

Title	PREFECTURAL ORDINANCE ON CONSUMER PROTECTION OF OSAKA PREFECTURE (Osaka Prefecture Ordinance No.84, 1976)
Author(s)	Eguchi, Junichi
Citation	Osaka University Law Review. 1980, 27, p. 17-27
Version Type	VoR
URL	https://hdl.handle.net/11094/9921
rights	
Note	

Osaka University Knowledge Archive : OUKA

<https://ir.library.osaka-u.ac.jp/>

Osaka University

PREFECTURAL ORDINANCE ON CONSUMER PROTECTION OF OSAKA PREFECTURE

(Osaka Prefecture Ordinance No. 84, 1976)[†]

Junichi EGUCHI*

PREAMBLE

The development of an economic society has made the consumers' daily life in Osaka Prefecture substantially different; more developed and complex. Under the economic structure of mass production and mass consumption, various kinds of commodities appear in the consumer market. It is hard for consumers to choose commodities correctly because of their lack of knowledge concerning the quality, efficiency, safety, etc. of such commodities. Therefore, problems which affect consumers' safety and interests have arisen.

Ideally, consumers and the business community should have an economic trade standing on equal terms. However, there are many cases where consumers are at a disadvantage rather than at an advantage.

In order to improve this condition and to aid the consumers towards a safer and more favorable daily life, it is necessary to insure fair and free competition within the business community and recover the equality which once existed between consumers and businesses by establishing the following consumers' rights in cooperation with the consumers' voluntary efforts.

- 1) It is a consumers' right to be supplied with correct knowledge and

[†] Related rules and regulations are as follows: Enforcement Regulation of the Ordinance on Consumer Protection of Osaka Prefecture (Osaka Prefecture Regulation No. 4, 1976); Regulation as to the Committee for Rationalization of Consumer Commodities, etc. of Osaka Prefecture (Osaka Prefecture Regulation No. 5, 1976); Regulation as to the Committee for Investigation of Consumer Complaints of Osaka Prefecture (Osaka Prefecture Regulation No. 6, 1976).

This material is a part of a paper on consumer protection in Osaka Prefecture prepared by the contributor.

* Associate Professor of Commercial Law, Faculty of Law, Osaka University. LL.M. Kyoto University, 1960. Member of a committee on consumer protection in Osaka Prefecture.

The contributor is grateful to Professor Toshio Saito, Osaka University and Ms. Barbara Stein, Attorney for their help with translation.

information relating to commodities and services which are necessary for consumers' daily living.

- 2) To express opinions relating to commodities and services which are necessary for consumers' daily life.
- 3) To be free of danger and injury to life, body and property caused by commodities and services which are necessary for consumers' daily life.
- 4) Not to be forced into unfair trade conditions relating to commodities and services which are necessary for consumers' daily life.
- 5) To receive prompt compensation for unreasonable damage caused by commodities and services which are necessary for consumers' daily life.

For the purpose of resolving the above-mentioned items, we hereby enact the following regulations in order to create a favorable fiduciary relation between consumers and the business community in Osaka, the center of commerce and industry as well as one of the prefectures with the highest amount of consumption.

CHAPTER I General Provisions

Article 1 — Purpose

This ordinance is hereby enacted in order to clarify the obligations which should be fulfilled by municipalities and businesses and the duties which should be discharged by consumers concerning the establishment of consumers' rights, so as to protect and promote the consumers' interests by outlining necessary articles in prefectural policy; and to contribute to the stability and advancement of the consumers' daily life in the Prefecture.

Article 2 — Obligations of the Prefecture

The prefecture shall be obligated to create and enforce a comprehensive policy relating to consumer protection.

2 In reference to the creation and enforcement of the above-mentioned policy, the Prefecture shall try to reflect the consumers' opinions and maintain close contact with municipalities.

Article 3 – Obligations of the Municipalities

The municipalities shall be obligated to create and enforce a policy relating to consumer protection, according to the social and economic situation in the applicable area, in cooperation with the Prefecture.

Article 4 – Obligations of the Business Community

Businesses shall be obligated to take necessary measures such as prevention of danger and injury, and effectuation of proper labeling and packaging for those commodities and services necessary for consumers' daily life which they supply (hereinafter referred to as 'commodities, etc.'), and also to cooperate with the policy concerning consumer protection which the Prefecture and municipalities shall enforce.

2 The business community, shall always make efforts to obtain consumers' opinions on the consumer commodities, etc. which they supply, to improve them in quality and other respects, to maintain a reasonable price, and to make a proper and prompt disposal of consumers' complaints, thereby establishing a system necessary for the execution thereof.

Article 5 – Obligations of Consumers

The consumers shall recognize their rights, voluntarily acquire necessary knowledge as to the consumers' daily life for the purpose of the establishment of such rights, and play a positive role in the stability and advancement of the consumers' daily life, trying to take voluntary and rational action such as mutual cooperation among consumers or organizations among themselves.

CHAPTER II Prevention of Danger and Injury, and Proper Labeling, etc.**1. Prevention of Danger and Injury****Article 6 – Recommendation, etc.**

Whenever the Governor determines that defective commodities, etc. bring or may bring danger or injury to the consumers' life, body or property, he may recommend, except when certain measures are taken in accordance with statutes, that the companies who produce the commodities, etc. in question take all necessary measures to suspend production of and to recall all defective commodities, etc. so as to prevent the occurrence and com-

pounding of danger and/or injury to consumers' life, body and property.

2 If the Governor makes a recommendation according to the previous article, he is required to make an announcement to that effect to the consumer, as the occasion dictates.

Article 7 — Inquiry, etc.

If it is not evident whether defective commodities, etc. bring or may bring danger or injury to the consumers' life, body or property, the Governor is required, if necessary, to make necessary inquiry into the defective commodities, etc. and to inquire as to the opinion of the Consumer Commodities Rationalization Committee of Osaka Prefecture.

2 In reference to the above-mentioned inquiry, the Governor may ask, if necessary, the companies which produce the defective commodities, etc. to testify that they do not and will not bring danger or injury to consumers' life, body and property.

2. Proper Labelling

Article 8 — Agreement or Regulations

Businesses or trade organizations shall endeavour to conclude or set up agreements or rules relating to the standard of labelling or packaging which should be observed for each consumer commodity, etc., in order that consumers may make proper and easy choices, or safely use consumer commodities, etc.

2 Whenever businesses or trade organizations conclude, set up, amend or abolish such agreements or rules, they shall report to the Governor, as provided for in the provisions.

3 Whenever the Governor, receiving the report in accordance with such provisions, determines that such agreements or rules do not conform to the purpose prescribed by Section 1 of this Article, he shall advise such business or trade organization to revise such agreements or rules so that it may conform to the purpose prescribed by said section.

4 Whenever the Governor, receiving the report in accordance with the provisions of Section 2, determines that the agreements or rules reported to him (including agreements or rules revised according to the Governor's

advice referred to in the provisions of the preceding section) conform to the purpose prescribed by Section 1, he shall make public the particulars provided for by the Enforcement Regulation.

Article 9 – The Prefecture's Standard

In the following cases, the Governor, if he finds it necessary, may establish for each consumer commodity, etc., a standard of labelling or packaging that businesses [in the case of (2), companies taking part in the agreements or rules made public in accordance with Section 4 of the preceding article (hereafter referred to as “the voluntary regulations”) are excluded] should observe:

- (1) When voluntary rules are not concluded or set up.
- (2) When there are businesses that do not take part in the voluntary rules.
- (3) When the voluntary rules have ceased to conform with the purpose prescribed by Section 1 of the preceding article.

2 The provisions of Section 4 of the preceding article shall apply *mutatis mutandis* to the establishment, amendment or abolition of the standard prescribed in the preceding section (hereafter referred to as “the Prefecture's standard”).

Article 10 – Labelling of Guaranteed Quality and Unit Pricing

The labelling prescribed in the preceding two articles must include the following as concerns goods necessary for consumers' daily life:

- (1) Labelling to the effect that a commodity is guaranteed in quality and other respects.
- (2) Labelling of the selling price per unit weight.

Article 11 – Recommendation

Whenever the Governor determines that a business is not observing the voluntary rules or the Prefecture's standard, he may recommend that such entrepreneur observe such rules or standard.

Article 12 – Automatic Vending Machines

The Governor may establish a standard as to automatic and semi-automatic vending machines which must be observed in order that consumers

may make a proper and easy choice, and may conclude a smooth transaction concerning consumer goods supplied by means of such automatic or semi-automatic vending machines.

2 The provisions of Section 4 of Article 8 shall apply *mutatis mutandis* to the establishment, amendment or abolition of the standard referred to in the preceding section, and the provisions of the preceding article shall apply to businesses who must observe the standard prescribed in the preceding section.

3. Stock of Replacement Parts

Article 13 —

Concerning durable goods necessary for consumers' daily life, the Governor may establish for each item a standard of stocking "replacement parts" for repair (the so called parts are indispensable to maintain the function of the particular goods and are used for repair).

2 The provisions of Section 4 of Article 8 shall apply *mutatis mutandis* to the establishment, amendment or abolition of the standard prescribed by the preceding section, and the provisions of Article 11 shall apply *mutatis mutandis* to businesses which must observe the standard prescribed by the preceding section.

4. Emergency Measures for Living-related Commodities

Article 14 — Designation

When the price of any commodity necessary for consumers' daily life in the Prefecture (hereafter referred to as "living-related commodity") has risen abnormally or is likely to do so, if the Governor determines that such living-related commodity has been stockpiled or is likely to be, he may designate such living-related commodity as a commodity whose price should be stabilized and whose circulation should be facilitated.

2 Whenever the Governor has made or cancelled a designation according to the provisions of the preceding section, he shall make a public announcement to that effect.

Article 15 — Recommendation

Whenever the Governor determines that by stockpiling those living-related commodities designated according to the provisions of Section 1 of the preceding article, any person(s) is thereby affecting the stability of the price thereof or the smooth circulation thereof, he may set a time limit, etc. for such person(s) to sell such commodities, and recommend that such person(s) take measures to sell them before the end of the time limit.

5. Requiring Reports, etc.

Article 16 —

In order to make a recommendation according to the provisions of Section 1 of Article 6, Article 11 (including cases where the same article is applied in Section 2 of Article 12 and Section 2 of Article 13) and the preceding article, the Governor, if necessary, may require the person(s) in question or any person(s) related to him in business to make a report of his business, and also may require other officials to enter such persons' offices, places of business and other places where their business is carried out, and to examine books, documents and other matters there, or cause such officials to interrogate the persons concerned.

2 The officials who make such spot inspection or interrogation according to the provisions of the preceding section shall carry their identity cards and show them to the persons concerned.

CHAPTER III Relief from Damage or Injury

1. Consumer Complaints

Article 17 — Dealing with Consumer Complaints

Whenever the Governor is requested by consumers to deal with complaints related to transactions involving consumer commodities, etc., the Governor shall endeavour to deal with such grievances properly and promptly.

Article 18 — Intervention by the Investigation Committee, etc.

Of the grievances related to transactions involving consumer commodities, etc. between consumers and businesses, cases which the Governor finds

difficult to settle may be put to mediation or intervention under the Consumer—Life Complaint Investigation Committee of Osaka Prefecture (hereafter referred to as “the Investigation Committee”).

2 The Investigation Committee may, if necessary for intervention, request the parties concerned to attend its meeting to invite their opinions.

2. Assistance to Lawsuits

Article 19 — Assistance to the Costs of a Lawsuit, etc.

When any lawsuit, which a consumer brings against a business of a particular consumer commodity, etc., for damages suffered by such consumer, comes under any of the following paragraphs, the Prefecture may give such consumer assistance such as a monetary loan necessary for such lawsuit etc., as provided for by the Enforcement Regulations.

(1) When the dispute cannot be settled by mediation or intervention of the Investigation Committee.

(2) When many cases of damage or injury due to the same or similar cause of damage or injury involved in the lawsuit concerned have occurred or are likely to occur.

(3) When, in the case of a monetary loan, the costs of the lawsuit concerned exceed or are likely to exceed the amount of damage related to the lawsuit.

(4) When the Investigation Committee finds it appropriate to give such assistance.

Article 20 — Return of the Loan, etc.

Any person who obtained a loan prescribed under the preceding article shall pay it back in full, as provided by the Enforcement Regulations, when the lawsuit concerned comes to an end.

2 When the Governor determines that a person who obtained the loan prescribed under the preceding article has a special reason, he may exempt such person from the return of the whole amount or part of the loan.

CHAPTER IV Public Announcement**Article 21**

When a business comes under any of the following paragraphs, the Governor may make known the name of such business and its conduct, if the Governor concludes that such conduct is not justifiable:

(1) When such business did not obey the recommendation made according to the provisions of Section 1 of Article 6, Article 11 (including cases where the same article is applied in Section 2 of Article 12 and Section 2 of Article 13) and Article 15.

(2) When such business did not comply with the request to testify (as provided for by Section 2 of Article 7), or submitted false evidence.

(3) When such business did not comply with the request to make a report according to the provisions of Section 1 of Article 16, or made a false report, or when such business refused, obstructed or evaded the examination as provided for by the same section, or when such business did not reply to the interrogation according to the provisions of the same section, or made a false reply.

(4) When such business did not comply with the request to attend the meeting as provided for by Section 2 of Article 18.

2 Whenever the Governor intends to make a public announcement as provided for in the preceding section, he shall give prior notice to the related person(s), require such person(s) or the deputy of such person(s) to report, and hold a hearing to give such person(s) an opportunity to explain himself and submit evidence.

CHAPTER V Miscellaneous Regulations**Article 22 – Providing Facilities for Examinations, Inspections, etc.**

In order to secure the thorough enforcement of the measures prescribed by this Ordinance, the Prefecture shall endeavour to provide facilities for conducting examinations, inspections, etc. concerning consumer commodities, etc.

Article 23 – Offering Information, etc.

In order to promote the voluntary and rational activities of consumers, the Governor shall endeavour to disseminate the knowledge necessary for consumers' daily life and also to offer information thereof by making public, as the occasion dictates, the results of examinations and inspections of consumer commodities, etc. with respect to quality, safety, etc., as well as the results of examinations concerning the conditions of demand and supply.

Article 24 – Informing by Consumers

Whenever any consumer determines that measures in accordance with the provisions of Chapter II have not been taken, he may inform the Governor of the fact, and request him to take appropriate measures against it.

2 Whenever the Governor determines that the information offered according to the provisions of the preceding section is factual, he shall take the measures prescribed by this Ordinance or other appropriate measures.

Article 25 – Expressing Opinions to the National Government

In order to protect and promote the consumers' interests, the Governor, if necessary, shall express his opinion to the National Government or request it to take necessary measures.

Article 26 – Mutual Cooperation with Other Local Public Bodies

In enforcing the measures prescribed by this Ordinance, the Governor, if necessary, shall request other local public bodies to offer cooperation.

2 Whenever the Governor is requested by any other local public body to cooperate with it on the measures it enforces concerning the protection of consumers, he shall endeavour to take appropriate measures.

Article 27 – Commitment to Rules and Regulations

The particulars necessary for the enforcement of this Ordinance shall be prescribed by rules and regulations.

SUPPLEMENTARY PROVISIONS

1 Effective Date

This Ordinance shall take effect on February 1, 1977.

2 *(Omitted)*