
STATUTORY INSTRUMENTS

1997 No. 31

FAIR TRADING

The Trading Schemes (Exclusion) Regulations 1997

<i>Made</i>	- - - -	<i>13th January 1997</i>
<i>Laid before Parliament</i>		<i>14th January 1997</i>
<i>Coming into force</i>	- -	<i>6th February 1997</i>

The Secretary of State in exercise of his powers under section 118(6)(b) of the Fair Trading Act 1973(1) hereby makes the following Regulations:—

Citation and Commencement

1. These Regulations may be cited as the Trading Schemes (Exclusion) Regulations 1997 and shall come into force on 6th February 1997.

Interpretation

2. In these Regulations—

“the Act” means the Fair Trading Act 1973(1)

“annual profit of the trading scheme” means for each financial year the net profit of the promoter or promoters of the trading scheme as shown in the accounts of the trading scheme.

“chain letter” means any trading scheme under which a letter is sent to participants or prospective participants directly or indirectly instructing or requesting them to—

- (a) send monies or other benefits to at least one of the individuals on a list of individuals, shown with their mailing addresses, which is contained in or accompanying that letter; and
- (b) carry on the chain by sending copies of the letter to other individuals not on the list and removing from the list any one name and address and adding their own to it.

“participant” has the same meaning as in section 118(8) of the Act.

“single tier trading scheme” means a trading scheme the only members of which are the promoter or promoters and one or more participants and under which, in the United Kingdom, either a single promoter or a single participant operates at one level and any other participant or participants of the trading scheme operate at the same level below such promoter or participant aforesaid.

“trading scheme” has the same meaning as in section 118(8) of the Act.

(1) 1973 c. 41; a new section 118 was substituted by section 1 of the Trading Schemes Act 1996 (c. 32).
(1) 1973 c. 41; a new section 118 was substituted by section 1 of the Trading Schemes Act 1996 (c. 32).

Disapplication of Part XI of the Act

3. For the purpose of section 118(6)(b) of the Act the Secretary of State hereby prescribes trading schemes of the following description, that is to say—

- (a) any trading scheme which is a single tier trading scheme under which a participant introducing another participant to the scheme does not receive any payment or benefit, or can only receive a single benefit or payment, in respect of the introduction of that participant, such payment or benefit not exceeding £50 and can receive no other benefit or payment in respect of or flowing directly or indirectly from the membership or activities of that participant in that or any other trading scheme, unless such other benefit or payment results from—
 - (i) a sharing of expenses of the operation of the trading scheme;
 - (i) a share in the annual profit of the trading scheme; or
 - (iii) the sale of the participant's business, being a business in respect of which a registration under the Value Added Taxes Act 1994 was in force at the date of sale.
- (b) any trading scheme the promoter or all of the promoters of which and all of the participants in which are registered for Value Added Tax; or
- (c) any trading scheme which is a chain letter provided there is no requirement on the participant to send monies or other benefits
 - (i) to a central address or the promoter of the trading scheme for onward distribution; or
 - (ii) to any person or organisation other than or additional to the person whose name and address is to be deleted from the list when the participant sends the letter to others; or
 - (iii) to an organisation or person for onward transmission to a participant (whether or not that participant is identified on the list), and

where the promoter does not benefit from the provision of any other service or facilities offered or provided either by him or any other person or organisation to participants.

John M Taylor,
Parliamentary Under-Secretary of State for
Corporate and Consumer Affairs,
Department of Trade and Industry

13th January 1997

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations disapply the provisions of Part XI of the Fair Trading Act 1973 in respect of certain single tier trading schemes, trading schemes in which the promoter or all the promoters and all participants are registered for Value Added Tax, and chain letters.

Part XI of the Fair Trading Act controls pyramid selling and similar trading schemes by creating offences relating to recruitment where the promise of rewards from others joining the scheme is used to persuade a participant or potential participant to make a payment, and by providing a power to make Regulations with which trading schemes must comply.

Part XI is disapplied in respect of single tier trading schemes under which all participants in the United Kingdom operate at the same level under a single promoter or a single participant and where the participants receive no benefit from recruiting new members to the scheme or only a single payment or benefit of small value and where they can receive no other benefit or payment in respect of or as a result of the membership or the activities of other participants except from the sharing of expenses or a share in the annual profit of the trading scheme or the sale of a participant's business provided such business was registered for VAT at the date of sale (regulation 3(a)). This provision will for the future exempt single tier trading schemes such as most franchises, agencies and distributorships that do not have the recruitment of new members as their main purpose from the controls of Part XI of the Fair Trading Act.

Part XI is disapplied in respect of trading schemes where the promoter or promoters and all participants are registered for VAT (regulation 3(b)).

Part XI is disapplied in respect of chain letters without a central organiser or beneficiary (regulation 3(c)).