

Law 9/2011, of 29 December, on the promotion of economic activity.

This Law amends certain provisions of Law 22/2010, of 20 July, on the Catalan Consumer Code

This information does not replace that published in official journals which are the only instruments that attest to its authenticity.

Title II. Economic sphere

Chapter VI. Amendment of Law 22/2010, of 20 July, on the Catalan Consumer Code (Articles 121 to 131 of Law 9/2011, of 29 December, on the promotion of economic activity)

Articles of the Consumer Code that are amended: *Article 224-2; Article 251-2; Article 251-6; Article 252-4; addition of Article 252-8; Article 312-5; Article 332-3; Article 333-1; Article 333-2; Article 341-8; the fourth transitional provision.*

Article 121 Amendment of Article 224-2 of the Consumer Code

Section 2 of Article 224-2 of the Consumer Code is amended to read as follows:

"2. The machine must be fitted with a system that enables consumers to obtain a receipt for the transaction carried out, in accordance with that established in Article 212-2. The receipt must contain the identification and address of the person responsible for the machine, the price, a description of the good or service and the date. This obligation does not apply to recreational and gambling machines. An adaptation period of five years is set as the period for the obsolescence and depreciation of machines."

Article 122 Amendment of Article 251-2 of the Consumer Code

Letter c of Article 251.2 of the Consumer Code is amended to read as follows:

"c) Basic services: Services of an essential and necessary nature for everyday life or which have a generalised use among consumers. This includes utilities, transport, radio and television audiovisual media, communications mediums, welfare and health services, and those related to finances and insurance."

Article 123 Amendment of Article 251-6 of the Consumer Code

Section 2 of Article 251-6 of the Consumer Code is amended to read as follows:

"2. If parts, spares, accessories or other goods must be incorporated in order to properly provide the service, a list of their prices must be available and consumers must be informed of its existence, or alternatively the delivery note or invoice in proof of the acquisition cost must be shown once the service provision has been completed."

Article 124 Amendment of Article 252-4 of the Consumer Code

Section 2 of Article 252-4 of the Consumer Code is amended to read as follows:

"2. Upon entering into the contract, the service provider must provide a physical address in Catalonia where the consumer may be attended to quickly and directly with respect to any complaint or claim regarding the service, provided customer service is not offered in the same establishment where the service is contracted. A customer service telephone number must also be made available free of charge to attend to incidents and complaints. In certain activity sectors and due to low turnover or a small number of workers, the company may be exempted by regulation from providing the service required to meet these obligations. At any event the obligations under this section are to be applied in compliance with the principles contained in Directive 2006/123/EC, of 12 December, on services in the internal market, and are without prejudice to the provisions of basic State regulations setting the conditions for access to service activities and the exercise of these activities."

Article 125 Addition of Article 252-8 to the Consumer Code

An article numbered 252-8 is added to the Consumer Code with the following wording:

"Article 252-8. Toll motorway concessionary company services

"Concessionary companies operating motorways charging a toll that is directly paid by users are required to ensure the safety of facilities and inform users on approaches to the motorway of incidents affecting traffic flow and safety."

Article 126 Amendment of Article 312-5 of the Consumer Code

Section 1 of Article 312-5 of the Consumer Code is amended to read as follows:

"1. Only individuals or legal persons that commit offences attributable to fault or negligence may be penalised."

Article 127 Amendment of Article 332-3 of the Consumer Code

Section 2 of Article 332-3 of the Consumer Code is amended to read as follows:

"2. Offences classified as minor must be classified as serious if any of the following circumstances apply:

"a) The damage caused as a direct or indirect consequence of the offence exceeds the maximum established for penalties applicable to offences classified as minor.

"b) A minor offence is repeated."

Article 128 Amendment of Article 333-1 of the Consumer Code

Section 1 of Article 333-1 of the Consumer Code is amended to read as follows:

“1. The penalties applicable to offences typified by this law are as follows:

“a) For minor offences, a fine of up to €10,000 in the grades listed below:

“– Low grade: up to €3,000.

“– Medium grade: between €3,001 and €7,000.

“– High grade: between €7,001 and €10,000.

“b) For serious offences, a fine of between €10,001 and €100,000 in the grades listed below:

“– Low grade: between €10,001 and €30,000.

“– Medium grade: between €30,001 and €70,000.

“– High grade: between €70,001 and €100,000.

“These amounts can be increased up to five times the value of the unlawful profits obtained or damage caused by the offence and, if there are none, of the value of the goods or services concerned in the offence.

“c) For very serious offences, a fine of between €100,001 and €1,000,000 in the grades listed below:

“– Low grade: between €100,001 and €300,000.

“– Medium grade: between €300,001 and €700,000.

“– High grade: between €700,001 and €1,000,000.

“These amounts can be increased up to ten times the value of the unlawful profits obtained or damage caused by the offence and, if there are none, of the value of the goods or services concerned in the offence.”

Article 129 Amendment of Article 333-2 of the Consumer Code

1. Letter a of Section 3 of Article 333-2 of the Consumer Code is amended to read as follows:

“a) Diligent total or partial repair or amendment of the irregularities or damages that led to the initiation of the proceedings.”

2. Two sections numbered 7 and 8 are added to Article 333-2 of the Consumer Code with the following wording:

“7. Penalties must be imposed at the highest grade if any of the following circumstances apply in the commission of the offence:

“a) They were committed consciously or deliberately or without complying with the required basic obligations of diligence.

“b) The offences are constant or habitual practices.

“c) They cause great impact on the market, affecting a large number of consumers.

“d) The principles of responsible consumption are violated.

“e) The offences concern illicit practices of the same type, found generally in a particular sector.

“f) They present a risk to consumer health or safety, unless the risk forms part of the type of offence.

“g) Official brands or marks are used fraudulently.

“8. Objective standards for adjusting penalties in accordance with the principles set out in sections 2, 3 and 4 may be determined by regulations.”

Article 130 Amendment of Article 341-8 of the Consumer Code

The numbering of Article 341-8 of the Consumer Code is amended and the second Section 3 becomes Section 4.

Article 131 Amendment of the fourth transitional provision of the Consumer Code

Section 1 of the fourth transitional provision of the Consumer Code is amended to read as follows:

“1. Until the rules concerning the matter referred to in letter c of the second final provision are implemented, the applicable legislation shall be the provisions of Decree 108/1997, of 29 April, which establish the competent agencies for the imposition of penalties and other measures in defence of consumers and users, and measures to ensure the safety of products destined for market, according to the modifications made in Section 2.”