

CONSUMER PROTECTION ACT
(Act No. 21 of 1998)

CONSUMER PROTECTION (YEAR 2000 COMPLIANCE)
REGULATIONS, 1999
(Published on 21st December, 1999)

ARRANGEMENT OF REGULATIONS

PART I – Preliminary

REGULATION

1. Citation
2. Interpretation

PART II – Compliance

3. Organisations to conduct inventory and furnish returns
4. Organisation to disclose information on request

PART III – Conditions of Future Sales of Computers

5. Selling or use of non-compliant computers
6. Year 2000 compliant warranty
7. Body corporate liability
8. Failure to comply with Regulations

IN EXERCISE of the powers conferred on the Minister of Commerce and Industry by section 19 of the Consumer Protection Act, the following Regulations are hereby made —

1. These Regulations may be cited as the Consumer Protection (Year 2000 Compliance) Regulations, 1999. Citation

2. In these Regulations unless the context otherwise requires — Interpretation

“computer equipment” includes any computer hardware, computer software, magnetic media devices and any system for the electronic storage, processing, transmission and sequencing of any type or form of data;

“embedded chip technology or embedded chip systems” means any equipment which contains, whether in the form of micro chips or any other electronic circuit the capacity to electronically store, process, transmit or sequence data of any form including date related data;

“swing date” means the procedure or method used in computer equipment for determining the year of date related information by reference to the decade and year or the last two digits in date related information in order to determine the century applicable to such date related information;

“year 2000 compliant” means a computer or computer equipment containing embedded chip systems that shall recognise, and operate correctly and be fault free after the date change from 31st December 1999 to 1st January 2000 and shall also recognise that the year 2000 is a leap year;

“year 2000 return” means a written inventory and statement of computer equipment or equipment containing embedded chip technology specifying the information stipulated under regulation 3.

PART II – Compliance

**Organisation etc
to conduct
inventory and
furnish returns**

3. (1) Every organisation, business or company providing goods or services to consumers shall, if so required by the Consumer Protection Office,—

- (a) conduct an inventory of all its computer equipment and any other equipment containing embedded chip systems;
- (b) ascertain whether such computer equipment or equipment containing embedded chip system.—
 - (i) correctly and fault free recognises the date change from 31st December 1999 to 1st January 2000; and
 - (ii) would operate fault free after the said date change;
- (c) furnish returns which returns shall specify —
 - (i) the quantity, type and model of each computer or computer equipment used;
 - (ii) the make, type and year of release of all software used;
 - (iii) the make, type and model of all equipment containing embedded chip systems used; and
 - (iv) whether or not each computer or computer equipment is year 2000 compliant.

(2) An inventory and returns conducted in accordance with sub regulation (1) shall be furnished to the Consumer Protection Office.

(3) Any person who fails to comply with the provisions of sub regulation (1) commits an offence and shall be liable on conviction to a fine not exceeding P500 or in default of payment to imprisonment for a term not exceeding six months or to both.

**Organisation
to disclose
information
on request**

4. (1) Every such organisation, business or company shall disclose to the Consumer Protection Office, upon written request being received by the organisation from the Office, any information held exclusively by it, the effect of which information would be to assist the Office to render their computer equipment year 2000 compliant.

(2) No seller or manufacturer of computer equipment may be compelled to release information to any other person, the effect of which would be to render the computer equipment of the person requesting it year 2000 compliant without charge, and which information would ordinarily in the course of business, be for sale to the general public by such seller or manufacturer.

PART III – Conditions of Future Sales of Computers

**Selling or use of
non-compliant
computers**

5. (1) No manufacturer or seller of computer equipment or equipment containing embedded chip system or embedded chip technology shall sell to any other person, whether for the person's private use or otherwise, any computer equipment or equipment containing embedded chip system or embedded chip technology which is not year 2000 compliant unless the non compliance is clearly stated and the purchaser understands the implications of such non compliance.

(2) If in the view of the Consumer Protection Office the continued use of non-compliant computer equipment or equipment containing embedded chip system or embedded chip technology is likely to cause prejudice to consumers, the Consumer Protection Office may instruct the user to desist from such use.

(3) Any person who contravenes sub regulation (1) or fails to comply with an instruction under sub regulation (2) commits an offence and shall be liable on conviction for a first offence, to a fine not exceeding P500 and for a second or subsequent offence to a fine not exceeding P500 for every day upon which the offence is or continues to be committed.

6. (1) No manufacturer or seller, shall warrant a non year 2000 compliant computer equipment or equipment containing embedded chip system or embedded chip technology manufactured or sold by him to be year 2000 compliant.

Year 2000
compliant
warranty

(2) A manufacturer or seller of computer equipment or equipment containing embedded chip systems or embedded chip technology which is manufactured or sold as being year 2000 compliant shall on demand by a person that purchases such equipment provide to such person a written warranty or like statement that the equipment is year 2000 compliant.

(3) A manufacturer or seller shall on demand provide a person that has purchased warranted equipment in accordance with sub regulation (1) with test results or a certificate confirming that —

- (a) the computer equipment is year 2000 compliant; and
- (b) in the event of the computer equipment utilising a swing date, the date up to which the relevant computer equipment will be able to effectively operate and process data including date related data is on a fault free basis.

(4) Any person who contravenes the provisions of this regulation commits an offence and shall be liable on conviction for a first offence to a fine not exceeding P500 and for a second or subsequent offence to a fine not exceeding P500 for every day upon which the offence is or continues to be committed.

7. Where an offence under these Regulations which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of a director, manager, secretary or other similar officer of the body corporate, or any other person who was purporting to act in such capacity, he, as well as the body corporate, shall be guilty of an offence and be liable in terms of these Regulations.

Body corporate
liability

8. The Consumer Protection Office may conduct an investigation against any person who fails to comply with the provisions of these Regulations, in accordance with Part III of the Act, and may cause civil proceedings to be instituted against such person in accordance with Part IV of the Act.

Failure to
Comply with
Regulations

DATED this 20th day of December, 1999.

D.K. KWELAGOBÉ,
Minister of Commerce and Industry.