
STATUTORY INSTRUMENTS

2013 No. 3134

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

PART 2

Information requirements

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.