

The Government of the Republic of the Union of Myanmar

Ministry of Commerce

Department of Consumer Affairs

Directive No. (3/2022)

The 13th, Waning Day of Nadaw, 1384 M.E.

(20 December 2022)

**Directive on recall of hazardous goods or temporary or permanent prohibition on
the distribution of hazardous goods and service**

In exercise of the power conferred under Section 83, Sub-section (b) of Consumer Protection Law, Department of Consumer Affairs hereby issues this Directive in accordance with Section 33.

1. The Department, in respect of the matters presented by the Union Territory, Region and State Offices specified in Rule 56 and assessment of the potential hazards after reviewing these matters, shall recall the goods according to any of the following conditions under which minor injuries occur except the death of consumers:

- (a) the hazard of design of the goods which could occur during the use of those goods despite not causing such hazard since manufacturing process;
- (b) the occurrence of defects of the goods during manufacturing process, or during transportation or during storage before distributing in the market;

- (c) the existence of faults or defects which make the goods unfit to use;
- (d) goods that may have conditions of hazard and not comply with the safety standards applicable to the goods.

2. The Department, in respect of the matters presented by the Office specified in Rule 56 and assessment of the potential hazards after reviewing these matters, shall temporarily prohibit the distribution of the goods or services in the market if those goods or services cause major injuries except the consumer's death.

3. The entrepreneur shall recall the temporarily prohibited goods according to above-mentioned clause (2) within the period specified in the decision made by the Department referring in accordance with Rule 58.

4. The Department, shall permanently prohibit the distribution of the goods or service in the market if those goods or services have the probability of causing the deaths of the majority of the consumers or cause the deaths of the majority of the consumers in respect of the matters presented by the Office specified in Rule 56 and assessment of the potential hazards after reviewing these matters.

5. The entrepreneur shall recall the permanently prohibited goods according to above-mentioned clause (4) within the period specified in the decision made by the Department referring in accordance with Rule 58.

6. Once the Department decides to recall the goods from the market temporarily and permanently prohibit the distribution of the goods and the hazardous service, the entrepreneur shall recall the goods voluntarily and terminate the service within the specified period.

7. The relevant Office shall assign an inspector to supervise the entrepreneur to comply with the decisions made by the Department and submit report to the Office in conducting recall, temporary and permanent prohibitions.

8. When the inspector supervises according to the above-mentioned clause (7), he shall scrutinize whether there is a recall of the goods from the market or not within the specified period and whether the factors specified case by case on other matters (for example, the provisions on remedy for consumer damages specified in clause 16 of this Directive) are implemented or not.

9. The entrepreneur shall submit the report about the completion of recall, temporary or permanent prohibitions in respect of goods or services to the Office either in writings or through electronic means.

10. The Office shall submit the report to the relevant Committee regarding the entrepreneurs who have not submitted the report.

11. An entrepreneur who found the hazardous goods in the market, shall inform other entrepreneurs in the supply chain of such goods, including importers, exporters, retailers, wholesalers, hire purchase sellers, distributors, installers/stallers, repairers, manufacturers, intermediary service providers, service receiver and other related persons about those goods either in writing or through electronic means.

12. After informing those entrepreneurs as mentioned in clause 11, the most responsible entrepreneur who involved in the supply chain shall comply with the recall procedures specified in clause 13 for the goods to be recalled from the market and the consumers.

13. The most responsible entrepreneur shall perform the following procedures regarding the recall of hazardous goods or the recall due to temporary or permanent prohibitions, if the goods are manufactured domestically:

- (a) to terminate the distribution of goods;
- (b) to cease the manufacture of goods;

- (c) to remove the goods from the market;
- (d) to develop the recall plans;
- (e) to inform the relevant government departments;
- (f) to recall hazardous goods from consumers if necessary;
- (g) to inform other entrepreneurs throughout the supply chain about the mechanisms to be conducted according to the decisions made by the Department;
- (h) to issue notifications to consumers;
- (i) to notify the concerned countries if the domestically manufactured goods are exported to foreign countries;
- (j) to record the recall process;
- (k) to report to the Office after completion of the recall procedures.

14. After completion of the recall procedures specified in clause 13, the entrepreneur shall conduct the following activities:

- (a) to carry out comprehensive testing regarding goods that have been recalled or temporarily prohibited;
- (b) to keep the goods properly to be repaired and dispose the goods properly to be disposed;
- (c) to provide remedies if any damages happen to the consumers.

15. In respect of the recall of the hazardous goods from the market or the recall of temporarily or permanently prohibited goods which are imported, the entrepreneur shall notify the originally manufactured place of such goods and obtain the evidence of the completed process of notification in addition to the duties specified in clause 13 and 14.

16. In respect of the recall of the goods from the market and the supply chain or the recall of the temporarily or permanently prohibited goods, the entrepreneur shall ask consumers and other entrepreneurs throughout the supply chain to carry out any of the following measures depending on the possibility of hazard:

- (a) returning the goods to him/her for refund, or replacement or repair in accordance with the value of the loss;
- (b) dispatching the service agent to the consumer's residence or the place as per the consumer's request in respect of the goods which are difficult to return;
- (c) delivering the replaced goods or a part of those goods to the consumer.

17. The entrepreneur shall report the following facts to the Department through the relevant Office in order to recall the goods voluntarily:

- (a) the basic information about the goods (for example, labels, name and type);
- (b) the descriptions of the potential hazard;
- (c) the possibility of the occurrence of hazard to be notified to the consumer;
- (d) the form of potential hazard and the stage where the hazard may occur;
- (e) the level of injury concerning the goods;
- (f) the information about the validity period of the goods;
- (g) the distribution model of the goods to consumers;
- (h) the method for recall of the goods from the market;
- (i) the remedy program for consumers' damages;
- (j) the mode of communication with distributors.

18. The relevant Office shall submit the period of completion for the voluntary recall of the entrepreneur to the Department, and then specify the period after obtaining the approval.

19. The relevant Office shall assign an inspector to supervise in respect of the entrepreneur's voluntary recall of the goods.

20. After recalling the goods, the entrepreneur shall submit the following facts to the Department through the Office:

- (a) trademark of recalled goods and total quantity of goods;
- (b) records of places where the goods were recalled;
- (c) evidences of properly maintained goods if those goods were recalled to repair;
- (d) evidences of properly disposed goods if those goods were recalled to dispose;
- (e) evidences of remedies for consumer;
- (f) remedies for other entrepreneurs throughout the supply chain.

21. With regard to voluntary recall of the goods or recall of the goods ordered by the Department due to the hazard of the goods, the entrepreneur, in order to ensure the safety of the goods, shall submit the following facts to the Department through the Office in pursuance with rules 63, 64 and 66, after recalling and modifying such goods, with a view to re-distributing these goods:

- (a) the forms prescribed by the Department which mention the reasons of recalled or temporarily prohibited goods from the market;
- (b) the testing result that has been done within one month by an accredited laboratory for the goods that need to be repaired;
- (c) evidences of properly maintained goods which were kept to repair;
- (d) comment or recommendation of an expert.

22. The Office shall report to the relevant Committee and take actions against the entrepreneurs if it is found that they resell the goods in the market without notifying the Department in order to redistribute the goods.

23. The Department shall transfer the case to the concerned departments and government organizations if the goods or services need to be recalled or temporarily or permanently prohibited due to the hazard as reported by the Office and if those goods or services fall under the purview of any laws of other government departments and organizations.

24. According to clause 23, despite transferring the case to the relevant government departments and organizations, if those departments and organizations are not capable of recalling, temporary and permanent prohibition of the goods or services, the Department shall protect consumers through collaboration with respective ministries.

25. The Department shall publish accurate information to the consumer relating to the actions taken against recall of hazardous goods from the market or temporary or permanent prohibition of the distribution of such goods or prohibition of hazardous services through the Website of the Department or the Website of the ASEAN Committee on Consumer Protection (ACCP) or official News Network of the Department.

26. The entrepreneur shall announce the information about the hazardous goods or services to the consumers three consecutive days at least three channels of the followings:

- (a) media;
- (b) television;
- (c) radio;
- (d) newspaper, journal or periodical.

27. The entrepreneur shall describe the following facts in making announcements in accordance with clause 26:

- (a) basic facts or information of the goods to be recalled;
- (b) reasons for recall;
- (c) place, time and method of recall;
- (d) period of recall;
- (e) necessary preparations for consumer damages arising from the recall of the goods;

Myint Cho

Director General

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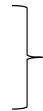
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