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STATUTORY INSTRUMENTS

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**2013 No. 3134**

**The Consumer Contracts (Information, Cancellation  
and Additional Charges) Regulations 2013**

**PART 1**

**General**

**Citation and commencement**

1.—(1) These Regulations may be cited as the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 and come into force on 13th June 2014.

(2) These Regulations apply in relation to contracts entered into on or after that date.

**Regulations superseded**

2. The following do not apply in relation to contracts entered into on or after 13th June 2014—

- (a) the Consumer Protection (Distance Selling) Regulations 2000<sup>(1)</sup>;
- (b) the Cancellation of Contracts made in a Consumer's Home or Place of Work etc Regulations 2008<sup>(2)</sup>.

**Review**

3.—(1) The Secretary of State must before the end of each review period—

- (a) carry out a review of these Regulations,
- (b) set out the conclusions of the review in a report, and
- (c) publish the report.

(2) In carrying out the review, the Secretary of State must, so far as is reasonable, have regard to what is done in other member States to implement Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 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/EC and Directive 97/7/EC of the European Parliament and of the Council<sup>(3)</sup>.

(3) The report must in particular—

- (a) set out the objectives intended to be achieved by these Regulations,
- (b) assess the extent to which those objectives have been achieved, and
- (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved in a way that imposes less regulation.

(4) A review period is—

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<sup>(1)</sup> S.I. 2000/2334.

<sup>(2)</sup> S.I. 2008/1816.

<sup>(3)</sup> OJ No L 304, 22.11.2011, p.64.

- (a) the period of 5 years beginning with the day on which these Regulations come into force, and
- (b) each successive period of 5 years.

#### **“Consumer” and “trader”**

**4.** In these Regulations—

“consumer” means an individual acting for purposes which are wholly or mainly outside that individual’s trade, business, craft or profession;

“trader” means a person acting for purposes relating to that person’s trade, business, craft or profession, whether acting personally or through another person acting in the trader’s name or on the trader’s behalf.

#### **Other definitions**

**5.** In these Regulations—

“business” includes the activities of any government department or local or public authority;

“business premises” in relation to a trader means—

- (a) any immovable retail premises where the activity of the trader is carried out on a permanent basis, or
- (b) any movable retail premises where the activity of the trader is carried out on a usual basis;

“CMA” means the Competition and Markets Authority<sup>(4)</sup>;

“commercial guarantee”, in relation to a contract, means any undertaking by the trader or producer to the consumer (in addition to the trader’s duty to supply goods that are in conformity with the contract) to reimburse the price paid or to replace, repair or service goods in any way if they do not meet the specifications or any other requirements not related to conformity set out in the guarantee statement or in the relevant advertising available at the time of the contract or before it is entered into;

“court”—

- (a) in relation to England and Wales, means the county court or the High Court,
- (b) in relation to Northern Ireland, means a county court or the High Court, and
- (c) in relation to Scotland means the sheriff court or the Court of Session;

“delivery” means voluntary transfer of possession from one person to another;

“digital content” means data which are produced and supplied in digital form;

“distance contract” means a contract concluded between a trader and a consumer under an organised distance sales or service-provision scheme without the simultaneous physical presence of the trader and the consumer, with the exclusive use of one or more means of distance communication up to and including the time at which the contract is concluded;

“district heating” means the supply of heat (in the form of steam or hot water or otherwise) from a central source of production through a transmission and distribution system to heat more than one building;

“durable medium” means paper or email, or any other medium that—

- (a) allows information to be addressed personally to the recipient,

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<sup>(4)</sup> The Competition and Markets Authority was established by section 25 of the Enterprise and Regulatory Reform Act 2013 (c. 24)

(b) enables the recipient to store the information in a way accessible for future reference for a period that is long enough for the purposes of the information, and

(c) allows the unchanged reproduction of the information stored;

“functionality” in relation to digital content includes region coding, restrictions incorporated for the purposes of digital rights management, and other technical restrictions;

“goods” means any tangible moveable items, but that includes water, gas and electricity if and only if they are put up for sale in a limited volume or a set quantity;

“off-premises contract” means a contract between a trader and a consumer which is any of these—

(a) a contract concluded in the simultaneous physical presence of the trader and the consumer, in a place which is not the business premises of the trader;

(b) a contract for which an offer was made by the consumer in the simultaneous physical presence of the trader and the consumer, in a place which is not the business premises of the trader;

(c) a contract concluded on the business premises of the trader or through any means of distance communication immediately after the consumer was personally and individually addressed in a place which is not the business premises of the trader in the simultaneous physical presence of the trader and the consumer;

(d) a contract concluded during an excursion organised by the trader with the aim or effect of promoting and selling goods or services to the consumer;

“on-premises contract” means a contract between a trader and a consumer which is neither a distance contract nor an off-premises contract;

“public auction” means a method of sale where—

(a) goods or services are offered by a trader to consumers through a transparent, competitive bidding procedure run by an auctioneer,

(b) the consumers attend or are given the possibility to attend in person, and

(c) the successful bidder is bound to purchase the goods or services;

“sales contract” means a contract under which a trader transfers or agrees to transfer the ownership of goods to a consumer and the consumer pays or agrees to pay the price, including any contract that has both goods and services as its object;

“service” includes—

(a) the supply of water, gas or electricity if they are not put up for sale in a limited volume or a set quantity, and

(b) the supply of district heating;

“service contract” means a contract, other than a sales contract, under which a trader supplies or agrees to supply a service to a consumer and the consumer pays or agrees to pay the price.

### **Limits of application: general**

6.—(1) These Regulations do not apply to a contract, to the extent that it is—

(a) for—

(i) gambling within the meaning of the Gambling Act 2005(5) (which includes gaming, betting and participating in a lottery); or

- (ii) in relation to Northern Ireland, for betting, gaming or participating lawfully in a lottery within the meaning of the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985<sup>(6)</sup>;
  - (b) for services of a banking, credit, insurance, personal pension, investment or payment nature;
  - (c) for the creation of immovable property or of rights in immovable property;
  - (d) for rental of accommodation for residential purposes;
  - (e) for the construction of new buildings, or the construction of substantially new buildings by the conversion of existing buildings;
  - (f) 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;
  - (g) within the scope of Council Directive 90/314/EEC of 13 June 1990 on package travel, package holidays and package tours<sup>(7)</sup>;
  - (h) 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<sup>(8)</sup>.
- (2) These Regulations do not apply to contracts—
- (a) concluded by means of automatic vending machines or automated commercial premises;
  - (b) concluded with a telecommunications operator through a public telephone for the use of the telephone;
  - (c) concluded for the use of one single connection, by telephone, internet or fax, established by a consumer;
  - (d) under which goods are sold by way of execution or otherwise by authority of law.
- (3) Paragraph (1)(b) is subject to regulations 38(4) (ancillary contracts) and 40(3) (additional payments).

## PART 2

### Information requirements

#### CHAPTER 1

##### Provision of information

#### **Application of Part 2**

7.—(1) This Part applies to on-premises, off-premises and distance contracts, subject to paragraphs (2), (3) and (4) and regulation 6.

- (2) This Part does not apply to contracts to the extent that they are—
- (a) for the supply of a medicinal product by administration by a prescriber, or under a prescription or directions given by a prescriber;
  - (b) for the supply of a product by a health care professional or a person included in a relevant list, under arrangements for the supply of services as part of the health service, where the

<sup>(6)</sup> S.I. 1985/1204 (N.I. 11).

<sup>(7)</sup> OJ No L 158, 23.6.1990, p.59.

<sup>(8)</sup> OJ No L 33, 3.2.2009, p.10.

product is one that, at least in some circumstances is available under such arrangements free or on prescription.

(3) This Part, except for regulation 14(1) to (5), does not apply to contracts to the extent that they are for passenger transport services.

(4) This Part does not apply to off-premises contracts under which the payment to be made by the consumer is not more than £42.

(5) In paragraph (2)—

“health care professional” and “prescriber” have the meaning given by regulation 2(1) of the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013<sup>(9)</sup>;

“health service” means—

- (a) the health service as defined by section 275(1) of the National Health Service Act 2006<sup>(10)</sup> or section 206(1) of the National Health Service (Wales) Act 2006<sup>(11)</sup>,
- (b) the health service as defined by section 108(1) of the National Health Service (Scotland) Act 1978<sup>(12)</sup>, or
- (c) any of the health services under section 2(1)(a) of the Health and Social Care (Reform) Act (Northern Ireland) 2009<sup>(13)</sup>;

“medicinal product” has the meaning given by regulation 2(1) of the Human Medicines Regulations 2012<sup>(14)</sup>;

“relevant list” means—

- (d) a relevant list for the purposes of the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013<sup>(15)</sup>, or
- (e) a list maintained under those Regulations.

### **Making information etc available to a consumer**

**8.** For the purposes of this Part, something is made available to a consumer only if the consumer can reasonably be expected to know how to access it.

### **Information to be provided before making an on-premises contract**

**9.**—(1) Before the consumer is bound by an on-premises contract, the trader must give or make available to the consumer the information described in Schedule 1 in a clear and comprehensible manner, if that information is not already apparent from the context.

(2) Paragraph (1) does not apply to a contract which involves a day-to-day transaction and is performed immediately at the time when the contract is entered into.

(3) Any information that the trader gives the consumer as required by this regulation is to be treated as included as a term of the contract.

(4) A change to any of that information, made before entering into the contract or later, is not effective unless expressly agreed between the consumer and the trader.

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<sup>(9)</sup> S.I. 2013/349.

<sup>(10)</sup> 2006 c.41.

<sup>(11)</sup> 2006 c.42.

<sup>(12)</sup> 1978 c.29.

<sup>(13)</sup> 2006 c.41 (N.I.); section 1 was substituted by section 1 of the Health and Social Care Act 2012 (c.7).

<sup>(14)</sup> S.I. 2012/1916.

<sup>(15)</sup> S.I. 2013/349.

**Information to be provided before making an off-premises contract**

10.—(1) Before the consumer is bound by an off-premises contract, the trader—

- (a) must give the consumer the information listed in Schedule 2 in a clear and comprehensible manner, and
- (b) if a right to cancel exists, must give the consumer a cancellation form as set out in part B of Schedule 3.

(2) The information and any cancellation form must be given on paper or, if the consumer agrees, on another durable medium and must be legible.

(3) The information referred to in paragraphs (l), (m) and (n) of Schedule 2 may be provided by means of the model instructions on cancellation set out in part A of Schedule 3; and a trader who has supplied those instructions to the consumer, correctly filled in, is to be treated as having complied with paragraph (1) in respect of those paragraphs.

(4) If the trader has not complied with paragraph (1) in respect of paragraph (g), (h) or (m) of Schedule 2, the consumer is not to bear the charges or costs referred to in those paragraphs.

(5) Any information that the trader gives the consumer as required by this regulation is to be treated as included as a term of the contract.

(6) A change to any of that information, made before entering into the contract or later, is not effective unless expressly agreed between the consumer and the trader.

(7) This regulation is subject to regulation 11.

**Provision of information in connection with repair or maintenance contracts**

11.—(1) If the conditions in paragraphs (2), (3) and (4) are met, regulation 10(1) does not apply to an off-premises contract where—

- (a) the contract is a service contract,
- (b) the consumer has explicitly requested the trader to supply the service for the purpose of carrying out repairs or maintenance,
- (c) the obligations of the trader and the consumer under the contract are to be performed immediately, and
- (d) the payment to be made by the consumer is not more than £170.

(2) The first condition is that, before the consumer is bound by the contract, the trader gives or makes available to the consumer on paper or, if the consumer expressly agrees, on another durable medium—

- (a) the information referred to in paragraphs (b) to (d), (f) and (g) of Schedule 2,
- (b) an estimate of the total price, where it cannot reasonably be calculated in advance, and
- (c) where a right to cancel exists, a cancellation form as set out in part B of Schedule 3.

(3) The second condition is that, before the consumer is bound by the contract, the trader gives or makes available to the consumer the information referred to in paragraphs (a), (l) and (o) of Schedule 2, either on paper or another durable medium or otherwise if the consumer expressly agrees.

(4) The third condition is that the confirmation of the contract provided in accordance with regulation 12 contains the information required by regulation 10(1).

(5) For the right to cancel where this regulation applies, see in particular—

- (a) regulation 28(1)(e) and (2) (cases where cancellation excluded: visit requested for urgent work);
- (b) regulation 36 (form of consumer's request, and consequences).

### **Provision of copy or confirmation of off-premises contracts**

**12.**—(1) In the case of an off-premises contract, the trader must give the consumer—

- (a) a copy of the signed contract, or
- (b) confirmation of the contract.

(2) The confirmation must include all the information referred to in Schedule 2 unless the trader has already provided that information to the consumer on a durable medium prior to the conclusion of the off-premises contract.

(3) The copy or confirmation must be provided on paper or, if the consumer agrees, on another durable medium.

(4) The copy or confirmation must be provided within a reasonable time after the conclusion of the contract, but in any event—

- (a) not later than the time of the delivery of any goods supplied under the contract, and
- (b) before performance begins of any service supplied under the contract.

(5) If the contract is for the supply of digital content not on a tangible medium and the consumer has given the consent and acknowledgement referred to in regulation 37(1)(a) and (b), the copy or confirmation must include confirmation of the consent and acknowledgement.

### **Information to be provided before making a distance contract**

**13.**—(1) Before the consumer is bound by a distance contract, the trader—

- (a) must give or make available to the consumer the information listed in Schedule 2 in a clear and comprehensible manner, and in a way appropriate to the means of distance communication used, and
- (b) if a right to cancel exists, must give or make available to the consumer a cancellation form as set out in part B of Schedule 3.

(2) In so far as the information is provided on a durable medium, it must be legible.

(3) The information referred to in paragraphs (l), (m) and (n) of Schedule 2 may be provided by means of the model instructions on cancellation set out in part A of Schedule 3; and a trader who has supplied those instructions to the consumer, correctly filled in, is to be treated as having complied with paragraph (1) in respect of those paragraphs.

(4) Where a distance contract is concluded through a means of distance communication which allows limited space or time to display the information—

- (a) the information listed in paragraphs (a), (b), (f), (g), (h), (l) and (s) of Schedule 2 must be provided on that means of communication in accordance with paragraphs (1) and (2), but
- (b) the other information required by paragraph (1) may be provided in another appropriate way.

(5) If the trader has not complied with paragraph (1) in respect of paragraph (g), (h) or (m) of Schedule 2, the consumer is not to bear the charges or costs referred to in those paragraphs.

(6) Any information that the trader gives the consumer as required by this regulation is to be treated as included as a term of the contract.

(7) A change to any of that information, made before entering into the contract or later, is not effective unless expressly agreed between the consumer and the trader.

### **Requirements for distance contracts concluded by electronic means**

**14.**—(1) This regulation applies where a distance contract is concluded by electronic means.

(2) If the contract places the consumer under an obligation to pay, the trader must make the consumer aware in a clear and prominent manner, and directly before the consumer places the order, of the information listed in paragraphs (a), (f), (g), (h), (s) and (t) of Schedule 2.

(3) The trader must ensure that the consumer, when placing the order, explicitly acknowledges that the order implies an obligation to pay.

(4) If placing an order entails activating a button or a similar function, the trader must ensure that the button or similar function is labelled in an easily legible manner only with the words 'order with obligation to pay' or a corresponding unambiguous formulation indicating that placing the order entails an obligation to pay the trader.

(5) If the trader has not complied with paragraphs (3) and (4), the consumer is not bound by the contract or order.

(6) The trader must ensure that any trading website through which the contract is concluded indicates clearly and legibly, at the latest at the beginning of the ordering process, whether any delivery restrictions apply and which means of payment are accepted.

#### **Telephone calls to conclude a distance contract**

**15.** If the trader makes a telephone call to the consumer with a view to concluding a distance contract, the trader must, at the beginning of the conversation with the consumer, disclose—

- (a) the trader's identity,
- (b) where applicable, the identity of the person on whose behalf the trader makes the call, and
- (c) the commercial purpose of the call.

#### **Confirmation of distance contracts**

**16.—(1)** In the case of a distance contract the trader must give the consumer confirmation of the contract on a durable medium.

(2) The confirmation must include all the information referred to in Schedule 2 unless the trader has already provided that information to the consumer on a durable medium prior to the conclusion of the distance contract.

(3) If the contract is for the supply of digital content not on a tangible medium and the consumer has given the consent and acknowledgment referred to in regulation 37(1)(a) and (b), the confirmation must include confirmation of the consent and acknowledgement.

(4) The confirmation must be provided within a reasonable time after the conclusion of the contract, but in any event—

- (a) not later than the time of delivery of any goods supplied under the contract, and
- (b) before performance begins of any service supplied under the contract.

(5) For the purposes of paragraph (4), the confirmation is treated as provided as soon as the trader has sent it or done what is necessary to make it available to the consumer.

#### **Burden of proof in relation to off-premises and distance contracts**

**17.—(1)** In case of dispute about the trader's compliance with any provision of regulations 10 to 16, it is for the trader to show that the provision was complied with.

(2) That does not apply to proceedings—

- (a) for an offence under regulation 19, or
- (b) relating to compliance with an injunction, interdict or order under regulation 45.



### **Effect on contract of failure to provide information**

18. Every contract to which this Part applies is to be treated as including a term that the trader has complied with the provisions of—

- (a) regulations 9 to 14, and
- (b) regulation 16.

## **CHAPTER 2**

### **Offences**

#### **Offence relating to the failure to give notice of the right to cancel**

19.—(1) A trader is guilty of an offence if the trader enters into an off-premises contract to which regulation 10 applies but fails to give the consumer the information listed in paragraph (l), (m) or (n) of Schedule 2 in accordance with that regulation.

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

#### **Defence of due diligence**

20.—(1) In any proceedings against a person (A) for an offence under regulation 19 it is a defence for A to prove—

- (a) that the commission of the offence was due to—
  - (i) the act or default of another, or
  - (ii) reliance on information given by another, and
- (b) that A took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence by A or any person under A's control.

(2) A person is not entitled to rely on the defence provided by paragraph (1) without leave of the court unless—

- (a) that person has served on the prosecutor a notice in writing giving such information as was in that person's possession identifying or assisting in the identification of the other person; and
- (b) the notice is served on the prosecutor not less than 7 days before the hearing of the proceedings or, in Scotland, 7 days before the intermediate diet or 14 days before the trial diet, whichever is earlier.

#### **Liability of persons other than the principal offender**

21. Where the commission by a person of an offence under regulation 19 is due to the act or default of another person, that other person is guilty of the offence and may be proceeded against and punished whether or not proceedings are taken against the first person.

#### **Offences committed by bodies of persons**

22.—(1) Where an offence under regulation 19 committed by a body corporate is proved—

- (a) to have been committed with the consent or connivance of an officer of the body corporate or
- (b) to be attributable to any neglect on the part of an officer of the body corporate,

the officer, as well as the body corporate, is guilty of the offence and liable to be proceeded against and punished accordingly.

- (2) In paragraph (1) a reference to an officer of a body corporate includes a reference to—
- (a) a director, manager, secretary or other similar officer; and
  - (b) a person purporting to act as a director, manager, secretary or other similar officer.
- (3) Where an offence under regulation 19 committed in Scotland by a Scottish partnership is proved—
- (a) to have been committed with the consent or connivance of a partner, or
  - (b) to be attributable to any neglect on the part of a partner,
- that partner, as well as the partnership shall be guilty of the offence and liable to be proceeded against and punished accordingly.
- (4) In paragraph (3) a reference to a partner includes a person purporting to act as a partner.

### **Duty to enforce**

- 23.**—(1) Subject to paragraphs (2) and (3)—
- (a) it is the duty of every weights and measures authority in Great Britain to enforce regulation 19 within its area; and
  - (b) it is the duty of the Department of Enterprise, Trade and Investment in Northern Ireland to enforce regulation 19 within Northern Ireland.
- (2) No proceedings for an offence under regulation 19 may be instituted in England and Wales except by or on behalf of an enforcement authority.
- (3) Nothing in paragraph (1) authorises any weights and measures authority to bring proceedings in Scotland for an offence.

### **Powers of investigation**

- 24.**—(1) If a duly authorised officer of an enforcement authority has reasonable grounds for suspecting that an offence has been committed under regulation 19, the officer may require a person carrying on or employed in a business to produce any document relating to the business, and take copies of it or any entry in it for the purposes of ascertaining whether such an offence has been committed.
- (2) If the officer has reasonable grounds for believing that any documents may be required as evidence in proceedings for such an offence, the officer may seize and detain them and shall, if the officer does so, inform the person from whom they are seized.
- (3) In this regulation “document” includes information recorded in any form.
- (4) The reference in paragraph (1) to production of documents is, in the case of a document which contains information recorded otherwise than in a legible form, a reference to the production of a copy of the information in a legible form.
- (5) An officer seeking to exercise a power under this regulation must do so only at a reasonable hour and on production of the officer’s identification and authority.
- (6) Nothing in this regulation requires a person to produce or provide, or authorises a person to inspect or take possession of, anything in respect of which a claim to legal professional privilege (in Scotland, to confidentiality of communications) could be maintained in legal proceedings.

### **Obstruction of authorised officers**

- 25.**—(1) A person commits an offence if that person—
- (a) intentionally obstructs an officer of an enforcement authority acting in pursuance of functions under regulation 24;

- (b) fails without reasonable cause to comply with any requirement properly made by such an officer under regulation 24; or
- (c) fails without reasonable cause to give such an officer any other assistance or information which the officer may reasonably require for the purpose of the performance of functions under regulation 24.

(2) A person giving any information which is required from that person under paragraph (1)(c) is guilty of an offence if, in doing so, the person makes any statement knowing it to be false in a material particular.

(3) A person guilty of an offence under paragraph (1) or (2) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

### **Freedom from self-incrimination**

**26.** Nothing in regulation 24 or 25 is to be construed as requiring a person to answer any question or give any information if to do so might incriminate that person.

## **PART 3**

### **Right to cancel**

#### **Application of Part 3**

**27.**—(1) This Part applies to distance and off-premises contracts between a trader and a consumer, subject to paragraphs (2) and (3) and regulations 6 and 28.

(2) This Part does not apply to contracts to the extent that they are—

- (a) for the supply of a medicinal product by administration by a prescriber, or under a prescription or directions given by a prescriber;
- (b) for the supply of a product by a health care professional or a person included in a relevant list, under arrangements for the supply of services as part of the health service, where the product is one that, at least in some circumstances is available under such arrangements free or on prescription;
- (c) for passenger transport services.

(3) This Part does not apply to off-premises contracts under which the payment to be made by the consumer is not more than £42.

(4) In paragraph (2)(a) and (b), expressions defined in regulation 7(5) have the meaning given there.

#### **Limits of application: circumstances excluding cancellation**

**28.**—(1) This Part does not apply as regards the following—

- (a) the supply of—
  - (i) goods, or
  - (ii) services, other than supply of water, gas, electricity or district heating, for which the price is dependent on fluctuations in the financial market which cannot be controlled by the trader and which may occur within the cancellation period;
- (b) the supply of goods that are made to the consumer's specifications or are clearly personalised;

- (c) the supply of goods which are liable to deteriorate or expire rapidly;
  - (d) the supply of alcoholic beverages, where—
    - (i) their price has been agreed at the time of the conclusion of the sales contract,
    - (ii) delivery of them can only take place after 30 days, and
    - (iii) their value is dependent on fluctuations in the market which cannot be controlled by the trader;
  - (e) contracts where the consumer has specifically requested a visit from the trader for the purpose of carrying out urgent repairs or maintenance;
  - (f) the supply of a newspaper, periodical or magazine with the exception of subscription contracts for the supply of such publications;
  - (g) contracts concluded at a public auction;
  - (h) the supply of accommodation, transport of goods, vehicle rental services, catering or services related to leisure activities, if the contract provides for a specific date or period of performance.
- (2) Sub-paragraph (e) of paragraph (1) does not prevent this Part applying to a contract for—
- (a) services in addition to the urgent repairs or maintenance requested, or
  - (b) goods other than replacement parts necessarily used in making the repairs or carrying out the maintenance,
- if the trader supplies them on the occasion of a visit such as is mentioned in that sub-paragraph.
- (3) The rights conferred by this Part cease to be available in the following circumstances—
- (a) in the case of a contract for the supply of sealed goods which are not suitable for return due to health protection or hygiene reasons, if they become unsealed after delivery;
  - (b) in the case of a contract for the supply of sealed audio or sealed video recordings or sealed computer software, if the goods become unsealed after delivery;
  - (c) in the case of any sales contract, if the goods become mixed inseparably (according to their nature) with other items after delivery.

### **Right to cancel**

**29.**—(1) The consumer may cancel a distance or off-premises contract at any time in the cancellation period without giving any reason, and without incurring any liability except under these provisions—

- (a) regulation 34(3) (where enhanced delivery chosen by consumer);
- (b) regulation 34(9) (where value of goods diminished by consumer handling);
- (c) regulation 35(5) (where goods returned by consumer);
- (d) regulation 36(4) (where consumer requests early supply of service).

(2) The cancellation period begins when the contract is entered into and ends in accordance with regulation 30 or 31.

(3) Paragraph (1) does not affect the consumer's right to withdraw an offer made by the consumer to enter into a distance or off-premises contract, at any time before the contract is entered into, without giving any reason and without incurring any liability.

### **Normal cancellation period**

**30.**—(1) The cancellation period ends as follows, unless regulation 31 applies.

- (2) If the contract is—
- (a) a service contract, or
  - (b) a contract for the supply of digital content which is not supplied on a tangible medium, the cancellation period ends at the end of 14 days after the day on which the contract is entered into.
- (3) If the contract is a sales contract and none of paragraphs (4) to (6) applies, the cancellation period ends at the end of 14 days after the day on which the goods come into the physical possession of—
- (a) the consumer, or
  - (b) a person, other than the carrier, identified by the consumer to take possession of them.
- (4) If the contract is a sales contract under which multiple goods are ordered by the consumer in one order but some are delivered on different days, the cancellation period ends at the end of 14 days after the day on which the last of the goods come into the physical possession of—
- (a) the consumer, or
  - (b) a person, other than the carrier, identified by the consumer to take possession of them.
- (5) If the contract is a sales contract under which goods consisting of multiple lots or pieces of something are delivered on different days, the cancellation period ends at the end of 14 days after the day on which the last of the lots or pieces come into the physical possession of—
- (a) the consumer, or
  - (b) a person, other than the carrier, identified by the consumer to take possession of them.
- (6) If the contract is a sales contract for regular delivery of goods during a defined period of more than one day, the cancellation period ends at the end of 14 days after the day on which the first of the goods come into the physical possession of—
- (a) the consumer, or
  - (b) a person, other than the carrier, identified by the consumer to take possession of them.

### **Cancellation period extended for breach of information requirement**

**31.**—(1) This regulation applies if the trader does not provide the consumer with the information on the right to cancel required by paragraph (1) of Schedule 2, in accordance with Part 2.

(2) If the trader provides the consumer with that information in the period of 12 months beginning with the first day of the 14 days mentioned in regulation 30(2) to (6), but otherwise in accordance with Part 2, the cancellation period ends at the end of 14 days after the consumer receives the information.

(3) Otherwise the cancellation period ends at the end of 12 months after the day on which it would have ended under regulation 30.

### **Exercise of the right to withdraw or cancel**

**32.**—(1) To withdraw an offer to enter into a distance or off-premises contract, the consumer must inform the trader of the decision to withdraw it.

(2) To cancel a contract under regulation 29(1), the consumer must inform the trader of the decision to cancel it.

(3) To inform the trader under paragraph (2) the consumer may either—

- (a) use a form following the model cancellation form in part B of Schedule 3, or
- (b) make any other clear statement setting out the decision to cancel the contract.

(4) If the trader gives the consumer the option of filling in and submitting such a form or other statement on the trader's website—

- (a) the consumer need not use it, but
- (b) if the consumer does, the trader must communicate to the consumer an acknowledgement of receipt of the cancellation on a durable medium without delay.

(5) Where the consumer informs the trader under paragraph (2) by sending a communication, the consumer is to be treated as having cancelled the contract in the cancellation period if the communication is sent before the end of the period.

(6) In case of dispute it is for the consumer to show that the contract was cancelled in the cancellation period in accordance with this regulation.

### **Effect of withdrawal or cancellation**

**33.**—(1) If a contract is cancelled under regulation 29(1)—

- (a) the cancellation ends the obligations of the parties to perform the contract, and
- (b) regulations 34 to 38 apply.

(2) Regulations 34 and 38 also apply if the consumer withdraws an offer to enter into a distance or off-premises contract.

### **Reimbursement by trader in the event of withdrawal or cancellation**

**34.**—(1) The trader must reimburse all payments, other than payments for delivery, received from the consumer, subject to paragraph (10).

(2) The trader must reimburse any payment for delivery received from the consumer, unless the consumer expressly chose a kind of delivery costing more than the least expensive common and generally acceptable kind of delivery offered by the trader.

(3) In that case, the trader must reimburse any payment for delivery received from the consumer up to the amount the consumer would have paid if the consumer had chosen the least expensive common and generally acceptable kind of delivery offered by the trader.

(4) Reimbursement must be without undue delay, and in any event not later than the time specified in paragraph (5) or (6).

(5) If the contract is a sales contract and the trader has not offered to collect the goods, the time is the end of 14 days after—

- (a) the day on which the trader receives the goods back, or
- (b) if earlier, the day on which the consumer supplies evidence of having sent the goods back.

(6) Otherwise, the time is the end of 14 days after the day on which the trader is informed of the consumer's decision to withdraw the offer or cancel the contract, in accordance with regulation 44.

(7) The trader must make the reimbursement using the same means of payment as the consumer used for the initial transaction, unless the consumer has expressly agreed otherwise.

(8) The trader must not impose any fee on the consumer in respect of the reimbursement.

(9) If (in the case of a sales contract) the value of the goods is diminished by any amount as a result of handling of the goods by the consumer beyond what is necessary to establish the nature, characteristics and functioning of the goods, the trader may recover that amount from the consumer, up to the contract price.

(10) An amount that may be recovered under paragraph (9)—

- (a) may be deducted from the amount to be reimbursed under paragraph (1);
- (b) otherwise, must be paid by the consumer to the trader.

(11) Paragraph (9) does not apply if the trader has failed to provide the consumer with the information on the right to cancel required by paragraph (1) of Schedule 2, in accordance with Part 2.

(12) For the purposes of paragraph (9) handling is beyond what is necessary to establish the nature, characteristics and functioning of the goods if, in particular, it goes beyond the sort of handling that might reasonably be allowed in a shop.

(13) Where the provisions of this regulation apply to cancellation of a contract, the contract is to be treated as including those provisions as terms.

### **Return of goods in the event of cancellation**

**35.**—(1) Where a sales contract is cancelled under regulation 29(1), it is the trader's responsibility to collect the goods if—

- (a) the trader has offered to collect them, or
- (b) in the case of an off-premises contract, the goods were delivered to the consumer's home when the contract was entered into and could not, by their nature, normally be returned by post.

(2) If it is not the trader's responsibility under paragraph (1) to collect the goods, the consumer must—

- (a) send them back, or
- (b) hand them over to the trader or to a person authorised by the trader to receive them.

(3) The address to which goods must be sent under paragraph (2)(a) is—

- (a) any address specified by the trader for sending the goods back;
- (b) if no address is specified for that purpose, any address specified by the trader for the consumer to contact the trader;
- (c) if no address is specified for either of those purposes, any place of business of the trader.

(4) The consumer must send off the goods under paragraph (2)(a), or hand them over under paragraph (2)(b), without undue delay and in any event not later than 14 days after the day on which the consumer informs the trader as required by regulation 32(2).

(5) The consumer must bear the direct cost of returning goods under paragraph (2), unless—

- (a) the trader has agreed to bear those costs, or
- (b) the trader failed to provide the consumer with the information about the consumer bearing those costs, required by paragraph (m) of Schedule 2, in accordance with Part 2.

(6) The contract is to be treated as including a term that the trader must bear the direct cost of the consumer returning goods under paragraph (2) where paragraph (5)(b) applies.

(7) The consumer is not required to bear any other cost of returning goods under paragraph (2).

(8) The consumer is not required to bear any cost of collecting goods under paragraph (1) unless the consumer agreed to bear them.

### **Supply of service in cancellation period**

**36.**—(1) The trader must not begin the supply of a service before the end of the cancellation period provided for in regulation 30(1) unless the consumer—

- (a) has made an express request, and
- (b) in the case of an off-premises contract, has made the request on a durable medium.

(2) In the case of a service other than supply of water, gas, electricity or district heating, the consumer ceases to have the right to cancel a service contract under regulation 29(1) if the service has been fully performed, and performance of the service began—

- (a) after a request by the consumer in accordance with paragraph (1), and
- (b) with the acknowledgement that the consumer would lose that right once the contract had been fully performed by the trader.

(3) Paragraphs (4) to (6) apply where a contract is cancelled under regulation 29(1) and a service has been supplied in the cancellation period.

(4) Where the service is supplied in response to a request in accordance with paragraph (1), the consumer must (subject to paragraph (6)) pay to the trader an amount—

- (a) for the supply of the service for the period for which it is supplied, ending with the time when the trader is informed of the consumer's decision to cancel the contract, in accordance with regulation 32(2), and
- (b) which is in proportion to what has been supplied, in comparison with the full coverage of the contract.

(5) The amount is to be calculated—

- (a) on the basis of the total price agreed in the contract, or
- (b) if the total price is excessive, on the basis of the market value of the service that has been supplied, calculated by comparing prices for equivalent services supplied by other traders.

(6) The consumer bears no cost for supply of the service, in full or in part, in the cancellation period, if—

- (a) the trader has failed to provide the consumer with the information on the right to cancel required by paragraph (1) of Schedule 2, or the information on payment of that cost required by paragraph (n) of that Schedule, in accordance with Part 2, or
- (b) the service is not supplied in response to a request in accordance with paragraph (1).

### **Supply of digital content in cancellation period**

**37.—**(1) Under a contract for the supply of digital content not on a tangible medium, the trader must not begin supply of the digital content before the end of the cancellation period provided for in regulation 30(1), unless—

- (a) the consumer has given express consent, and
- (b) the consumer has acknowledged that the right to cancel the contract under regulation 29(1) will be lost.

(2) The consumer ceases to have the right to cancel such a contract under regulation 29(1) if, before the end of the cancellation period, supply of the digital content has begun after the consumer has given the consent and acknowledgement required by paragraph (1).

(3) Paragraph (4) applies where a contract is cancelled under regulation 29(1) and digital content has been supplied, not on a tangible medium, in the cancellation period.

(4) The consumer bears no cost for supply of the digital content, in full or in part, in the cancellation period, if—

- (a) the consumer has not given prior express consent to the beginning of the performance of the digital content before the end of the 14-day period referred to in regulation 30,
- (b) the consumer gave that consent but did not acknowledge when giving it that the right to cancel would be lost, or
- (c) the trader failed to provide confirmation required by regulation 12(5) or 16(3).



### **Effects of withdrawal or cancellation on ancillary contracts**

**38.**—(1) If a consumer withdraws an offer to enter into a distance or off-premises contract, or cancels such a contract under regulation 29(1), any ancillary contracts are automatically terminated, without any costs for the consumer, other than any costs under these provisions—

- (a) regulation 34(3) (where enhanced delivery chosen by consumer);
- (b) regulation 34(9) (where value of goods diminished by consumer handling);
- (c) regulation 35(5) (where goods returned by consumer);
- (d) regulation 36(4) (where consumer requests early supply of service).

(2) When a trader is informed by a consumer under regulation 32(1) or (2) of a decision to withdraw an offer or cancel a contract, the trader must inform any other trader with whom the consumer has an ancillary contract that is terminated by paragraph (1).

(3) An “ancillary contract”, in relation to a distance or off-premises contract (the “main contract”), means a contract by which the consumer acquires goods or services related to the main contract, where those goods or services are provided—

- (a) by the trader, or
- (b) by a third party on the basis of an arrangement between the third party and the trader.

(4) Regulation 6(1)(b) (exclusion of financial services contracts) does not limit the contracts that are ancillary contracts for the purposes of this regulation.

## **PART 4**

### **Protection from inertia selling and additional charges**

#### **Inertia selling**

**39.** Before regulation 28 of the Consumer Protection from Unfair Trading Regulations 2008(16), (and in Part 5 of those Regulations) insert—

#### **“Inertia selling**

**27A.**—(1) This regulation applies where a trader engages in the unfair commercial practice described in paragraph 29 of Schedule 1 (inertia selling).

(2) The consumer is exempted from any obligation to provide consideration for the products supplied by the trader.

(3) The absence of a response from the consumer following the supply does not constitute consent to the provision of consideration for, or the return or safekeeping of, the products.

(4) In the case of an unsolicited supply of goods, the consumer may, as between the consumer and the trader, use, deal with or dispose of the goods as if they were an unconditional gift to the consumer.”.

#### **Additional payments under a contract**

**40.**—(1) Under a contract between a trader and a consumer, no payment is payable in addition to the remuneration agreed for the trader’s main obligation unless, before the consumer became bound by the contract, the trader obtained the consumer’s express consent.

(2) There is no express consent (if there would otherwise be) for the purposes of this paragraph if consent is inferred from the consumer not changing a default option (such as a pre-ticked box on a website).

(3) This regulation does not apply if the trader's main obligation is to supply services within regulation 6(1)(b), but in any other case it applies even if an additional payment is for such services.

(4) Where a trader receives an additional payment which, under this regulation, is not payable under a contract, the contract is to be treated as providing for the trader to reimburse the payment to the consumer.

### **Help-line charges over basic rate**

**41.**—(1) Where a trader operates a telephone line for the purpose of consumers contacting the trader by telephone in relation to contracts entered into with the trader, a consumer contacting the trader must not be bound to pay more than the basic rate.

(2) If in those circumstances a consumer who contacts a trader in relation to a contract is bound to pay more than the basic rate, the contract is to be treated as providing for the trader to pay to the consumer any amount by which the charge paid by the consumer for the call is more than the basic rate.

## **PART 5**

### **Delivery and risk**

#### **Time for delivery of goods**

**42.**—(1) This regulation applies to any sales contract.

(2) Unless the trader and the consumer have agreed otherwise, the contract is to be treated as including a term that the trader must deliver the goods to the consumer.

(3) Unless there is an agreed time or period, the contract is to be treated as including a term that the trader must deliver the goods—

- (a) without undue delay, and
- (b) in any event, not more than 30 days after the day on which the contract is entered into.

(4) In this regulation—

- (a) an “agreed” time or period means a time or period agreed by the trader and the consumer for delivery of the goods, but
- (b) if there is an obligation to deliver the goods at the time the contract is entered into, that time counts as the “agreed” time.

(5) Paragraphs (6) and (7) apply if the trader does not deliver the goods in accordance with paragraph (3) or at the agreed time or within the agreed period.

(6) If the circumstances are that—

- (a) the trader has refused to deliver the goods,
- (b) delivery of the goods at the agreed time or within the agreed period is essential taking into account all the relevant circumstances at the time the contract was entered into, or
- (c) the consumer told the trader before the contract was entered into that delivery in accordance with paragraph (3), or at the agreed time or within the agreed period, was essential,

then the consumer may treat the contract as at an end.

(7) In any other circumstances, the consumer may specify a period that is appropriate in the circumstances and require the trader to deliver the goods before the end of that period.

(8) If the consumer specifies a period under paragraph (7) but the goods are not delivered within that period, then the consumer may treat the contract as at an end.

(9) If the consumer treats the contract as at an end under paragraph (6) or (8), the trader must without undue delay reimburse all payments made under the contract.

(10) If paragraph (6) or (8) applies but the consumer does not treat the contract as at an end—

(a) that does not prevent the consumer from cancelling the order for any of the goods or rejecting goods that have been delivered, and

(b) the trader must without undue delay reimburse all payments made under the contract in respect of any goods for which the consumer cancels the order or which the consumer rejects.

(11) If any of the goods form a commercial unit, then the consumer cannot reject or cancel the order for some of those goods without also rejecting or cancelling the order for the rest of them.

(12) A unit is a “commercial unit” if division of the unit would materially impair the value of the goods or the character of the unit.

(13) This regulation does not prevent the consumer seeking other remedies where it is open to the consumer to do so.

### **Passing of risk**

**43.**—(1) A sales contract is to be treated as including the following provisions as terms.

(2) The goods remain at the trader’s risk until they come into the physical possession of—

(a) the consumer, or

(b) a person identified by the consumer to take possession of the goods.

(3) Paragraph (2) does not apply if the goods are delivered to a carrier who—

(a) is commissioned by the consumer to deliver the goods, and

(b) is not a carrier the trader named as an option for the consumer.

(4) In that case the goods are at the consumer’s risk on and after delivery to the carrier.

(5) Paragraph (4) does not affect any liability of the carrier to the consumer in respect of the goods.

## **PART 6**

### **Enforcement**

#### **Complaints**

**44.**—(1) It is the duty of an enforcement authority to consider any complaint made to it about a contravention of these Regulations, unless—

(a) the complaint appears to the authority to be frivolous or vexatious, or

(b) another enforcement authority has notified the CMA that it agrees to consider the complaint.

(2) If an enforcement authority has notified the CMA as mentioned in paragraph (1)(b), that authority is under a duty to consider the complaint.

(3) The following are enforcement authorities for the purposes of these Regulations—

- (a) every local weights and measures authority in Great Britain;
- (b) the Department of Enterprise, Trade and Investment in Northern Ireland.

#### **Orders to secure compliance**

**45.**—(1) An enforcement authority may apply for an injunction, or in Scotland an interdict or order of specific implement, against any person who appears to the authority to be responsible for a contravention of these Regulations.

(2) The court on an application under this regulation may grant an injunction, interdict or order on such terms as it thinks fit to secure compliance with these Regulations.

#### **Notification of undertakings and orders to the CMA**

**46.** An enforcement authority must notify the CMA—

- (a) of any undertaking given to it by or on behalf of any person who appears to it to be responsible for a contravention of these Regulations;
- (b) of the outcome of any application made by it under regulation 45, and of the terms of any undertaking given to the court or of any order made by the court;
- (c) of the outcome of any application made by it to enforce a previous order of the court.

## **PART 7**

### **Consequential amendments**

#### **Consequential amendments**

**47.** Schedule 4 makes amendments that are consequential on these Regulations.

11th December 2013

*Jo Swinson*  
Parliamentary Under-Secretary of State for  
Employment Relations and Consumer Affairs  
Department for Business, Innovation and Skills