

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/EEC and Directive 97/7/EC of the European Parliament and of the Council (Text with EEA relevance)

CHAPTER I

SUBJECT MATTER, DEFINITIONS AND SCOPE

Article 1

Subject matter

The purpose of this Directive is, through the achievement of a high level of consumer protection, to contribute to the proper functioning of the internal market by approximating certain aspects of the laws, regulations and administrative provisions of the Member States concerning contracts concluded between consumers and traders.

Article 2

Definitions

For the purpose of this Directive, the following definitions shall apply:

- (1) ‘consumer’ means any natural person who, in contracts covered by this Directive, is acting for purposes which are outside his trade, business, craft or profession;
- (2) ‘trader’ means any natural person or any legal person, irrespective of whether privately or publicly owned, who is acting, including through any other person acting in his name or on his behalf, for purposes relating to his trade, business, craft or profession in relation to contracts covered by this Directive;
- (3) ‘goods’ means any tangible movable items, with the exception of items sold by way of execution or otherwise by authority of law; water, gas and electricity shall be considered as goods within the meaning of this Directive where they are put up for sale in a limited volume or a set quantity;
- (4) ‘goods made to the consumer’s specifications’ means non-prefabricated goods made on the basis of an individual choice of or decision by the consumer;
- (5) ‘sales contract’ means any contract under which the trader transfers or undertakes to transfer the ownership of goods to the consumer and the consumer pays or undertakes to pay the price thereof, including any contract having as its object both goods and services;
- (6) ‘service contract’ means any contract other than a sales contract under which the trader supplies or undertakes to supply a service to the consumer and the consumer pays or undertakes to pay the price thereof;

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- (7) ‘distance contract’ means any contract concluded between the trader and the 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;
- (8) ‘off-premises contract’ means any contract between the trader and the consumer:
- (a) 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) for which an offer was made by the consumer in the same circumstances as referred to in point (a);
 - (c) 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; or
 - (d) concluded during an excursion organised by the trader with the aim or effect of promoting and selling goods or services to the consumer;
- (9) ‘business premises’ means:
- (a) any immovable retail premises where the trader carries out his activity on a permanent basis; or
 - (b) any movable retail premises where the trader carries out his activity on a usual basis;
- (10) ‘durable medium’ means any instrument which enables the consumer or the trader to store information addressed personally to him in a way accessible for future reference for a period of time adequate for the purposes of the information and which allows the unchanged reproduction of the information stored;
- (11) ‘digital content’ means data which are produced and supplied in digital form;
- (12) ‘financial service’ means any service of a banking, credit, insurance, personal pension, investment or payment nature;
- (13) ‘public auction’ means a method of sale where goods or services are offered by the trader to consumers, who attend or are given the possibility to attend the auction in person, through a transparent, competitive bidding procedure run by an auctioneer and where the successful bidder is bound to purchase the goods or services;
- (14) ‘commercial guarantee’ means any undertaking by the trader or a producer (the guarantor) to the consumer, in addition to his legal obligation relating to the guarantee of conformity, 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, or before the conclusion of the contract;
- (15) ‘ancillary contract’ means a contract by which the consumer acquires goods or services related to a distance contract or an off-premises contract and where those goods are supplied or those services are provided by the trader or by a third party on the basis of an arrangement between that third party and the trader.

Article 3

Scope

1 This Directive shall apply, under the conditions and to the extent set out in its provisions, to any contract concluded between a trader and a consumer. It shall also apply to contracts for the supply of water, gas, electricity or district heating, including by public providers, to the extent that these commodities are provided on a contractual basis.

2 If any provision of this Directive conflicts with a provision of another Union act governing specific sectors, the provision of that other Union act shall prevail and shall apply to those specific sectors.

3 This Directive shall not apply to contracts:

- 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 healthcare as defined in point (a) of Article 3 of Directive 2011/24/EU, whether or not they are provided via healthcare facilities;
- c for gambling, which involves wagering a stake with pecuniary value in games of chance, including lotteries, casino games and betting transactions;
- d for financial services;
- e for the creation, acquisition or transfer of immovable property or of rights in immovable property;
- f for the construction of new buildings, the substantial conversion of existing buildings and for rental of accommodation for residential purposes;

[^{F1}g on packages as defined in point 2 of Article 3 of Directive (EU) 2015/2302 of the European Parliament and of the Council⁽¹⁾.

Article 6(7), Article 8(2) and (6) and Articles 19, 21 and 22 of this Directive shall apply *mutatis mutandis* to packages as defined in point 2 of Article 3 of Directive (EU) 2015/2302 in relation to travellers as defined in point 6 of Article 3 of that Directive;]

- h which fall within the scope of Directive 2008/122/EC of the European Parliament and of the Council of 14 January 2009 on the protection of consumers in respect of certain aspects of timeshare, long-term holiday product, resale and exchange contracts⁽²⁾;
- i which, in accordance with the laws of Member States, are established by a public office-holder who has a statutory obligation to be independent and impartial and who must ensure, by providing comprehensive legal information, that the consumer only concludes the contract on the basis of careful legal consideration and with knowledge of its legal scope;
- j for the supply of foodstuffs, beverages or other goods intended for current consumption in the household, and which are physically supplied by a trader on frequent and regular rounds to the consumer's home, residence or workplace;
- k for passenger transport services, with the exception of Article 8(2) and Articles 19 and 22;
- l concluded by means of automatic vending machines or automated commercial premises;
- m concluded with telecommunications operators through public payphones for their use or concluded for the use of one single connection by telephone, Internet or fax established by a consumer.

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4 Member States may decide not to apply this Directive or not to maintain or introduce corresponding national provisions to off-premises contracts for which the payment to be made by the consumer does not exceed EUR 50. Member States may define a lower value in their national legislation.

5 This Directive shall not affect national general contract law such as the rules on the validity, formation or effect of a contract, in so far as general contract law aspects are not regulated in this Directive.

6 This Directive shall not prevent traders from offering consumers contractual arrangements which go beyond the protection provided for in this Directive.

Textual Amendments

- F1** Substituted by [Directive \(EU\) 2015/2302 of the European Parliament and of the Council of 25 November 2015 on package travel and linked travel arrangements, amending Regulation \(EC\) No 2006/2004 and Directive 2011/83/EU of the European Parliament and of the Council and repealing Council Directive 90/314/EEC.](#)

Article 4

Level of harmonisation

Member States shall not maintain or introduce, in their national law, provisions diverging from those laid down in this Directive, including more or less stringent provisions to ensure a different level of consumer protection, unless otherwise provided for in this Directive.

CHAPTER II

CONSUMER INFORMATION FOR CONTRACTS OTHER THAN DISTANCE OR OFF-PREMISES CONTRACTS

Article 5

Information requirements for contracts other than distance or off-premises contracts

1 Before the consumer is bound by a contract other than a distance or an off-premises contract, or any corresponding offer, the trader shall provide the consumer with the following information in a clear and comprehensible manner, if that information is not already apparent from the context:

- a the main characteristics of the goods or services, to the extent appropriate to the medium and to the goods or services;
- b the identity of the trader, such as his trading name, the geographical address at which he is established and his telephone number;
- c the total price of the goods or services inclusive of taxes, or where the nature of the goods or services is such that the price cannot reasonably be calculated in advance, the manner in which the price is to be calculated, as well as, where applicable, all additional freight, delivery or postal charges or, where those charges cannot reasonably be calculated in advance, the fact that such additional charges may be payable;

- d where applicable, the arrangements for payment, delivery, performance, the time by which the trader undertakes to deliver the goods or to perform the service, and the trader's complaint handling policy;
 - e in addition to a reminder of the existence of a legal guarantee of conformity for goods, the existence and the conditions of after-sales services and commercial guarantees, where applicable;
 - f the duration of the contract, where applicable, or, if the contract is of indeterminate duration or is to be extended automatically, the conditions for terminating the contract;
 - g where applicable, the functionality, including applicable technical protection measures, of digital content;
 - h where applicable, any relevant interoperability of digital content with hardware and software that the trader is aware of or can reasonably be expected to have been aware of.
- 2 Paragraph 1 shall also apply to contracts for the supply of water, gas or electricity, where they are not put up for sale in a limited volume or set quantity, of district heating or of digital content which is not supplied on a tangible medium.
- 3 Member States shall not be required to apply paragraph 1 to contracts which involve day-to-day transactions and which are performed immediately at the time of their conclusion.
- 4 Member States may adopt or maintain additional pre-contractual information requirements for contracts to which this Article applies.

CHAPTER III

CONSUMER INFORMATION AND RIGHT OF WITHDRAWAL FOR DISTANCE AND OFF-PREMISES CONTRACTS

Article 6

Information requirements for distance and off-premises contracts

- 1 Before the consumer is bound by a distance or off-premises contract, or any corresponding offer, the trader shall provide the consumer with the following information in a clear and comprehensible manner:
- a the main characteristics of the goods or services, to the extent appropriate to the medium and to the goods or services;
 - b the identity of the trader, such as his trading name;
 - c the geographical address at which the trader is established and the trader's telephone number, fax number and e-mail address, where available, to enable the consumer to contact the trader quickly and communicate with him efficiently and, where applicable, the geographical address and identity of the trader on whose behalf he is acting;
 - d if different from the address provided in accordance with point (c), the geographical address of the place of business of the trader, and, where applicable, that of the trader on whose behalf he is acting, where the consumer can address any complaints;
 - e the total price of the goods or services inclusive of taxes, or where the nature of the goods or services is such that the price cannot reasonably be calculated in advance, the manner in which the price is to be calculated, as well as, where applicable, all additional freight, delivery or postal charges and any other costs or, where those charges cannot reasonably be calculated in advance, the fact that such additional charges may be payable. In the case of a contract of indeterminate duration or a contract containing

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- a subscription, the total price shall include the total costs per billing period. Where such contracts are charged at a fixed rate, the total price shall also mean the total monthly costs. Where the total costs cannot be reasonably calculated in advance, the manner in which the price is to be calculated shall be provided;
- f the cost of using the means of distance communication for the conclusion of the contract where that cost is calculated other than at the basic rate;
 - g the arrangements for payment, delivery, performance, the time by which the trader undertakes to deliver the goods or to perform the services and, where applicable, the trader's complaint handling policy;
 - h where a right of withdrawal exists, the conditions, time limit and procedures for exercising that right in accordance with Article 11(1), as well as the model withdrawal form set out in Annex I(B);
 - i where applicable, that the consumer will have to bear the cost of returning the goods in case of withdrawal and, for distance contracts, if the goods, by their nature, cannot normally be returned by post, the cost of returning the goods;
 - j that, if the consumer exercises the right of withdrawal after having made a request in accordance with Article 7(3) or Article 8(8), the consumer shall be liable to pay the trader reasonable costs in accordance with Article 14(3);
 - k where a right of withdrawal is not provided for in accordance with Article 16, the information that the consumer will not benefit from a right of withdrawal or, where applicable, the circumstances under which the consumer loses his right of withdrawal;
 - l a reminder of the existence of a legal guarantee of conformity for goods;
 - m where applicable, the existence and the conditions of after sale customer assistance, after-sales services and commercial guarantees;
 - n the existence of relevant codes of conduct, as defined in point (f) of Article 2 of Directive 2005/29/EC, and how copies of them can be obtained, where applicable;
 - o the duration of the contract, where applicable, or, if the contract is of indeterminate duration or is to be extended automatically, the conditions for terminating the contract;
 - p where applicable, the minimum duration of the consumer's obligations under the contract;
 - q where applicable, the existence and the conditions of deposits or other financial guarantees to be paid or provided by the consumer at the request of the trader;
 - r where applicable, the functionality, including applicable technical protection measures, of digital content;
 - s where applicable, any relevant interoperability of digital content with hardware and software that the trader is aware of or can reasonably be expected to have been aware of;
 - t where applicable, the possibility of having recourse to an out-of-court complaint and redress mechanism, to which the trader is subject, and the methods for having access to it.
- 2 Paragraph 1 shall also apply to contracts for the supply of water, gas or electricity, where they are not put up for sale in a limited volume or set quantity, of district heating or of digital content which is not supplied on a tangible medium.
- 3 In the case of a public auction, the information referred to in points (b), (c) and (d) of paragraph 1 may be replaced by the equivalent details for the auctioneer.
- 4 The information referred to in points (h), (i) and (j) of paragraph 1 may be provided by means of the model instructions on withdrawal set out in Annex I(A). The trader shall have fulfilled the information requirements laid down in points (h), (i) and (j) of paragraph 1 if he has supplied these instructions to the consumer, correctly filled in.

5 The information referred to in paragraph 1 shall form an integral part of the distance or off-premises contract and shall not be altered unless the contracting parties expressly agree otherwise.

6 If the trader has not complied with the information requirements on additional charges or other costs as referred to in point (e) of paragraph 1, or on the costs of returning the goods as referred to in point (i) of paragraph 1, the consumer shall not bear those charges or costs.

7 Member States may maintain or introduce in their national law language requirements regarding the contractual information, so as to ensure that such information is easily understood by the consumer.

8 The information requirements laid down in this Directive are in addition to information requirements contained in Directive 2006/123/EC and Directive 2000/31/EC and do not prevent Member States from imposing additional information requirements in accordance with those Directives.

Without prejudice to the first subparagraph, if a provision of Directive 2006/123/EC or Directive 2000/31/EC on the content and the manner in which the information is to be provided conflicts with a provision of this Directive, the provision of this Directive shall prevail.

9 As regards compliance with the information requirements laid down in this Chapter, the burden of proof shall be on the trader.

Article 7

Formal requirements for off-premises contracts

1 With respect to off-premises contracts, the trader shall give the information provided for in Article 6(1) to the consumer on paper or, if the consumer agrees, on another durable medium. That information shall be legible and in plain, intelligible language.

2 The trader shall provide the consumer with a copy of the signed contract or the confirmation of the contract on paper or, if the consumer agrees, on another durable medium, including, where applicable, the confirmation of the consumer's prior express consent and acknowledgement in accordance with point (m) of Article 16.

3 Where a consumer wants the performance of services or the supply of water, gas or electricity, where they are not put up for sale in a limited volume or set quantity, or of district heating to begin during the withdrawal period provided for in Article 9(2), the trader shall require that the consumer makes such an express request on a durable medium.

4 With respect to off-premises contracts where the consumer has explicitly requested the services of the trader for the purpose of carrying out repairs or maintenance for which the trader and the consumer immediately perform their contractual obligations and where the payment to be made by the consumer does not exceed EUR 200:

- a the trader shall provide the consumer with the information referred to in points (b) and (c) of Article 6(1) and information about the price or the manner in which the price is to be calculated together with an estimate of the total price, on paper or, if the consumer agrees, on another durable medium. The trader shall provide the information referred to in points (a), (h) and (k) of Article 6(1), but may choose not to provide it on paper or another durable medium if the consumer expressly agrees;
- b the confirmation of the contract provided in accordance with paragraph 2 of this Article shall contain the information provided for in Article 6(1).

Member States may decide not to apply this paragraph.

5 Member States shall not impose any further formal pre-contractual information requirements for the fulfilment of the information obligations laid down in this Directive.

Article 8

Formal requirements for distance contracts

1 With respect to distance contracts, the trader shall give the information provided for in Article 6(1) or make that information available to the consumer in a way appropriate to the means of distance communication used in plain and intelligible language. In so far as that information is provided on a durable medium, it shall be legible.

2 If a distance contract to be concluded by electronic means places the consumer under an obligation to pay, the trader shall make the consumer aware in a clear and prominent manner, and directly before the consumer places his order, of the information provided for in points (a), (e), (o) and (p) of Article 6(1).

The trader shall ensure that the consumer, when placing his order, explicitly acknowledges that the order implies an obligation to pay. If placing an order entails activating a button or a similar function, the button or similar function shall be 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. If the trader has not complied with this subparagraph, the consumer shall not be bound by the contract or order.

3 Trading websites shall indicate 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.

4 If the contract is concluded through a means of distance communication which allows limited space or time to display the information, the trader shall provide, on that particular means prior to the conclusion of such a contract, at least the pre-contractual information regarding the main characteristics of the goods or services, the identity of the trader, the total price, the right of withdrawal, the duration of the contract and, if the contract is of indeterminate duration, the conditions for terminating the contract, as referred to in points (a), (b), (e), (h) and (o) of Article 6(1). The other information referred to in Article 6(1) shall be provided by the trader to the consumer in an appropriate way in accordance with paragraph 1 of this Article.

5 Without prejudice to paragraph 4, if the trader makes a telephone call to the consumer with a view to concluding a distance contract, he shall, at the beginning of the conversation with the consumer, disclose his identity and, where applicable, the identity of the person on whose behalf he makes that call, and the commercial purpose of the call.

6 Where a distance contract is to be concluded by telephone, Member States may provide that the trader has to confirm the offer to the consumer who is bound only once he has signed the offer or has sent his written consent. Member States may also provide that such confirmations have to be made on a durable medium.

7 The trader shall provide the consumer with the confirmation of the contract concluded, on a durable medium within a reasonable time after the conclusion of the distance contract, and at the latest at the time of the delivery of the goods or before the performance of the service begins. That confirmation shall include:

- a all the information referred to in Article 6(1) unless the trader has already provided that information to the consumer on a durable medium prior to the conclusion of the distance contract; and
- b where applicable, the confirmation of the consumer's prior express consent and acknowledgment in accordance with point (m) of Article 16.

8 Where a consumer wants the performance of services, or the supply of water, gas or electricity, where they are not put up for sale in a limited volume or set quantity, or of district heating, to begin during the withdrawal period provided for in Article 9(2), the trader shall require that the consumer make an express request.

9 This Article shall be without prejudice to the provisions on the conclusion of e-contracts and the placing of e-orders set out in Articles 9 and 11 of Directive 2000/31/EC.

10 Member States shall not impose any further formal pre-contractual information requirements for the fulfilment of the information obligations laid down in this Directive.

Article 9

Right of withdrawal

1 Save where the exceptions provided for in Article 16 apply, the consumer shall have a period of 14 days to withdraw from a distance or off-premises contract, without giving any reason, and without incurring any costs other than those provided for in Article 13(2) and Article 14.

2 Without prejudice to Article 10, the withdrawal period referred to in paragraph 1 of this Article shall expire after 14 days from:

- a in the case of service contracts, the day of the conclusion of the contract;
- b in the case of sales contracts, the day on which the consumer or a third party other than the carrier and indicated by the consumer acquires physical possession of the goods or:
 - (i) in the case of multiple goods ordered by the consumer in one order and delivered separately, the day on which the consumer or a third party other than the carrier and indicated by the consumer acquires physical possession of the last good;
 - (ii) in the case of delivery of a good consisting of multiple lots or pieces, the day on which the consumer or a third party other than the carrier and indicated by the consumer acquires physical possession of the last lot or piece;
 - (iii) in the case of contracts for regular delivery of goods during defined period of time, the day on which the consumer or a third party other than the carrier and indicated by the consumer acquires physical possession of the first good;
- c in the case of contracts for the supply of water, gas or electricity, where they are not put up for sale in a limited volume or set quantity, of district heating or of digital content which is not supplied on a tangible medium, the day of the conclusion of the contract.

3 The Member States shall not prohibit the contracting parties from performing their contractual obligations during the withdrawal period. Nevertheless, in the case of off-premises contracts, Member States may maintain existing national legislation prohibiting the trader from collecting the payment from the consumer during the given period after the conclusion of the contract.

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Article 10

Omission of information on the right of withdrawal

1 If the trader has not provided the consumer with the information on the right of withdrawal as required by point (h) of Article 6(1), the withdrawal period shall expire 12 months from the end of the initial withdrawal period, as determined in accordance with Article 9(2).

2 If the trader has provided the consumer with the information provided for in paragraph 1 of this Article within 12 months from the day referred to in Article 9(2), the withdrawal period shall expire 14 days after the day upon which the consumer receives that information.

Article 11

Exercise of the right of withdrawal

1 Before the expiry of the withdrawal period, the consumer shall inform the trader of his decision to withdraw from the contract. For this purpose, the consumer may either:

- a use the model withdrawal form as set out in Annex I(B); or
- b make any other unequivocal statement setting out his decision to withdraw from the contract.

Member States shall not provide for any formal requirements applicable to the model withdrawal form other than those set out in Annex I(B).

2 The consumer shall have exercised his right of withdrawal within the withdrawal period referred to in Article 9(2) and Article 10 if the communication concerning the exercise of the right of withdrawal is sent by the consumer before that period has expired.

3 The trader may, in addition to the possibilities referred to in paragraph 1, give the option to the consumer to electronically fill in and submit either the model withdrawal form set out in Annex I(B) or any other unequivocal statement on the trader's website. In those cases the trader shall communicate to the consumer an acknowledgement of receipt of such a withdrawal on a durable medium without delay.

4 The burden of proof of exercising the right of withdrawal in accordance with this Article shall be on the consumer.

Article 12

Effects of withdrawal

The exercise of the right of withdrawal shall terminate the obligations of the parties:

- (a) to perform the distance or off-premises contract; or
- (b) to conclude the distance or off-premises contract, in cases where an offer was made by the consumer.

Article 13

Obligations of the trader in the event of withdrawal

1 The trader shall reimburse all payments received from the consumer, including, if applicable, the costs of delivery without undue delay and in any event not later than 14 days from the day on which he is informed of the consumer's decision to withdraw from the contract in accordance with Article 11.

The trader shall carry out the reimbursement referred to in the first subparagraph using the same means of payment as the consumer used for the initial transaction, unless the consumer has expressly agreed otherwise and provided that the consumer does not incur any fees as a result of such reimbursement.

2 Notwithstanding paragraph 1, the trader shall not be required to reimburse the supplementary costs, if the consumer has expressly opted for a type of delivery other than the least expensive type of standard delivery offered by the trader.

3 Unless the trader has offered to collect the goods himself, with regard to sales contracts, the trader may withhold the reimbursement until he has received the goods back, or until the consumer has supplied evidence of having sent back the goods, whichever is the earliest.

Article 14

Obligations of the consumer in the event of withdrawal

1 Unless the trader has offered to collect the goods himself, the consumer shall send back the goods or hand them over to the trader or to a person authorised by the trader to receive the goods, without undue delay and in any event not later than 14 days from the day on which he has communicated his decision to withdraw from the contract to the trader in accordance with Article 11. The deadline shall be met if the consumer sends back the goods before the period of 14 days has expired.

The consumer shall only bear the direct cost of returning the goods unless the trader has agreed to bear them or the trader failed to inform the consumer that the consumer has to bear them.

In the case of off-premises contracts where the goods have been delivered to the consumer's home at the time of the conclusion of the contract, the trader shall at his own expense collect the goods if, by their nature, those goods cannot normally be returned by post.

2 The consumer shall only be liable for any diminished value of the goods resulting from the handling of the goods other than what is necessary to establish the nature, characteristics and functioning of the goods. The consumer shall in any event not be liable for diminished value of the goods where the trader has failed to provide notice of the right of withdrawal in accordance with point (h) of Article 6(1).

3 Where a consumer exercises the right of withdrawal after having made a request in accordance with Article 7(3) or Article 8(8), the consumer shall pay to the trader an amount which is in proportion to what has been provided until the time the consumer has informed the trader of the exercise of the right of withdrawal, in comparison with the full coverage

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of the contract. The proportionate amount to be paid by the consumer to the trader shall be calculated on the basis of the total price agreed in the contract. If the total price is excessive, the proportionate amount shall be calculated on the basis of the market value of what has been provided.

- 4 The consumer shall bear no cost for:
- a the performance of services or the supply of water, gas or electricity, where they are not put up for sale in a limited volume or set quantity, or of district heating, in full or in part, during the withdrawal period, where:
 - (i) the trader has failed to provide information in accordance with points (h) or (j) of Article 6(1); or
 - (ii) the consumer has not expressly requested performance to begin during the withdrawal period in accordance with Article 7(3) and Article 8(8); or
 - b the supply, in full or in part, of digital content which is not supplied on a tangible medium where:
 - (i) the consumer has not given his prior express consent to the beginning of the performance before the end of the 14-day period referred to in Article 9;
 - (ii) the consumer has not acknowledged that he loses his right of withdrawal when giving his consent; or
 - (iii) the trader has failed to provide confirmation in accordance with Article 7(2) or Article 8(7).
- 5 Except as provided for in Article 13(2) and in this Article, the consumer shall not incur any liability as a consequence of the exercise of the right of withdrawal.

Article 15

Effects of the exercise of the right of withdrawal on ancillary contracts

1 Without prejudice to Article 15 of Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers⁽³⁾, if the consumer exercises his right of withdrawal from a distance or an off-premises contract in accordance with Articles 9 to 14 of this Directive, any ancillary contracts shall be automatically terminated, without any costs for the consumer, except as provided for in Article 13(2) and in Article 14 of this Directive.

2 The Member States shall lay down detailed rules on the termination of such contracts.

Article 16

Exceptions from the right of withdrawal

Member States shall not provide for the right of withdrawal set out in Articles 9 to 15 in respect of distance and off-premises contracts as regards the following:

- (a) service contracts after the service has been fully performed if the performance has begun with the consumer's prior express consent, and with the acknowledgement that he will lose his right of withdrawal once the contract has been fully performed by the trader;

- (b) the supply of goods or services 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 withdrawal period;
- (c) the supply of goods made to the consumer's specifications or clearly personalised;
- (d) the supply of goods which are liable to deteriorate or expire rapidly;
- (e) the supply of sealed goods which are not suitable for return due to health protection or hygiene reasons and were unsealed after delivery;
- (f) the supply of goods which are, after delivery, according to their nature, inseparably mixed with other items;
- (g) the supply of alcoholic beverages, the price of which has been agreed upon at the time of the conclusion of the sales contract, the delivery of which can only take place after 30 days and the actual value of which is dependent on fluctuations in the market which cannot be controlled by the trader;
- (h) contracts where the consumer has specifically requested a visit from the trader for the purpose of carrying out urgent repairs or maintenance. If, on the occasion of such visit, the trader provides services in addition to those specifically requested by the consumer or goods other than replacement parts necessarily used in carrying out the maintenance or in making the repairs, the right of withdrawal shall apply to those additional services or goods;
- (i) the supply of sealed audio or sealed video recordings or sealed computer software which were unsealed after delivery;
- (j) the supply of a newspaper, periodical or magazine with the exception of subscription contracts for the supply of such publications;
- (k) contracts concluded at a public auction;
- (l) the provision of accommodation other than for residential purpose, transport of goods, car rental services, catering or services related to leisure activities if the contract provides for a specific date or period of performance;
- (m) the supply of digital content which is not supplied on a tangible medium if the performance has begun with the consumer's prior express consent and his acknowledgment that he thereby loses his right of withdrawal.

CHAPTER IV

OTHER CONSUMER RIGHTS

Article 17

Scope

1 Articles 18 and 20 shall apply to sales contracts. Those Articles shall not apply to contracts for the supply of water, gas or electricity, where they are not put up for sale in a limited volume or set quantity, of district heating or the supply of digital content which is not supplied on a tangible medium.

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2 Articles 19, 21 and 22 shall apply to sales and service contracts and to contracts for the supply of water, gas, electricity, district heating or digital content.

Article 18

Delivery

1 Unless the parties have agreed otherwise on the time of delivery, the trader shall deliver the goods by transferring the physical possession or control of the goods to the consumer without undue delay, but not later than 30 days from the conclusion of the contract.

2 Where the trader has failed to fulfil his obligation to deliver the goods at the time agreed upon with the consumer or within the time limit set out in paragraph 1, the consumer shall call upon him to make the delivery within an additional period of time appropriate to the circumstances. If the trader fails to deliver the goods within that additional period of time, the consumer shall be entitled to terminate the contract.

The first subparagraph shall not be applicable to sales contracts where the trader has refused to deliver the goods or where delivery within the agreed delivery period is essential taking into account all the circumstances attending the conclusion of the contract or where the consumer informs the trader, prior to the conclusion of the contract, that delivery by or on a specified date is essential. In those cases, if the trader fails to deliver the goods at the time agreed upon with the consumer or within the time limit set out in paragraph 1, the consumer shall be entitled to terminate the contract immediately.

3 Upon termination of the contract, the trader shall, without undue delay, reimburse all sums paid under the contract.

4 In addition to the termination of the contract in accordance with paragraph 2, the consumer may have recourse to other remedies provided for by national law.

Article 19

Fees for the use of means of payment

Member States shall prohibit traders from charging consumers, in respect of the use of a given means of payment, fees that exceed the cost borne by the trader for the use of such means.

Article 20

Passing of risk

In contracts where the trader dispatches the goods to the consumer, the risk of loss of or damage to the goods shall pass to the consumer when he or a third party indicated by the consumer and other than the carrier has acquired the physical possession of the goods. However, the risk shall pass to the consumer upon delivery to the carrier if the carrier was commissioned by the consumer to carry the goods and that choice was not offered by the trader, without prejudice to the rights of the consumer against the carrier.

Article 21

Communication by telephone

Member States shall ensure that where the trader operates a telephone line for the purpose of contacting him by telephone in relation to the contract concluded, the consumer, when contacting the trader is not bound to pay more than the basic rate.

The first subparagraph shall be without prejudice to the right of telecommunication services providers to charge for such calls.

Article 22

Additional payments

Before the consumer is bound by the contract or offer, the trader shall seek the express consent of the consumer to any extra payment in addition to the remuneration agreed upon for the trader's main contractual obligation. If the trader has not obtained the consumer's express consent but has inferred it by using default options which the consumer is required to reject in order to avoid the additional payment, the consumer shall be entitled to reimbursement of this payment.

CHAPTER V

GENERAL PROVISIONS

Article 23

Enforcement

1 Member States shall ensure that adequate and effective means exist to ensure compliance with this Directive.

2 The means referred to in paragraph 1 shall include provisions whereby one or more of the following bodies, as determined by national law, may take action under national law before the courts or before the competent administrative bodies to ensure that the national provisions transposing this Directive are applied:

- a public bodies or their representatives;
- b consumer organisations having a legitimate interest in protecting consumers;
- c professional organisations having a legitimate interest in acting.

Article 24

Penalties

1 Member States shall lay down the rules on penalties applicable to infringements of the national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive.

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2 Member States shall notify those provisions to the Commission by 13 December 2013 and shall notify it without delay of any subsequent amendment affecting them.

Article 25

Imperative nature of the Directive

If the law applicable to the contract is the law of a Member State, consumers may not waive the rights conferred on them by the national measures transposing this Directive.

Any contractual terms which directly or indirectly waive or restrict the rights resulting from this Directive shall not be binding on the consumer.

Article 26

Information

Member States shall take appropriate measures to inform consumers and traders of the national provisions transposing this Directive and shall, where appropriate, encourage traders and code owners as defined in point (g) of Article 2 of Directive 2005/29/EC, to inform consumers of their codes of conduct.

Article 27

Inertia selling

The consumer shall be exempted from the obligation to provide any consideration in cases of unsolicited supply of goods, water, gas, electricity, district heating or digital content or unsolicited provision of services, prohibited by Article 5(5) and point 29 of Annex I to Directive 2005/29/EC. In such cases, the absence of a response from the consumer following such an unsolicited supply or provision shall not constitute consent.

Article 28

Transposition

1 Member States shall adopt and publish, by 13 December 2013, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of these measures in the form of documents. The Commission shall make use of these documents for the purposes of the report referred to in Article 30.

They shall apply those measures from 13 June 2014.

When Member States adopt those measures, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2 The provisions of this Directive shall apply to contracts concluded after 13 June 2014.

Article 29

Reporting requirements

1 Where a Member State makes use of any of the regulatory choices referred to in Article 3(4), Article 6(7), Article 6(8), Article 7(4), Article 8(6) and Article 9(3), it shall inform the Commission thereof by 13 December 2013, as well as of any subsequent changes.

2 The Commission shall ensure that the information referred to in paragraph 1 is easily accessible to consumers and traders, inter alia, on a dedicated website.

3 The Commission shall forward the information referred to in paragraph 1 to the other Member States and the European Parliament. The Commission shall consult stakeholders on that information.

Article 30

Reporting by the Commission and review

By 13 December 2016, the Commission shall submit a report on the application of this Directive to the European Parliament and the Council. That report shall include in particular an evaluation of the provisions of this Directive regarding digital content including the right of withdrawal. The report shall be accompanied, where necessary, by legislative proposals to adapt this Directive to developments in the field of consumer rights.

CHAPTER VI

FINAL PROVISIONS

Article 31

Repeals

Directive 85/577/EEC and Directive 97/7/EC, as amended by Directive 2002/65/EC of the European Parliament and of the Council of 23 September 2002 concerning the distance marketing of consumer financial services⁽⁴⁾ and by Directives 2005/29/EC and 2007/64/EC, are repealed as of 13 June 2014.

References to the repealed Directives shall be construed as references to this Directive and shall be read in accordance with the correlation table set out in Annex II.

Article 32

Amendment to Directive 93/13/EEC

In Directive 93/13/EEC, the following Article is inserted:

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Article 8a

1 Where a Member State adopts provisions in accordance with Article 8, it shall inform the Commission thereof, as well as of any subsequent changes, in particular where those provisions:

- extend the unfairness assessment to individually negotiated contractual terms or to the adequacy of the price or remuneration; or,
- contain lists of contractual terms which shall be considered as unfair,

2 The Commission shall ensure that the information referred to in paragraph 1 is easily accessible to consumers and traders, inter alia, on a dedicated website.

3 The Commission shall forward the information referred to in paragraph 1 to the other Member States and the European Parliament. The Commission shall consult stakeholders on that information.

Article 33

Amendment to Directive 1999/44/EC

In Directive 1999/44/EC, the following Article is inserted:

Article 8a

Reporting requirements

1 Where, in accordance with Article 8(2), a Member State adopts more stringent consumer protection provisions than those provided for in Article 5(1) to (3) and in Article 7(1), it shall inform the Commission thereof, as well as of any subsequent changes.

2 The Commission shall ensure that the information referred to in paragraph 1 is easily accessible to consumers and traders, inter alia, on a dedicated website.

3 The Commission shall forward the information referred to in paragraph 1 to the other Member States and the European Parliament. The Commission shall consult stakeholders on that information.

Article 34

Entry into force

This Directive shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

Article 35

Addressees

This Directive is addressed to the Member States.

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- (1) [^{F1}Directive (EU) 2015/2302 of the European Parliament and of the Council of 25 November 2015 on package travel and linked travel arrangements, amending Regulation (EC) No 2006/2004 and Directive 2011/83/EU of the European Parliament and of the Council and repealing Council Directive 90/314/EEC (OJ L 326, 11.12.2015, p. 1).]
- (2) OJ L 33, 3.2.2009, p. 10.
- (3) OJ L 133, 22.5.2008, p. 66.
- (4) OJ L 271, 9.10.2002, p. 16.

Textual Amendments

- F1** Substituted by [Directive \(EU\) 2015/2302 of the European Parliament and of the Council of 25 November 2015 on package travel and linked travel arrangements, amending Regulation \(EC\) No 2006/2004 and Directive 2011/83/EU of the European Parliament and of the Council and repealing Council Directive 90/314/EEC](#).