

2015 No. 1629

CONSUMER PROTECTION

The Consumer Contracts (Amendment) Regulations 2015

Made - - - - *27th August 2015*

Laid before Parliament *28th August 2015*

Coming into force - - *1st October 2015*

The Secretary of State is a Minister designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to matters relating to consumer protection and to the control of advertising. The Secretary of State makes the following Regulations in exercise of the powers conferred by section 2(2) of that Act and section 96(1) and (2) of the Consumer Rights Act 2015(c).

Citation, commencement and application

1.—(1) These Regulations may be cited as the Consumer Contracts (Amendment) Regulations 2015 and come into force on 1st October 2015.

(2) These Regulations apply in relation to contracts entered into on or after that date.

Amendments to the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013

2. The Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013(d) are amended as set out in regulations 3 to 8.

3.—(1) In regulation 6(1)(a)(i) (limits of application: general), omit “or”.

(2) At the end of regulation 6(1)(a)(ii), insert—

“or

(iii) participating in a lottery which forms part of the National Lottery within the meaning of the National Lottery etc. Act 1993(e)”.

4.—(1) For regulation 9(3) (information to be provided before making an on-premises contract), substitute—

“(3) If the contract is for the supply of digital content other than for a price paid by the consumer—

(a) S.I. 1993/2661 and S.I. 1985/749.

(b) 1972 c.68; section 2(2) was amended by section 27 of the Legislative and Regulatory Reform Act 2006 (c.51) and by section 3 of, and the Schedule to, the European Union (Amendment) Act 2008 (c.7).

(c) 2015 c.15.

(d) S.I. 2013/3134, amended by S.I. 2014/870.

(e) 1993 c.39; section 1(3) was amended by section 3 of the National Lottery Act 2006 (c.23). There are other amendments but none is relevant.

- (a) any information that the trader gives the consumer as required by this regulation is to be treated as included as a term of the contract, and
- (b) a change to any of that information, made before entering into the contract or later, is not effective unless expressly agreed between the consumer and the trader ”.

(2) Omit regulation 9(4).

5.—(1) For regulation 10(5) (information to be provided before making an off-premises contract), substitute—

“(5) If the contract is for the supply of digital content other than for a price paid by the consumer—

- (a) any information that the trader gives the consumer as required by this regulation is to be treated as included as a term of the contract, and
- (b) a change to any of that information, made before entering into the contract or later, is not effective unless expressly agreed between the consumer and the trader ”.

(2) Omit regulation 10(6).

6.—(1) For regulation 13(6) (information to be provided before making a distance contract), substitute—

“(6) If the contract is for the supply of digital content other than for a price paid by the consumer—

- (a) any information that the trader gives the consumer as required by this regulation is to be treated as included as a term of the contract, and
- (b) a change to any of that information, made before entering into the contract or later, is not effective unless expressly agreed between the consumer and the trader ”.

(2) Omit regulation 13(7).

7. In regulation 34(6) (reimbursement by trader in the event of withdrawal or cancellation), for “44” substitute “32”.

8. Omit Part 5 (delivery and risk).

Amendment to the Consumer Protection from Unfair Trading Regulations 2008

9.—(1) The Consumer Protection from Unfair Trading Regulations 2008(a) are amended as follows.

(2) In regulation 27I(6) (how does the right to a discount work?), for “Paragraph (5)” substitute “Paragraph (4)”.

27th August 2015

Nick Boles
Minister of State for Skills
Department for Business, Innovation and Skills

(a) S.I. 2008/1277, amended by S.I. 2014/870; there are other amending instruments but none is relevant.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 (S.I. 2013/3134) (“the 2013 Regulations”), which implement 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 (OJ No L 304, 22.11.2011, p.64) (“the Directive”). The amendments come into force on 1st October 2015 and apply to contracts entered into on or after that date. They include amendment and revocation of provisions of the 2013 Regulations in consequence of the Consumer Rights Act 2015 (“the Act”), where the Act re-implements certain obligations of the Directive.

The Regulations also make a minor amendment to the Consumer Protection from Unfair Trading Regulations 2008 (S.I. 2008/1277) (“the 2008 Regulations”).

Regulation 3 amends the exclusion from the 2013 Regulations for contracts for gambling, to clarify that the 2013 Regulations do not apply to a contract to the extent that it is for participating in the National Lottery.

Regulations 4 to 6 are made in consequence of the Act and revoke provisions of the 2013 Regulations to the extent they are replicated in the Act. The Act applies to contracts for a trader to supply digital content to a consumer in return for a price paid by the consumer, whereas the 2013 Regulations also apply to other contracts for a trader to supply digital content to a consumer. The provisions substituted by regulations 4(1), 5(1) and 6(1) therefore apply to contracts for a trader to supply digital content to a consumer in return for something other than a price. For other contracts – that is, contracts for a trader to supply digital content to a consumer for a price, or to supply goods or services to a consumer – equivalent provisions of the Act apply to any information that the trader gives to the consumer as required by regulations 9, 10 or 13 of the 2013 Regulations. The relevant sections of the Act are sections 11(4) and (5) and 12, in relation to goods; sections 36(3) and (4) and 37, in relation to digital content; and section 50(3) and (4) in relation to services.

Regulation 7 makes a minor amendment to correct a provision in the 2013 Regulations.

Regulation 8 revokes provisions of the 2013 Regulations under which certain rules about the time for delivery of goods and the passing of risk to a consumer are to be treated as terms of a sales contract under which a consumer buys goods from a trader. Regulation 8 is made in consequence of the Act, as equivalent provisions about the time for delivery of goods and passing of risk under sales contracts are replicated in the Act, re-implementing these obligations of the Directive.

Regulation 9 makes a minor amendment to correct a provision in the 2008 Regulations.

An impact assessment has not been prepared for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen. An Explanatory Memorandum is available on www.legislation.gov.uk. An impact assessment of the effect that the 2013 Regulations 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 and is published with an Explanatory Memorandum alongside the 2013 Regulations on www.legislation.gov.uk.

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£4.25

UK201508273 09/2015 19585

<http://www.legislation.gov.uk/id/uksi/2015/1629>

ISBN 978-0-11-113877-9



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