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STATUTORY INSTRUMENTS

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**2010 No. 2960**

**The Timeshare, Holiday Products, Resale  
and Exchange Contracts Regulations 2010**

**PART 8**

**ENFORCEMENT**

**Enforcement authorities**

**32.**—(1) “Enforcement authority” means—

(a) a local weights and measures authority in Great Britain (within the meaning of section 69 of the Weights and Measures Act 1985<sup>(1)</sup>);

(b) the Department of Enterprise Trade and Investment in Northern Ireland.

(2) An enforcement authority in Great Britain must enforce these Regulations within its area.

(3) The enforcement authority in Northern Ireland must enforce these Regulations within Northern Ireland.

(4) Nothing in this regulation authorises any enforcement authority to bring proceedings in Scotland for an offence under these Regulations.

**Powers of officers**

**33.**—(1) Paragraph (2) applies if a duly authorised officer of an enforcement authority has reasonable cause to suspect that an offence under the preceding provisions of these Regulations has been committed.

(2) The officer may, for the purpose of ascertaining whether the offence has been committed, require a trader to produce any document relating to the trader’s business and take copies of it or of any entry in it.

(3) If such an officer has reason to believe that any documents may be required as evidence in proceedings for such an offence, the officer may seize and detain them and must, if the officer does so, inform the person from whom they are seized.

(4) The powers in paragraphs (2) and (3) may only be exercised by an officer at a reasonable hour.

(5) In this regulation “document” includes information recorded in any form.

(6) The reference in paragraph (2) to the production of documents is, in the case of a document which contains information recorded otherwise than in legible form, a reference to the production of a copy of the information in legible form.

(7) Nothing in this regulation is to be construed as requiring a person to answer any question or give any information if to do so might incriminate that person.

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(1) 1985 c. 72: section 69 was amended by Local Government (Wales) Act 1994 (c. 19), Schedule 16, paragraph 75, and the Local Government (Scotland) Act 1994 (c. 34), Schedule 13, paragraph 144.

(8) Nothing in this regulation gives any power to an officer of an enforcement authority to require any person to produce, or to seize from another person, a document to which paragraph (9) applies.

(9) This paragraph applies to any document which the other person would be entitled to refuse to produce—

- (a) in proceedings in the High Court on the grounds of legal professional privilege, or
- (b) (in Scotland) in proceedings in the Court of Session on the grounds of confidentiality of communications.

(10) In paragraph (9) “communications” means—

- (a) communications between a professional legal adviser and his or her client, or
- (b) communications made in connection with or in contemplation of legal proceedings and for the purposes of those proceedings.

### **Obstruction of authorised officers**

**34.**—(1) A person commits an offence if the person—

- (a) intentionally obstructs an officer of an enforcement authority acting in pursuance of these Regulations,
- (b) intentionally fails to comply with any requirement properly made of the person by such an officer under regulation 33,
- (c) without reasonable cause fails to give such an officer any other assistance or information which the officer may reasonably require of the person for the purpose of the officer’s functions under these Regulations.

(2) A person guilty of an offence under paragraph (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(3) A person commits an offence if the person, in giving information to an officer of an enforcement authority who is acting in pursuance of these Regulations—

- (a) makes a statement which the person knows to be false in a material particular, or
- (b) recklessly makes a statement which is false in a material particular.

(4) A person guilty of an offence under paragraph (3) is liable—

- (a) on summary conviction to a fine not exceeding level 5 on the standard scale, or
- (b) on conviction on indictment, to a fine.

### **Civil proceedings**

**35.**—(1) The obligation to comply with regulation 12(1) is a duty owed by the trader who proposes to enter into a regulated contract to any person with whom the trader is required to provide with information under that provision.

(2) The obligation to comply with Regulations 15(1), 16(1), 17(1) and 18(2) is, in each case, a duty owed by the trader who enters into a regulated contract to the consumer.

(3) The obligation to comply with regulation 23(3) is a duty owed by the trader who enters into a regulated contract to the creditor under a related credit agreement.

(4) A contravention of any of the obligations mentioned in paragraphs (1) to (3) is to be actionable accordingly.

(5) Liability by virtue of paragraphs (1) to (3) is not to be limited or excluded by any contractual term, by any notice or by any other provision.

