hinder, restrict or distort competition in retail trade in any relevant market of non-food products in the territory of Latvia;
- 4) **supplier** – a person who according to a contract entered into with a retailer sells goods thereto.

Section 2. Purpose of this Law

The purpose of this Law is to restrict the use of the buying power of retailers against suppliers in order to balance the interests of suppliers and retailers in retail trade.

Section 3. Scope of Application of this Law

The Law applies to retailers, prohibits them from the performance of unlawful activities and to determine unfair payment periods for the goods supplied, as well as provides for liability for the violations committed.

Section 4. Supervision of Fulfilment of the Law

- (1) The fulfilment of this Law shall be supervised and controlled by the Competition Council in accordance with the procedures for researching the case, taking of a decision, contesting and appeal laid down in the Competition Law, insofar as this Law does not provide for other procedures.
- (2) The Competition Council shall, upon its initiative, initiate a research case regarding a violation of this Law.
- (3) The suppliers are entitled to provide information to the Competition Council regarding facts, on the basis of which the violation of this Law may be established.
- (4) Concurrently with the Competition Council, a court may also determine a violation of this Law in accordance with the procedures laid down in the Civil Procedure Law. Persons have the right to an adequate reimbursement for the infringement of the interests protected in this Law.

¹ The Parliament of the Republic of Latvia

Section 5. Prohibited Activities

A retailer is prohibited to perform activities, which are in contradiction with fair practice of economic activity and by which operational risk of a retailer is imposed on suppliers, additional duties are imposed or the possibility of free operation in the market is restricted.

Section 6. Prohibited Activities in Retail Trade of Food Products

(1) It is prohibited to bring forward the following requirements to a supplier in retail trade of food products:

- 1) to pay directly or indirectly or otherwise reimburse for entering into a contract;
- 2) to pay directly or indirectly for the goods being present at a retail selling point, including for placing of goods in store shelves, except the case when the retailer and the supplier have entered into a written agreement that it will be paid for additional arrangement of the goods in special places;
- 3) to compensate the profit not obtained by the retailer from selling the goods supplied by the supplier;
- 4) to compensate the costs of the retailer related to arranging new stores or restoring the old stores, including to perform unfair and unjustified payment for the delivery of goods to a retail selling point to be newly opened;
- 5) to purchase goods, services or property from the third person indicated by the retailer, except the case when it has an objective justification and entered into a separate written agreement regarding purchase of such goods or services;
- 6) to ensure the lowest price by restricting the freedom of the supplier to agree on a lower price with another retailer;
- 7) to change the specifications of goods, including assortment if the supplier has not been notified thereof within the time period specified in the contract, which may be not less than 10 days;
- 8) to take back the unsold food products, except goods of poor quality and new goods unknown to consumers, the initiator of the supply or increase in the amount of which is the supplier;
- 9) to pay directly or indirectly to a retailer for sales promotion measures or to otherwise reimburse all costs of such measures or part of them, except the case when the retailer has entered into a written agreement with the supplier regarding sales promotion measures;
- 10) to compensate the costs related to examining complaints of consumers, except the case when justified complaints of consumers arise from circumstances, for which the supplier is responsible;
- 11) to determine unfair and unjustified sanctions for the violation of contractual provisions;
- 12) to perform unfair, unjustified payments (discounts) or payments (discounts) not provided for in the contract, except the case when the retailer has agreed with the supplier regarding bulk discount (discount applied depending on the amount of the goods ordered) or campaign discount (discount applied for a limited and indicated period of time for promoting the sale of goods);
- 13) to compensate the costs of a retailer, which are related to the costs of logistics services of the retailer, except the case when the retailer has entered into a written agreement with the supplier regarding distribution of goods;
- 14) to compensate the costs of a retailer, which are related to its administration costs.

(2) A campaign discount shall not be applied to goods not sold during sales promotion of goods, except the case when the retailer has entered into a written agreement with the supplier regarding application of campaign discount to goods not sold during sales promotion of goods.

(3) A retailer is not entitled:

- 1) not to accept food products from a supplier, which are valid for use for at least two thirds of the expiration date, if such term exceeds 30 days;
- 2) to change the order of food products two days before the delivery of goods or later.

Section 7. Prohibited Activities in Retail Trade of Non-food Products

It is prohibited to bring forward the following requirements to a supplier in retail trade of non-food products:

- 1) to pay directly or indirectly or otherwise reimburse for entering into a contract, unless such payments are justified by the fact of entering into a contract with a new supplier who therefore needs a special evaluation;
- 2) to pay directly or indirectly for the goods being present at a retail selling point, including for placing of goods in store shelves, except the case when the retailer and the supplier have entered into a written agreement that it will be paid for additional arrangement of the goods in special places;
- 3) to compensate the costs of the retailer related to arranging new stores or restoring the old stores, including to perform unfair and unjustified payment for the delivery of goods to a retail selling point to be newly opened;
- 4) to take back the unsold products, except goods of poor quality and new goods unknown to consumers, the initiator of the supply or increase in the amount of which is the supplier;
- 5) to determine unfair and unjustified sanctions for the violation of contractual provisions.

Section 8. Time Periods for the Settlement of Accounts

- (1) It is prohibited to determine unfair and unjustifiably long time period for settlement of accounts for the goods supplied.
- (2) The time period for settlement of accounts for fresh vegetables and berries supplied by a producer or a co-operative society of producers, the supply of which within one calendar week should be performed at least three times, is unfair and unjustifiably long, if it exceeds 20 days from the day of supply of goods, except the case when a written agreement has been entered into with the supplier on another time period for settlement of accounts, insofar as it is not in contradiction with the requirements of Paragraph one of this Section.
- (3) The settlement period for the delivered food products, the term of validity of which is not longer than 25 days, shall be unfair and unjustifiably long, if it exceeds 30 days from the day of delivery of products.

Section 9. Liability for Violations of this Law

- (1) If the Competition Council determines that there is a violation of Section 5, 6, 7 or 8 of this Law in the activities of a retailer, it shall take a decision to determine a violation, to impose a legal obligation and to apply a fine.
- (2) The Competition Council is entitled to impose a fine on a retailer of up to 0.2 per cent of its net turnover for the previous reporting year each, but not less than 70 euros.
- (3) The Competition Council is entitled to impose additional money on a retailer for non-fulfilment of legal obligation up to two per cent from the average net daily turnover in the last reporting year, but not less than 70 euros for each calendar day, until the retailer fulfils its legal obligation.
- (4) The procedures for imposing a fine and the criteria for determination of the amount, the circumstances mitigating and aggravating the liability, as well as the reduction of the fine, if

net turnover of the retailer in retail is less than its total net turnover in the last reporting period, shall be determined by the Cabinet.

(5) The fine determined in accordance with the procedures laid down in this Section shall be transferred to the State basic budget.

Transitional Provisions

1. Until 1 April 2016 the Cabinet shall issue the regulations referred to in Section 9, Paragraph four of this Law. Until the day of entry into force of the relevant regulations, Cabinet Regulation No. 796 of 29 September 2008, Procedures for the Determination of Fines for the Violations Provided for in Section 11, Paragraph one and Section 13 of the Competition Law, shall be applicable insofar as it is not in contradiction to this Law.

2. Until 1 January 2017 the Competition Council is entitled to impose a fine on a retailer up to 0.05 per cent from its net turnover in the last reporting year, but not less than 70 euros for a violation of Section 5, 6, 7 or 8 of this Law, if it has been committed for the first time. This norm shall not apply to a retailer who by a decision of the competent authority or a court judgment that has entered into effect and become non-contestable and non-appealable, has been found guilty in violation of Section 13, Paragraph two of the Competition Law (the wording that was in force until 31 December 2015).

This Law shall come into force on 1 January 2016.

This Law has been adopted by the *Saeima* on 21 May 2015.

President

A. Bērziņš

Adopted 3 June 2015