
STATUTORY INSTRUMENTS

2003 No. 1922

CONSUMER PROTECTION

The Timeshare Act 1992 (Amendment) Regulations 2003

Made - - - - - *15th July 2003*

Laid before Parliament *25th July 2003*

Coming into force - - *1st September 2003*

Whereas the Secretary of State is a Minister designated⁽¹⁾ for the purposes of section 2(2) of the European Communities Act 1972⁽²⁾ in relation to matters relating to consumer protection;

Now, therefore, the Secretary of State, in exercise of the powers conferred upon her by section 2(2) of that Act and of all other powers enabling her in that behalf hereby makes the following Regulations:

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Citation and commencement

1. These Regulations may be cited as the Timeshare Act 1992 (Amendment) Regulations 2003 and shall come into force on 1st September 2003.

Amendments to the Timeshare Act 1992

2. The Timeshare Act 1992⁽³⁾ is amended in accordance with the Schedule to these Regulations.

Revocation of regulation 8(1) and (2) of the Timeshare Regulation 1997

3. Regulation 8(1) and (2) of the Timeshare Regulations 1997⁽⁴⁾ are revoked.

(1) S.I.1993/2661.

(2) 1972 c. 68.

(3) 1992 c. 35.

(4) S.I. 1997/1081.

15th July 2003

Gerry Sutcliffe,
Parliamentary Under Secretary of State for
Employment Relations, Competition and
Consumers,
Department of Trade and Industry

SCHEDULE

Regulation 2

AMENDMENTS TO THE TIMESHARE ACT 1992

- 1.—(1) Section 1 (application of Act) is amended as follows.
 - (2) In subsection (3A), for “2(2A) and (2B)” there is substituted “2(2B) to (2E)”.
 - (3) In subsection (7A)—
 - (a) the word “or” at the end of paragraph (a) is omitted, and
 - (b) after that paragraph there is inserted—
 - “(ab) the relevant accommodation is situated in another EEA State and the parties to the agreement are to any extent subject to the jurisdiction of any court in the United Kingdom in relation to the agreement, or”.
- 2.—(1) Section 1A (obligations to provide information) is amended as follows.
 - (2) In subsection (2), in paragraph (b)—
 - (a) for “, (i) and (l)” there is substituted “and (i)”, and
 - (b) the word “and” at the end is omitted.
 - (3) After that paragraph there is inserted—
 - “(ba) information (which may be brief) on the rights under this Act to cancel a timeshare agreement and the effect of cancellation on any related timeshare credit agreement to which this Act applies, and”.
 - (4) After subsection (2) there is inserted—
 - “(2A) In subsection (2)(ba) above “related timeshare credit agreement” means a timeshare credit agreement under which credit which fully or partly covers the price under the timeshare agreement is granted.”
- 3.—(1) Section 2 (obligation to give notice of right to cancel timeshare agreement) is amended as follows.
 - (2) In subsection (1), for the words following “unless” there is substituted “the offeree has received the agreement and it complies with the following requirements”.
 - (3) In subsection (2)—
 - (a) for “A notice under this section” there is substituted “The agreement”.
 - (b) in paragraph (a), for “in the notice” there is substituted “in the agreement”, and
 - (c) in paragraph (b), after “he will” there is inserted “(subject to section 5(9) of this Act)”.
 - (4) For subsections (2A) and (2B) there is substituted—
 - “(2A) If the agreement includes provision for providing credit for or in respect of the offeree, it must state that, notwithstanding the giving of notice of cancellation under section 5 or 5A of this Act, so far as the agreement relates to repayment of the credit and payment of interest, it will continue to be enforceable, subject to section 7 of this Act.
 - (2B) Subsection (2C) below applies if—
 - (a) the price under the timeshare agreement is covered fully or partly by credit granted under a timeshare credit agreement to which this Act applies,
 - (b) the offeree is an individual, and

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- (c) the accommodation which is the subject of the timeshare agreement is accommodation in a building, or some or all of the accommodation in the pool of accommodation which is the subject of the agreement is accommodation in a building.

(2C) The timeshare agreement must state that, if the offeree gives to the offeror a notice as mentioned in subsection (2)(b) above or a notice of cancellation of the agreement under section 5A of this Act which has the effect of cancelling the agreement—

- (a) the notice will also have the effect of cancelling the timeshare credit agreement,
- (b) so far as the timeshare credit agreement relates to repayment of credit and payment of interest, it shall have effect subject to section 7 of this Act, and
- (c) subject to paragraph (b) above, the offeree will have no further rights or obligations under the timeshare credit agreement.

(2D) Subsection (2E) below applies if—

- (a) the offeree is an individual, and
- (b) the accommodation which is the subject of the timeshare agreement is accommodation in a building, or some or all of the accommodation in the pool of accommodation which is the subject of the agreement is accommodation in a building.

(2E) The agreement must state that the offeree may have, in addition to the rights mentioned in subsection (2) above, further rights under section 5A of this Act to cancel the timeshare agreement.

(2F) The agreement must contain a blank notice of cancellation.”

(5) Subsection (4) is omitted.

(6) For the sidenote there is substituted “Obligation for timeshare agreement to contain information on cancellation rights”.

4.—(1) Section 3 (obligation to give notice of right to cancel timeshare credit agreement) is amended as follows.

(2) In subsection (1), for the words following “unless” there is substituted “the offeree has received the agreement and it complies with the following requirements”.

(3) In subsection (2)—

- (a) for “A notice under this section” there is substituted “The agreement”, and
- (b) for “in the notice” there is substituted “in the agreement”.

(4) In subsection (3), for “A notice under this section must state that the agreement” there is substituted “The agreement must state that it”.

(5) After subsection (3) there is inserted—

“(4) Subsection (5) below applies if—

- (a) the offeree is an individual, and
- (b) the accommodation which is the subject of the timeshare agreement to which the timeshare credit agreement relates is accommodation in a building, or some or all of the accommodation in the pool of accommodation which is the subject of that timeshare agreement is accommodation in a building.

(5) The timeshare credit agreement must state that, if the offeree gives a notice under section 5 or 5A of this Act of cancellation of the timeshare agreement which has the effect of cancelling it, the notice will also have the effect of cancelling the timeshare credit agreement (with the same consequences as mentioned in subsection (2)(b)(i) and (ii) above).

(6) The agreement must contain a blank notice of cancellation.”

(6) For the sidenote there is substituted “Obligation for timeshare credit agreement to contain information on cancellation rights”.

5.—(1) Section 4 (provisions supplementary to sections 2 and 3) is amended as follows.

(2) In subsection (2)—

- (a) for the words from the beginning to “must—” there is substituted “A timeshare agreement to which this Act applies and a timeshare credit agreement to which this Act applies must each—”, and
- (b) for “the notice is” there is substituted “the matters required to be stated or contained in the agreement by virtue of section 2 or 3 are”.

6.—(1) Section 5 (right to cancel timeshare agreement) is amended as follows.

(2) In subsection (1)—

- (a) for paragraph (b) there is substituted—
 - “(b) the agreement complies with the requirements of sections 2 and 4 of this Act,”,
- (b) for “in the notice in pursuance of subsection (2)(a) of that section” there is substituted “in the agreement in pursuance of section 2(2)(a) above”.

(3) In subsection (2), for the words from “a person” to “into the agreement”, there is substituted

- (a) “a person enters into a timeshare agreement to which this Act applies as offeree, but
- (b) the agreement does not comply with the requirements of sections 2 and 4 of this Act,”

(4) after subsection (3) there is inserted—

“(3A) Where—

- (a) the offeree is an individual, and
- (b) the accommodation which is the subject of the agreement is accommodation in a building, or some or all of the accommodation in the pool of accommodation which is the subject of the agreement is accommodation in a building,

subsection (3) above applies as if for “fourteen days” there were substituted “three months and ten days”.

(3B) If in a case falling within subsection (3A) above the last day of the period of three months and ten days is a public holiday, the period shall not end until the end of the first working day after the public holiday.”

(5) In subsection (9), paragraph (b) and the word “and” before it are omitted.

7.—(1) Section 5A (additional right to cancel agreement) is amended as follows.

(2) In subsection (1), for “, (1) and (m)” there is substituted “and (m)”.

8.—(1) Section 6 (right to cancel timeshare credit agreement by giving notice) is amended as follows.

(2) In subsection (1)—

- (a) for paragraph (b) there is substituted—
 - “(b) the agreement complies with the requirements of section 3 and 4 of this Act,”,
 - and
- (b) for “in the notice in pursuance of subsection (2)(a) of that section” there is substituted “in the agreement in pursuance of section 3(2)(a) above”.

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- (3) In subsection (2), for the words from “a person” to “into the agreement,” there is substituted
- (a) “a person enters into a timeshare credit agreement to which this Act applies as offeree, but
 - (b) the agreement does not comply with the requirements of sections 3 and 4 of this Act.”.

9.—(1) Section 10A (civil proceedings) is amended as follows.

- (2) In subsection (2), for “and 1E(1)” there is substituted “1E(1), and 2(1)”.

10.—(1) Schedule 1 (minimum list of items to be included in a timeshare agreement to which section 1C applies) is amended as follows.

- (2) Paragraph (1) is omitted.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Timeshare Act 1992, in particular the provisions under that Act for ensuring that purchasers of timeshares are given information about their rights to cancel, as well as the application of the Act to cross-border timeshare purchases.

The amendments to the Act are set out in the Schedule to the Regulations. Section 1 of the Act is amended, so that the Act also applies where timeshare accommodation is situated in another EEA State, but the parties to the timeshare agreement are subject to the jurisdiction of UK courts in relation to the agreement. Sections 2, 3 and 4 of the Act are amended, so that the obligation to give notice of the right to cancel a timeshare agreement or a timeshare credit agreement is replaced by an obligation to include information on such cancellation rights within the relevant agreement itself. There are also consequential amendments to sections 1A, 5, 5A, 6, 10A and Schedule 1 of the Act.