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STATUTORY INSTRUMENTS

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**2010 No. 2960**

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

**PART 2**

**KEY DEFINITIONS**

**Regulated contract**

3. A “regulated contract” means a contract which—
- (a) is a holiday accommodation contract (see regulation 4) to which these Regulations apply (see regulation 5), but
  - (b) is not an excluded arrangement (see regulation 6).

**Holiday accommodation contracts**

- 4.—(1) A “holiday accommodation contract” means—
- (a) a timeshare contract,
  - (b) a long-term holiday product contract,
  - (c) a resale contract, or
  - (d) an exchange contract.
- (2) See regulations 7 to 10 for definitions of these types of contract.

**Holiday accommodation contracts to which these Regulations apply**

5.—(1) These Regulations apply to a holiday accommodation contract which falls within any of paragraphs (2) to (4).

(2) A holiday accommodation contract falls within this paragraph if it is to any extent governed by the law of—

- (a) the United Kingdom, or
- (b) a part of the United Kingdom.

(3) A holiday accommodation contract falls within this paragraph if—

- (a) it is to any extent governed by the law of a third country,
- (b) the relevant accommodation is in immovable property situated in an EEA State, and
- (c) the parties to the contract are to any extent subject to the jurisdiction of a court in the United Kingdom in relation to the contract.

(4) A holiday accommodation contract falls within this paragraph if—

- (a) it is to any extent governed by the law of a third country,
- (b) it is not directly related to immovable property,

- (c) the trader carries on commercial or professional activities in the United Kingdom or by any means directs such activities to the United Kingdom, and
  - (d) the contract falls within the scope of those activities.
- (5) In this regulation—
- (a) “relevant accommodation” means—
    - (i) the accommodation which is the subject of the contract, or
    - (ii) in a case where a pool of accommodation is the subject of the contract, some or all of the accommodation in that pool;
  - (b) “third country” means a country other than an EEA state.

### **Excluded arrangements**

6.—(1) An “excluded arrangement” is an arrangement to which any of the following paragraphs apply.

(2) This paragraph applies to multiple reservations of accommodation to the extent that they do not imply rights and obligations beyond those arising from the separate reservations.

(3) This paragraph applies to a lease agreement which provides for a single continuous period of occupation.

(4) This paragraph applies to a loyalty scheme, operating within a group of hotels, which provides consumers with discounts on future stays at hotels within the group where—

- (a) no consideration is payable in respect of membership of the scheme, and
- (b) consideration payable by consumers for accommodation at hotels within the group is not payable primarily for the purpose of obtaining discounts or other benefits in respect of accommodation.

(5) This paragraph applies to a contract of insurance where the effecting or carrying out of such a contract constitutes a regulated activity for the purposes of the Financial Services and Markets Act 2000(1).

### **Timeshare contracts**

7.—(1) A “timeshare contract” means a contract between a trader and a consumer—

- (a) under which the consumer, for consideration, acquires the right to use overnight accommodation for more than one period of occupation, and
- (b) which has a duration of more than one year, or contains provision allowing for the contract to be renewed or extended so that it has a duration of more than one year.

(2) The reference to “accommodation” in paragraph (1) includes a reference to accommodation within a pool of accommodation.

### **Long-term holiday product contracts**

8. A “long-term holiday product contract” means a contract between a trader and a consumer—

- (a) the main effect of which is that the consumer, for consideration, acquires the right to obtain discounts or other benefits in respect of accommodation, and
- (b) which has a duration of more than one year, or contains provision allowing for the contract to be renewed or extended so that it has a duration of more than one year,

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(1) 2000 c.8.

irrespective of whether the contract makes provision for the consumer to acquire other services.

### **Resale contracts**

**9.** A “resale contract” means a contract between a trader and a consumer under which the trader, for consideration, assists the consumer in buying or selling rights under a timeshare contract or under a long-term holiday product contract.

### **Exchange contracts**

- 10.—**(1) An “exchange contract” means a contract between—
- (a) a consumer who is also party to a timeshare contract, and
  - (b) a trader,

under which the consumer, for consideration, joins a timeshare exchange system.

(2) A “timeshare exchange system” is a system which allows a consumer access to overnight accommodation or other services in exchange for giving other persons temporary access to the benefits deriving from the consumer’s timeshare contract.

### **“Consumer” and “trader”**

- 11.—**(1) In these Regulations—

“consumer” means an individual who is not acting for the purposes of a trade, business, craft or profession;

“trader” means—

- (a) a person acting for purposes relating to that person’s trade, business, craft or profession, or
- (b) anyone acting in the name of, or on behalf of, a person falling within paragraph (a).

(2) Any reference in these Regulations to a consumer or trader in relation to a regulated contract, means—

- (a) in the case of a contract which has been entered into, the consumer or trader who is party to the contract, or
- (b) in the case of a proposed contract, the consumer and trader who will be parties to the contract, once it is entered into.