
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prohibit surcharges imposed by traders on consumers in respect of the use of a given means of payment, where the surcharges exceed the cost to the trader of using that means of payment (see regulation 4). Regulation 5 provides for a number of excluded contracts (including contracts for social services, health services and services of a banking or insurance nature) to which the prohibition does not apply. Regulation 6 and the Schedule exempt existing micro-businesses and new businesses from the prohibition until 12th June 2014. Regulations 7 and 8 provide that local weights and measures authorities and the Department of Enterprise, Trade and Investment in Northern Ireland may consider complaints about surcharges, and may apply to a court for an injunction (or in Scotland an interdict or order of specific implement) against a trader acting in breach of regulation 4. Regulation 10 provides that a surcharge in breach of regulation 4 is unenforceable against a consumer and, if already paid, must be repaid to the consumer.

The Regulations apply to the Crown, and extend to England and Wales, Scotland and Northern Ireland.

A draft of the Enterprise Act 2002 (Part 8 Domestic Infringements) Order 2013 was laid in Parliament on the same date as these Regulations. If approved by a resolution of each House of Parliament and made, that Order will provide that enforcement procedures under Part 8 of the Enterprise Act 2002 will also apply in relation to a breach of these Regulations. It will also amend regulation 7(4) of these Regulations, so that local weights and measures authorities and the Department of Enterprise, Trade and Investment in Northern Ireland may take account of any enforcement action taken under Part 8 of the 2002 Act when considering complaints about surcharges.

The Regulations implement Article 19 of Directive 2011/83/EU of the European Parliament and of the Council on consumer rights, amending Council Directive [93/13/EEC](#) and Directive [1999/44/EC](#) of the European Parliament and of the Council and repealing Council Directive [85/577/EEC](#) and Directive [97/7/EC](#) of the European Parliament and of the Council⁽¹⁾. The remaining provisions of that Directive will be implemented at a later date.

An impact assessment of the effect that the instrument will have on the costs of business, the voluntary sector and the public sector is available from the BIS website at www.bis.gov.uk, and is published with the Explanatory Memorandum alongside the instrument on www.legislation.gov.uk. A copy has also been placed in the Libraries of both Houses of Parliament.

(1) OJ L 304, 22.11.2011, p. 64.