
STATUTORY INSTRUMENTS

1988 No. 915

The Control of Misleading Advertisements Regulations 1988

Powers of the Director to obtain and disclose information and disclosure of information generally

7.—(1) For the purpose of facilitating the exercise by him of any functions conferred on him by these Regulations, the Director may, by notice in writing signed by him or on his behalf, require any person to furnish to him such information as may be specified or described in the notice or to produce to him any documents so specified or described.

(2) A notice under paragraph (1) above may—

- (a) specify the way in which and the time within which it is to be complied with; and
- (b) be varied or revoked by a subsequent notice.

(3) Nothing in this regulation compels the production or furnishing by any person of a document or of information which he would in an action in a court be entitled to refuse to produce or furnish on grounds of legal professional privilege or, in Scotland, on the grounds of confidentiality as between client and professional legal adviser.

(4) If a person makes default in complying with a notice under paragraph (1) above the court may, on the application of the Director, make such order as the court thinks fit for requiring the default to be made good, and any such order may provide that all the costs or expenses of and incidental to the application shall be borne by the person in default or by any officers of a company or other association who are responsible for its default.

(5) Subject to any provision to the contrary made by or under any enactment, where the Director considers it appropriate to do so for the purpose of controlling misleading advertisements, he may refer to any person any complaint (including any related documentation) about an advertisement or disclose to any person any information (whether or not obtained by means of the exercise of the power conferred by paragraph (1) above).

(6) For the purpose of enabling information obtained under certain enactments to be used for facilitating the performance of functions under these Regulations, the following amendments shall be made in provisions respecting disclosure of information, that is to say—

(a) in section 133 of the Fair Trading Act 1973⁽¹⁾ there shall be inserted—

- (i) at the end of paragraph (a) of subsection (2) the words “the Control of Misleading Advertisements Regulations 1988 or”;
- (ii) at the end of subsection (3) the words “or the Control of Misleading Advertisements Regulations 1988”;

(b) in section 174 of the Consumer Credit Act 1974⁽²⁾ there shall be inserted—

- (i) after the words “Consumer Protection Act 1987” in paragraph (a) of subsection (3) the words “or the Control of Misleading Advertisements Regulations 1988”;
- (ii) after the words “Fair Trading Act 1973” in paragraph (c) of subsection (3) the words “or under the Control of Misleading Advertisements Regulations 1988”;

(1) 1973 c. 41
(2) 1974 c. 39

- (c) in section 41 of the Restrictive Trade Practices Act 1976⁽³⁾ there shall be inserted—
 - (i) at the end of paragraph (a) of subsection (1) the words “or the Control of Misleading Advertisements Regulations 1988”;
 - (ii) after the words “Fair Trading Act 1973” in paragraph (c) of subsection (1) the words “or the Control of Misleading Advertisements Regulations 1988”;
- (d) in section 10 of the Estate Agents Act 1979⁽⁴⁾ there shall be inserted—
 - (i) after the words “Consumer Protection Act 1987” in paragraph (a) of subsection (3) the words “or the Control of Misleading Advertisements Regulations 1988”;
 - (ii) after the words “other enactments” in paragraph (c) of subsection (3) the words “or subordinate legislation”;
- (e) in section 19 of the Competition Act 1980⁽⁵⁾ there shall be inserted—
 - (i) after the words “the enactments” in paragraphs (a) and (c) of subsection (2) the words “or subordinate legislation”;
 - (ii) after the words “the enactments” in subsection (3) the words “and subordinate legislation” and after the words “Consumer Protection Act 1987” in that subsection the words “(k) the Control of Misleading Advertisements Regulations 1988”;
- (f) in section 101 of the Telecommunications Act 1984⁽⁶⁾ there shall be inserted—
 - (i) after the words “the enactments” in paragraphs (b) and (d) of subsection (2) the words “or subordinate legislation”;
 - (ii) after the words “the enactments” in subsection (3) the words “and subordinate legislation” and after the words “Consumer Protection Act 1987” in that subsection the words “(i) the Control of Misleading Advertisements Regulations 1988”;
- (g) in section 74 of the Airports Act 1986⁽⁷⁾ there shall be inserted—
 - (i) after the words “the enactments” in paragraphs (a) and (c) of subsection (2) the words “or subordinate legislation”;
 - (ii) after the words “the enactments” in subsection (3) the words “and subordinate legislation” and after the words “Consumer Protection Act 1987” in that subsection the words “(j) the Control of Misleading Advertisements Regulations 1988”;
- (h) in section 42 of the Gas Act 1986⁽⁸⁾ there shall be inserted—
 - (i) after the words “the enactments” in paragraphs (b) and (e) of subsection (2) the words “or subordinate legislation”;
 - (ii) after the words “the enactments” in subsection (3) the words “and subordinate legislation” and after the words “Consumer Protection Act 1987” in that subsection the words “(k) the Control of Misleading Advertisements Regulations 1988”.

(7) Subject to paragraph (5) above, any person who knowingly discloses, otherwise than for the purposes of any legal proceedings or of a report of such proceedings or the investigation of any criminal offence, any information obtained by means of the exercise of the power conferred by paragraph (1) above without the consent either of the person to whom the information relates, or, if the information relates to a business, the consent of the person for the time being carrying on that business, shall be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding 3 months or to a fine not exceeding £2,000 or to both.

(3) 1976 c. 34
 (4) 1979 c. 38
 (5) 1980 c. 21
 (6) 1984 c. 12
 (7) 1986 c. 31
 (8) 1986 c. 44

(8) The Director may arrange for the dissemination in such form and manner as he considers appropriate of such information and advice concerning the operation of these Regulations as may appear to him to be expedient to give to the public and to all persons likely to be affected by these Regulations.