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STATUTORY INSTRUMENTS

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**2012 No. 3110**

**The Consumer Rights (Payment Surcharges) Regulations 2012**

**Contracts where prohibition applies**

**5.**—(1) Regulation 4 applies only if the use is as a means for the consumer to make payments for the purposes of a contract with the trader, and only to the extent that that contract—

- (a) is a sales or service contract, or a contract (other than a sales or service contract) for the supply of water, gas, electricity, district heating or digital content, and
- (b) is not an excluded contract.

(2) An excluded contract is a contract—

- (a) for social services, including social housing, childcare and support of families and persons permanently or temporarily in need, including long-term care;
- (b) for health services provided, whether or not via healthcare facilities, by health professionals to patients to assess, maintain or restore their state of health, including the prescription, dispensation and provision of medicinal products and medical devices (and “health professionals” has the meaning given by Article 3(f) of Directive 2011/24/EU of the European Parliament and of the Council on the application of patients’ rights in cross-border healthcare)(**1**);
- (c) for gambling within the meaning of the Gambling Act 2005(**2**) (which includes gaming, betting and participating in a lottery);
- (d) for services of a banking, credit, insurance, personal pension, investment or payment nature;
- (e) for the creation of immovable property or of rights in immovable property;
- (f) for rental of accommodation for residential purposes;
- (g) for the construction of new buildings, or the construction of substantially new buildings by the conversion of existing buildings;
- (h) which falls within the scope of Directive [2008/122/EC](#) of the European Parliament and of the Council on the protection of consumers in respect of certain aspects of timeshare, long-term holiday product, resale and exchange contracts(**3**);
- (i) for the supply of foodstuffs, beverages or other goods intended for current consumption in the household, and which are supplied by a trader on frequent and regular rounds to the consumer’s home, residence or workplace;
- (j) concluded by means of automatic vending machines or automated commercial premises;
- (k) concluded with a telecommunications operator through a public telephone for the use of the telephone;
- (l) concluded for the use of one single connection, by telephone, internet or fax, established by a consumer;

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(1) OJ L 88, 4.4.2011, p. 45.

(2) [2005 c.19](#).

(3) OJ L 33, 3.2.2009, p. 10.

(m) under which goods are sold by way of execution or otherwise by authority of law.