

**Act of the August 2, 1926
on combating unfair competition
Journal of Laws of 1926 no. 96, item 559**

Civil law protection of the entrepreneur's rights.

Art. 1.

(1) The entrepreneur shall have the right to demand that another entrepreneur (competitor) not interfere with his/her customers by any activities that could cause people to whom he/she offers the products, goods or services to be in false impression that they come from the first entrepreneur.

(2) The entrepreneur whose right has been infringed may demand that the acts be discontinued and the cause leading to errors among the recipients be removed. If the entrepreneur has already suffered a loss in the number of customers, the wrongdoer should surrender unjust enrichment acquired at his/her expense in the last 3 years, counting backwards from the date on which the complaint was submitted to the court. If the misleading of the customers resulted from bad intention or obvious negligence of the wrongdoer, he/she should compensate the injured party for any damage and provide him/her with compensation for the harm suffered by him/her personally by announcement of a judgment or of a suitable public statement, and in the event of bad intention by the payment of penance unless that compensation is obtained by criminal conviction. Instead of the above-mentioned material benefits, the injured party may demand a lump sum of money, but not more than 10,000 zlotys.

(3) The claims for discontinuation, for removal of the cause, for damages or for compensation shall also be used by the injured party against those persons who cooperated with the unlawful interference with the customers. The liability of the cooperating parties shall be joint and several with the entrepreneur. Their liability shall not arise if they could not refuse to cooperate due to the relationship of dependence with the entrepreneur.

(4) The claims specified herein shall be subject to a limitation period of 3 years which is counted separately for each unlawful act.

[tags: an act of unfair competition, rights of an entrepreneur, civil liability for an act of unfair competition, a limitation period]

Art. 2.

(1) Designation of the enterprise shall not mislead the recipients as to the identity with another competing enterprise wherever placed. If this provision is breached, the provisions of the preceding article shall apply.

(2) If someone with reference to his/her right (e.g. surname right) signs his/her enterprise in a way that may cause confusion with another competing enterprise, which has already used similar signs in the past, he/she shall avoid the potentiality to mislead recipients and place some additional signs. However, at the request of the later user of the signs, the court may, at its discretion, order that additional signs be placed and thus, the potentiality to mislead recipients be avoided, also by the entrepreneur who first used the sign, although he/she is the plaintiff.

[tags: designation of an enterprise]

Art. 3.

Except for the cases of articles (1) and (2), a person who harms the entrepreneur by acts that are inconsistent with the applicable provisions or good manners (commercial honesty), i.e. by providing false information about the enterprise, by encouraging the management bodies not to fulfil official duties out of competitive purposes, by disclosing technical and commercial secrets of the enterprise, etc. shall refrain from these acts, and, in case of fault – compensate the damage and, possibly, provide compensation for the injured party. These claims shall be subject to the provisions of article (1).

[tags: acting to the detriment of the entrepreneur, dissemination of false information about the enterprise, disclosure of the secret of the enterprise]

Art. 4.

(1) If the fact that attracts the customers to enterprises consists in the fact that the products, goods or services come from a certain geographic region, or that the entrepreneurs belong to a certain association of entrepreneurs, and some other entrepreneur misleads the customers by making an impression that the products, goods or services offered by him/her come from those geographical regions or from enterprises belonging to the association, or if someone acts to the detriment of these enterprises by providing untrue information about them or by revealing their technical secrets, then any entrepreneur producing the same types of products in a given geographic region, joint representative offices of the above-mentioned entrepreneurs, or every business enterprise selling the above-mentioned products shall be entitled to bring an action.

(2) The Council of Ministers, at the motion of the Minister of Industry and Trade or the Minister of Agriculture and State Assets, may, by issuing a regulation published in the Journal of Laws of the Republic of Poland, determine the conditions for the use of territorial (regional) names, in particular the boundaries of geographical regions which these names refer to.

(3) The Council of Ministers, at the motion of the Minister of Industry and Trade, may issue, within the limits of obligations entered into by the Republic of Poland under

international treaties, prohibitions on the use of territorial names in the designation of goods manufactured in the Republic of Poland or introduced to the Republic of Poland, and not originating from those regions, marked with names although these names are generic names in the Republic of Poland or are sometimes used in the internal trade as a result of additions, combined with them and forming generic designations. In the prohibitions published in the Journal of Laws of the Republic of Poland with reference to this article, the names must be specified in detail. Publishing the prohibitions by the Council of Ministers shall be subject to the notification of a given name by the government of the state with which the Republic of Poland has entered into an obligation and the provision of evidence that the notified name is protected in this state as a territorial name. Exceeding the prohibition shall justify bringing an action pursuant to paragraph (1) of this article.

[tags: misleading the customers as to the origin of goods or services, acting to the detriment of the entrepreneur]

Art. 5.

(1) Regional courts acting as commercial courts shall have jurisdiction in disputes regarding civil law claims under articles (1) – (4) of this act.

(2) These disputes may also be instituted in the court in the district of which the act justifying the plaintiff's claim was committed.

[tags: jurisdiction]

Criminal law protection

Art. 6.

(1) Whoever, in order to attract customers and facilitate the conditions of competition, provides the general public or a larger group of people knowingly with untrue and misleading facts regarding the commercial relations of his/her or someone else's enterprise, as to: the quality, features, values, origin, destination of products, goods or services, the method of importing products and goods, the method and conditions of production, pricing, exceptional purchase opportunities (e.g. an apparent sale, alleged origin of goods from the insolvency etc.), awards granted to the enterprise, the entrepreneur or its management bodies, or rights associated with the enterprise, etc, is subject to penalty of a fine of up to 6,000 zlotys or a detention of up to 3 weeks or both these penalties cumulatively. In the event of particularly aggravating circumstances, the fine may be increased to 12,000 zlotys and the detention may be increased up to 6 weeks.

(2) The provision of the first paragraph shall also apply when the public or recipients are deliberately misled by means of signs or images, artistic, numerical, word or colour

signs or markings, placed on goods, on the premises or in the premises of the enterprise, or moveable properties used to conduct a business activity.

(3) The court may issue, ex officio or at the request of the public prosecutor, orders at the expense of the convicted in order to correct and put the public and recipients right. Such orders may include, in particular, an announcement in newspapers or in the premises of the enterprise, explaining the true state of affairs, an announcement of the judgment, destruction of the signs, announcements and other deceptive measures, etc.

[tags: an act of unfair competition, criminal liability for an act of unfair competition, misleading the customers as to the features of goods or services]

Art. 7.

(1) The Council of Ministers, at the motion of the Minister of Industry and Trade in consultation with the Minister of Internal Affairs, may, by issuing a regulation published in the Journal of Laws of the Republic of Poland, and with reference to this article, order that certain retail goods be available only in prescribed quantitative units and with their quantity (weights, measures, numbers), quality and the place of origin displayed.

(2) Those who fail to comply with such prohibitions shall be punished with a fine of up to 600 zlotys or detention of up to 3 days, or both these penalties cumulatively.

[tags: duties of an entrepreneur, a display regarding the features of certain products, retail trade]

Art. 8

(1) The Council of Ministers, at the motion of the Minister of Industry and Trade, in consultation with the Minister of Justice, may, by issuing a regulation published in the Journal of Laws of the Republic of Poland, and with reference to this article, prohibit the conclusion of certain contracts by means of which the entrepreneur tries to, in a manner inconsistent with the principles of fair competition, make the sales conditions easier.

(2) In particular, a contract may be prohibited by which someone undertakes to deliver goods or perform services in exchange for an unconditionally due price, provided that the other party acquires until certain time a certain number of customers for him/her under the same conditions (pyramid sales).

(3) A person guilty of inducing the conclusion of prohibited contracts is subject to penalty of a fine of up to 2,000 zlotys or a detention of up to 10 days, or both these penalties cumulatively, and the contracts concluded contrary to such prohibitions may be cancelled at the request of the injured party.

[tags: restrictions on freedom of contract, pyramid sales]

Art. 9

(1) Whoever intentionally gives false information about the enterprise or the entrepreneur which may act as a deterrent to recipients or undermine the entrepreneur's creditworthiness is subject to penalty of a fine of up to 12,000 zlotys or a detention of up to 6 weeks, or both these penalties cumulatively.

(2) Criminal proceedings shall be instituted only at the request of the injured party. Should the offence be directed against companies in certain districts or belonging to a certain association, then a request to institute criminal proceedings may be brought by persons entitled to a civil action (article (4) par. (1)).

(3) The court may, at the request of the injured party and at the expense of the convicted, issue appropriate orders in order to correct and put the public and recipients right. Such orders may include, in particular, an announcement in newspapers explaining the true state of affairs, an announcement of the judgment, etc.

[tags: dissemination of false information about the enterprise]

Art. 10

(1) Whoever, having found out in a manner inconsistent with the law or good manners about the technical or commercial secrets of the enterprise, uses these secrets for competitive purposes, or grants them to others, is subject to penalty of a fine of up to 12,000 zlotys or a detention of up to 6 weeks, or both these penalties cumulatively.

(2) The same penalty shall be imposed on an employee of the enterprise when the technical or commercial secrets of the enterprise, which were entrusted to him/her due to the official relationship, or which he/she learned in the course of the official relationship, are made available to other persons for competitive purposes, or to cause damage to the entrepreneur; it shall apply both during the official relationship or up to 2 years after its dissolution.

(3) The same penalty shall be imposed on a person who, by offering, promising or providing the managers or representatives of the enterprise or persons designated by them with material or other benefits, induces them to conclude sale and purchase or delivery contracts under terms and conditions more favourable than in common practices. The managers or representatives of the enterprise for inducing or obtaining the benefits referred to above for themselves or for third parties in exchange for more favourable terms and conditions of the concluded sales and purchase or delivery contracts are subject to the same penalty.

(4) Criminal proceedings shall be instituted only at the request of the injured party. In terms of common company secrets from certain districts or associations, the request to institute criminal proceedings in the case of paragraph (1) of this article may be brought by persons entitled to a civil action (article (4) par. (1)), and in the case of paragraph (2) – the entrepreneur who the employee has or had an official relationship with.

[tags: disclosure of the secrets of the enterprise, using the secrets of the enterprise, inducing to act to the detriment of the enterprise]

Art. 11

(1) The claims referred to in article (2) item (1) might be awarded to the injured parties from the persons convicted under articles (6), (7), (8), (9), (10).

(2) In cases provided for in articles (9) and (10), these claims may be pursued directly by means of civil law proceedings even without commencing a criminal case.

3) Proceedings arising from private prosecution may be discontinued with the consent of both parties at any stage.

[tags: civil liability for an act of unfair competition]

Art. 12

Regional courts shall be vested with the criminal jurisdiction in in cases of articles (6), (9) and (10), and poviats courts – or justice of the peace in the former Russian partition – in cases of article (8).

[tags: jurisdiction]

Objective and subjective scope of the act.

Art. 13

(1) The provisions of this act shall also apply to farms, forests, farms and mining enterprises.

(2) The provisions of this act shall not apply to combat unfair competition with regard to independent professionals having a statutory regulated organization punishing unfair competition through disciplinary proceedings.

[tags: objective scope of the act, farms, forests, mining enterprises, independent professionals]

Art. 14

Except for the cases provided for in the international treaties, protection under this act should serve foreigners whose enterprises do not have their headquarters located in the Republic of Poland, on the basis of reciprocity with the state where their enterprise has its headquarters located.

[tags: subjective scope of the act, foreigners, reciprocity rule]

Binding force of other acts.

Art. 15

(1) Provisions on combating unfair competition, included in the hitherto binding acts, shall remain in force, provided that they are directed against the acts not regulated herein.

(2) Should this act subject certain acts only to civil law effects, and the hitherto binding existing acts consider them punishable, the relevant criminal provisions shall remain in force in addition to the civil law provisions of this act.

(3) The criminal provisions of this act should be applicable only insofar as the act is not subject to more severe criminal provisions of other acts.

[tags: effective power of certain provisions already in force]

Detention of goods at the borders.

Art. 16

The Council of Ministers, at the motion of the relevant ministers, may issue regulations on the basis of which border authorities, especially customs offices, will be authorized – under the conditions and with effects to be specified in regulations – to detain goods imported to the Republic of Poland and exported from the Republic of Poland for the time needed to obtain a court's security decision concerning these goods if they were marked in a manner inconsistent with the provisions of this act or the provisions on trademarks.

[tags: detention of goods at the borders, customs office]

Transitive provision.

Art. 17

Until uniform criminal provisions have been issued in the Republic of Poland, criminal proceedings cannot be instituted for offences under articles (6), (9) and (10), if 3 years have passed since they were committed; and for offences under article (8) – if 1 year has passed since they were committed.

[tags: a limitation period]

Final provisions.

Art. 18

The implementation of this act shall be entrusted to the Minister of Industry and Trade in consultation with the Minister of Justice.

[tags: implementation of this act]

Art. 19.

This act shall become effective after 14 days since its announcement and from that moment the German act of the June 7, 1909 on unfair competition shall cease to apply (Journal of Laws of 1909 no. 31).

[tags: effective date, vacatio legis]

President of the Republic of Poland – I. Mościcki

Prime Minister- K. Bartel

Minister of Industry and Trade – E. Kwiatkowski

Minister of Justice – W. Makowski