

**EXPLANATORY MEMORANDUM TO**  
**THE TIMESHARE (AMENDMENT) REGULATIONS 2011**

**2011 No. 1065**

1. This explanatory memorandum has been prepared by the Department for Business, Innovation and Skills and is laid before Parliament by Command of Her Majesty.

This explanatory memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Purpose of the instrument**

- 2.1 These Regulations correct errors in the Timeshare, Holiday Products, Resale and Exchange Contracts Regulations 2010, SI 2010/2960 (the Timeshare Regulations), which were made in December 2010 to implement an EU Directive on the protection of consumers in respect of certain aspects of timeshare, long-term holiday product, resale and exchange contracts<sup>1</sup> (the Timeshare Directive).

- 2.2 They do not change the policy intention of those implementing regulations.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

- 3.1 As these Regulations are making corrections to an earlier instrument, copies of these Regulations will be provided free of charge to those who purchased any of the earlier regulations.

4. **Legislative Context**

- 4.1 The Timeshare Regulations were made in December 2010 to implement the Timeshare Directive.

- 4.2 They replaced entirely the existing regime applicable to timeshare contracts by repealing the Timeshare Act 1992 and revoking the Timeshare Regulations 1997, rendering redundant subsequent Orders.

- 4.3 These regulations make minor corrections to the Criminal Justice and Police Act 2001 to ensure that cross references to the Timeshare Regulations are accurate and also amend the Consumer Credit (Agreements) Regulations 1983 to address comments in the 15th Report of the JCSI (Session 2010-11).

- 4.4 A Transposition Note was attached to the explanatory memorandum for the Timeshare Regulations and can be found at:  
<http://www.legislation.gov.uk/ukxi/2010/2960/memorandum/contents>. None of the changes made by these Regulations required the Transposition Note to be updated.

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<sup>1</sup> Directive 2008/122/EC of the European Parliament and 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 (OJ L33 Page 10, 3 February 2009)

## 5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

## 6. European Convention on Human Rights

6.1 The Minister for Employment Relations, Consumer and Postal Affairs, Edward Davey MP has made the following statement regarding human rights:

In my view the provisions of the Timeshare (Amendment) Regulations 2011 are compatible with the Convention rights.

## 7. Policy background

- *What is being done and why*

7.1 These Regulations correct errors in consequential amendments to the Criminal Justice and Police Act 2001 required on the making of the Timeshare Regulations. They ensure that the necessary amendments to the 2001 Act refer to the correct regulations in the Timeshare Regulations. The Regulations also remove a needless reference to the Timeshare Regulations in the Consumer Credit (Agreements) Regulations 1983 are removed. In neither case is the policy changed.

7.2 In relation to the Criminal Justice and Police Act 2001, the amendments ensure that provisions in that Act relating to the search for and seizure of documents refer to the correct enforcement provision in the Timeshare Regulations (regulation 33 not 32). This, in effect, continues the enforcement regime as it applied to the former timeshare regime under the Timeshare Act 1992 (now repealed).<sup>2</sup>

7.3 In relation to the Consumer Credit (Agreements) Regulations 1983, these regulations remove a reference to the Timeshare Regulations in those Regulations. The relevant provision of the 1983 Regulations requires that where a credit agreement under the Timeshare Regulations cannot be cancelled, the creditor must provide a statement to the debtor to this effect. In fact, all credit contracts which are subject to the Timeshare Regulations benefit from a right to cancellation by the debtor and the reference to the Timeshare Regulations is therefore otiose.

7.4 These changes are not politically or legally important.

- *Consolidation*

7.5 The Department for Business, Innovation & Skills has no plans to consolidate the Timeshare Regulations with these Regulations.

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<sup>2</sup> These changes have been approved by Parliamentary Counsel.

## **8. Consultation outcome**

8.1 A public consultation on the policy proposals for implementing the Directive ran from 9 July 2010 to 1 October 2010.

8.2 Given the minor nature of the changes, the Department has not consulted on these Regulations.

## **9. Guidance**

9.1 In December 2010, the Department published a quick start guide and Guidance for Business on the Timeshare Regulations. It will not be necessary to update the Department's guidance to reflect any of these amendments.

## **10. Impact**

10.1 These Regulations will have no additional impact on business. They have no impact on the charitable sector or voluntary bodies.

10.2 An Impact Assessment for the Timeshare Regulations was published with the Government response to the consultation and is available on the BIS website: <http://www.bis.gov.uk/assets/biscore/consumer-issues/docs/i/10-1172-implementation-timeshare-directive-government-response-to-consultation.pdf>. A separate Impact Assessment has not been prepared for these Regulations as they have no cost or benefit beyond that identified for the implementing regulations.

## **11. Regulating small business**

11.1 The legislation applies to small businesses.

## **12. Monitoring & review**

12.1 Article 17 of the Directive provides that the European Commission shall review the Directive and report to the European parliament and the Council by no later than 23 February 2014. The Department will ensure that it is in a position to participate in that review by reference to business, consumer representatives and enforcement authorities in order to ensure that the UK's experience is fully reflected in the Commission's report and any subsequent action.

## **13. Contact**

Kevin Davis at the Department for Business, Innovation and Skills, Tel: 020 7215 0329 or email: [kevin.davis@bis.gsi.gov.uk](mailto:kevin.davis@bis.gsi.gov.uk) can answer any queries regarding the instrument.