

1978 No. 127

**CONSUMER PROTECTION****The Consumer Transactions (Restrictions on Statements)  
(Amendment) Order 1978***Laid before Parliament in draft**Made - - - - - 31st January 1978**Coming into Operation 1st February 1978*

Whereas a draft of this Order has been approved by a resolution of each House of Parliament:

Now, therefore, the Secretary of State, in exercise of his powers under sections 22 and 134(2) of the Fair Trading Act 1973(a), hereby makes the following Order:—

1. This Order may be cited as the Consumer Transactions (Restrictions on Statements) (Amendment) Order 1978, and shall come into operation on 1st February 1978.

2. The Interpretation Act 1889(b) shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament and as if for the purposes of section 38 of that Act this Order were an Act of Parliament.

3. The Consumer Transactions (Restrictions on Statements) Order 1976(c) (“the principal Order”) shall be amended in accordance with the following provisions of this Order.

4. In Article 2(1) of the principal Order, for paragraphs (a) and (b) of the definition of “consumer transaction” there shall be substituted the following paragraphs:—

“(a) a consumer sale, that is a sale of goods (other than an excepted sale) by a seller where the goods—

(i) are of a type ordinarily bought for private use or consumption, and

(ii) are sold to a person who does not buy or hold himself out as buying them in the course of a business.

For the purposes of this paragraph an excepted sale is a sale by auction, a sale by competitive tender and a sale arising by virtue of a contract for the international sale of goods as originally defined in section 62(1) of the Sale of Goods Act 1893(d) as amended by the Supply of Goods (Implied Terms) Act 1973(e);

(b) a hire-purchase agreement (within the meaning of section 189(1) of the Consumer Credit Act 1974(f)) where the owner makes the agreement in the course of a business and the goods to which the agreement relates—

(a) 1973 c. 41.

(b) 1889 c. 63.

(c) S.I. 1976/1813.

(d) 1893 c. 71 (56 &amp; 57 Vict.).

(e) 1973 c. 13.

(f) 1974 c. 39.

- (i) are of a type ordinarily supplied for private use or consumption, and
- (ii) are hired to a person who does not hire or hold himself out as hiring them in the course of a business;”.

5. In Article 3(a) of the principal Order, for sub-paragraph (i) there shall be substituted the following sub-paragraph—

“(i) be void by virtue of section 6 or 20 of the Unfair Contract Terms Act 1977(a),”.

*John Fraser,*

Minister of State,

Department of Prices & Consumer Protection.

31st January 1978.

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#### EXPLANATORY NOTE

*(This Note is not part of the Order.)*

This Order amends the Consumer Protection (Restrictions on Statements) Order 1976 (the principal Order) consequentially on the repeal by the Unfair Contract Terms Act 1977 (c. 50) and the re-enactment, in sections 6 and 20 of the Act, of certain provisions of the Sale of Goods Act 1893 and the Supply of Goods (Implied Terms) Act 1973. The provisions in question (which are referred to in the principal Order and upon which the effect of certain parts of that Order depends) are section 55(4) and (7) of the 1893 Act and section 12(3) and (6) of the 1973 Act, which make void terms in consumer contracts for the sale of goods and in consumer hire-purchase agreements which exempt from liability in respect of certain undertakings implied (in favour of the consumer) by those Acts. The present Order accordingly makes such formal amendments only to the principal Order as are necessary in consequence of the repeal and re-enactment of those provisions.

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(a) 1977 c. 50.



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