
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement most provisions of 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 (“the Directive”). The remaining provisions of the Directive are implemented in the Consumer Rights (Payment Surcharges) Regulations 2012 (“the Payment Surcharges Regulations”) and the Enterprise Act 2002 (Part 8 EU Infringements) Order 2013. That Order provides that enforcement procedures under Part 8 of the Enterprise Act 2002 apply in relation to a breach of these Regulations and the Payment Surcharges Regulations. A Transposition Note detailing how the Directive is implemented in the UK is available from the BIS website at www.gov.uk/bis.

The Regulations apply to contracts between traders and consumers, as defined in regulation 4. Some provisions of the Regulations apply only to on-premises contracts, some only to off-premises contracts, and some only to distance contracts; these terms are defined in regulation 5. Regulations 6, 7 and 27 provide for a number of excluded contracts (such as contracts for gambling, health services and services of a banking or insurance nature) to which provisions in the Regulations do not apply.

Part 2 of the Regulations requires traders to provide information to consumers in relation to contracts concluded between them. Regulation 9 and Schedule 1 specify the information (including the main characteristics of the goods or service, the identity of the trader and the total price) which a trader must provide to a consumer before entering into an on-premises contract. Regulations 10, 13 and Schedule 2 specify the information required for an off-premises contract or a distance contract (including delivery arrangements, the trader’s complaint handling policy, if there is one, and cancellation rights). Regulations 12 and 16 require the trader to provide the consumer with a copy of the signed contract or confirmation of the contract, within a reasonable time after the conclusion of the contract. Regulation 18 provides that a term is implied into the contract between the trader and the consumer that the trader has complied with the information requirements in regulations 9 to 14 and 16. Regulation 19 provides that a trader is guilty of a criminal offence if the trader enters into an off-premises contract without having provided the information on cancellation rights specified by regulation 10 and Schedule 2.

Part 3 of the Regulations contains provisions concerning a consumer’s right to cancel a distance or off-premises contract without giving any reason or incurring any costs other than those specified. Regulation 29 establishes the right to cancel. Regulation 30 provides for a cancellation period of 14 days calculated from the date of conclusion of the contract or the date of delivery, according to the type of contract. Regulation 31 provides that the cancellation period may be extended by up to 12 months if the trader does not provide the consumer with the information on cancellation rights specified in Schedule 2. Regulation 34 requires the trader to pay a refund to the consumer within 14 days of being informed of the cancellation or within 14 days of the goods being returned or evidence of return being provided; the trader may deduct from the refund an amount reflecting the diminished value of the goods caused by unnecessary handling by the consumer. Regulation 35 requires the consumer to return any goods to the trader and bear the cost of doing so, unless the trader has agreed to collect the goods or bear the costs of the consumer returning them. Regulations 36 and 37 provide that the consumer loses the right to cancel where a service or digital content is supplied during the cancellation period, if the consumer acknowledged that the right would be lost in those circumstances. Regulation 38 provides that an ancillary contract is automatically terminated on cancellation of the main contract.

Status: *This is the original version (as it was originally made).*

Part 4 of the Regulations contains provisions concerning protection from unsolicited sales and additional charges which have not been expressly agreed in advance. Regulation 39 introduces a new provision into the Consumer Protection Unfair Trading Regulations 2008 which provides that a consumer is not required to pay for the unsolicited supply of products. Regulation 40 provides that a consumer is not required to make payments in addition to those agreed for the trader's main obligation, unless the consumer gave express consent before conclusion of the contract. Regulation 41 provides that where the trader operates a telephone line for consumers to contact them about a contract entered into with the trader, the consumer must not be bound to pay more than the basic rate for such telephone calls.

Part 5 contains provisions relating to the delivery of goods and the passing of risk from the trader to the consumer. Regulation 42 sets out provisions relating to the delivery of goods. It provides that goods must be delivered without undue delay and in any event not more than 30 days after the date the contract is entered into. This applies unless the trader and consumer have agreed different arrangements, including cases where there is an obligation to deliver the goods at the time the contract is entered into. Regulation 43 deals with the passing of risk from the trader to the consumer in relation to sales contracts.

Part 6 contains provisions concerning enforcement of the Regulations. Regulations 44 to 46 provide that local weights and measures authorities and the Department of Enterprise, Trade and Investment in Northern Ireland may consider complaints about surcharges, and may apply to a court for an injunction (or in Scotland an interdict or order of specific implement) against a trader acting in breach of the Regulations.

Regulation 47 makes a number of consequential amendments to primary and secondary legislation which are necessary as a result of these Regulations. These are set out in Schedule 4.

The Regulations extend to England and Wales, Scotland and Northern Ireland. Regulation 2 provides that the Regulations supersede the Consumer Protection (Distance Selling) Regulations 2000 and the Cancellation of Contracts made in a Consumer's Home or Place of Work etc Regulations 2008. Regulation 3 requires the Secretary of State to review the Regulations within 5 years.

An impact assessment of the effect that the instrument will have on the costs of business, the voluntary sector and the public sector is available from the BIS website at www.gov.uk/bis.