

# NEWSLETTER

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2 DECEMBER 2021

## THE CONSUMER RIGHTS AND INTERESTS PROTECTION LAW (LAW NO. 9/2021)

After several decades without a significant advance on consumer rights' legislation in the Macau Special Administrative Region (the Macau SAR), the Legislative Assembly has approved, on 24 June 2021, an entirely new "Consumer Rights and Interests Protection Law". The new legal diploma (Law no. 9/2021) was published in the Macau SAR's Official Gazette on 12 July 2021 and will come into force on 1st January 2022, thereby effectively revoking its former predecessors – Law no. 12/88/M, of 13 June (Consumer Protection), and Law no. 4/95/M, of 12 June (Restructure of the Consumer's Council) – and effectively becoming the cornerstone for all consumer-related issues.

This extensive and comprehensive diploma, which seeks to *"guarantee the safety and quality of the goods or services that are supplied or provided, defend justice and equality in the legal relations established between traders and consumers, increase the transparency of commercial practices, safeguard the legitimate interests of consumers and fight unfair business practices"*, holds ten different chapters dedicated to the rights of consumers, unfair business practices towards the consumer, sales activities at fairs or exhibitions, a number of special types of agreements between the consumer and traders (such as distance contracts – e-commerce, off premises contracts and

## Consumers' Rights

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pre-payment contracts, for the first time detailed in a legal diploma), a section dedicated to the control of the traders' activity, a framework for sanctions and finally a conflict resolution chapter for issues involving consumers and traders.

Its scope comprehends all trade operations between traders and consumers occurring in the Macau SAR, and innovatively, it also applies to agreements executed by distance communication techniques, insofar as the relevant trader is operating in the Macau SAR and the delivery or the remittance of the good or the service provided takes place in the Macau SAR. Inversely, this new piece of legislation does not apply to contractual arrangements and disputes in the areas of gambling, healthcare, education, legal, accounting, auditing and financial services.

The Law sets forth the definitions of, *inter alia*, consumer, trader and commercial establishment, and lists out seven main rights for the consumers, namely the right to be informed, the right to protection for health and safety, the right to quality goods and services, the right to protection for economic benefits, the right to compensation, the right to participation in the definition of consumer's rights and interests, and the right to legal protection and easy access to redress.

Additionally, the law contains a number of rules including price displaying, the issuance of receipts and consumer compensation rights, which significantly improve the consumers' spectrum of rights, as is the right to freely terminate special types of consumer agreements within 7 days from its execution. Further, the Macau legislator was equally generous in terms of setting the rules regarding misleading and aggressive commercial practices.

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In terms of deadlines for consumers to exercise their rights upon receiving an item in breach of the relevant purchase agreement, a period of one year from the date of delivery of the respective good is granted to the consumer to exercise his rights; likewise, the consumer must make a complaint to the trader in the event of non-compliance of the relevant good with the terms of the purchase agreement, and do it within a period of 30 days from the date he detects such non-compliance.

Also worth noting is the strict standing with regards to the collection, conservation, processing and transfer of personal data set by the new Law, which emphasizes that the provisions of the Personal Data Protection Act (Law no. 8/2005 of 22 August) should be observed.

As regards the sanctioning framework, Law no. 9/2021 holds a vast array of sanctions which include penalties from MOP2,000.00 all the way to MOP60,000.00, as well as ancillary penalties, warnings, and the possibility of legal entities being held liable.

On a final note, the new Law seems to favor alternative dispute resolution methods, such as mediation and arbitration, namely by instituting the gratuity of mediation and arbitration cases up to the amount of MOP100,000.00 and by imposing that conflicts related to the provision of essential public services (v.g. water, gas, electricity, telecommunications and public transportation services) must be settled by arbitration when the consumer explicitly chooses to do so.

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*(...)*

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