

Subsidiary Legislation made under s.41A.

## **Consumer Rights on Contract Regulations 2013**

### **LN.2013/177**

	<i>Commencement</i>	<b>13.6.2014</b>
Amending enactments	Relevant current provisions	Commencement date
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**Transposing:**

Directive 2011/83/EU

Directive (EU) 2015/2302

**ARRANGEMENT OF REGULATIONS**

Regulation

**PART 1  
PRELIMINARY**

1. Title and commencement.
2. Interpretation.
3. Application and scope of these Regulations.

**PART 2  
PROVISION OF INFORMATION**

4. Scope and application of Part 2.
5. Information to be provided before making an on-premises contract.
6. Information to be provided before making an off-premises contract.
7. Provision of information in connection with repair or maintenance contracts.
8. Provision of copy or confirmation of off-premises contracts.
9. Information to be provided before making a distance contract.
10. Requirements for distance contracts concluded by electronic means.
11. Telephone calls to conclude a distance contract.
12. Confirmation of distance contracts.
13. Burden of proof in relation to off-premises and distance contracts.

**PART 3  
RIGHT TO CANCEL**

14. Application of Part 3.
15. Limits of application: circumstances excluding cancellation.
16. Right to cancel.
17. Normal cancellation period.
18. Cancellation period extended for breach of information requirement.
19. Exercise of the right to withdraw or cancel.
20. Effect of withdrawal or cancellation.
21. Reimbursement by trader in the event of withdrawal or cancellation.
22. Return of goods in the event of cancellation.
23. Provision of service in cancellation period.
24. Provision of digital content in cancellation period.
25. Effects of withdrawal or cancellation on ancillary contracts.

**PART 4  
GOODS**

26. Application and scope of Part 4.
27. Goods to be as described.
28. Other pre-contract information included in contract.
29. Time for delivery of goods.
30. Passing of risk.
31. Other pre-contract information included in contract (digital content).
32. Information about the trader or service to be binding.
33. Right to refund.
34. Additional payments under a contract.
35. Excessive charges prohibited.
36. Charges for communication by telephone.

**PART 5  
ENFORCEMENT PROVISIONS**

37. Complaints.
38. Orders to secure compliance and notification to the Minister.
39. Consumer's right of redress.

**PART 6  
OFFENCES AND PENALTIES**

40. Offence relating to the failure to give notice of the right to cancel.
41. Defence of due diligence.
42. Liability of persons other than the principal offender.
43. Offences committed by bodies of persons.
44. Duty to enforce.
45. Powers of investigation.
46. Obstruction of authorised officers.
47. Freedom from self-incrimination.

**PART 7  
MISCELLANEOUS**

48. Restriction on waiver.
49. Relationship with e-commerce Directive.

**SCHEDULE 1  
Information relating to on-premises contracts**

**SCHEDULE 2  
Information relating to distance and off-premises contracts**

**1960-04**

Contract and Tort

**2013/177**

**Consumer Rights on Contract Regulations 2013**

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**SCHEDULE 3**

Information about the exercise of the right to cancel

*In exercise of the powers conferred upon it by section 41A of the Contract and Tort Act, and all other enabling powers, and for the purpose of transposing into the law of Gibraltar, in part, Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directives 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 Government has made the following Regulations—*

**PART 1  
PRELIMINARY**

**Title and commencement.**

1. These Regulations may be cited as the Consumer Rights on Contract Regulations 2013 and come into operation on 13 June 2014.

**Interpretation.**

2. In these Regulations, unless the context otherwise requires-

“ancillary contract” means a contract by which the consumer acquires goods or services related to a distance contract or an off-premises contract and where those goods are supplied or those services are provided by the trader or by a third party on the basis of an arrangement between that third party and the trader;

“business premises” means-

- (a) any immovable retail premises where the trader carries out his activity on a permanent basis; or
- (b) any movable retail premises where the trader carries out his activity on a usual basis;

“commercial guarantee” means any undertaking by the trader or a producer (the guarantor) to the consumer, in addition to his legal obligation relating to the guarantee of conformity, to reimburse the price paid or to replace, repair or service goods in any way if they do not meet the specifications or any other requirements not related to conformity set out in the guarantee statement or in the relevant advertising available at the time of, or before the conclusion of the contract;

“consumer” means an individual who, in contracts to which these Regulations apply, is acting for purposes which are wholly or mainly outside that individual’s trade, business, craft or profession;

“Consumer Protection Officer” means the person appointed by section 3 of the Weights and Measures Act;

“digital content” means data which are produced and supplied in digital form;

“distance contract” means any contract concluded between the trader and the consumer under an organised distance sales or service-provision scheme without the simultaneous physical presence of the trader and the consumer, with the exclusive use of one or more means of distance communication up to and including the time at which the contract is concluded;

“durable medium” means any instrument which enables the consumer or the trader to store information addressed personally to him in a way accessible for future reference for a period of time adequate for the purposes of the information and which allows the unchanged reproduction of the information stored;

“enforcement authority” means the Consumer Protection Officer designated under regulation 37;

“financial service” means any service of a banking, credit, insurance, personal pension, investment or payment nature;

“goods” means any tangible movable items, with the exception of items sold by way of execution or otherwise by authority of law; water, gas and electricity shall be considered as goods within the meaning of these Regulations where they are put up for sale in a limited volume or a set quantity;

“goods made to the consumer’s specifications” means non-prefabricated goods made on the basis of an individual choice of or decision by the consumer;

“Minister” means the Minister with responsibility for Consumer Affairs;

“off-premises contract” means any contract between the trader and the consumer-

- (a) concluded in the simultaneous physical presence of the trader and the consumer, in a place which is not the business premises of the trader;
- (b) for which an offer was made by the consumer in the same circumstances as referred to in paragraph (a);
- (c) concluded on the business premises of the trader or through any means of distance communication immediately after the consumer was personally and individually

addressed in a place which is not the business premises of the trader in the simultaneous physical presence of the trader and the consumer; or

- (d) concluded during an excursion organised by the trader with the aim or effect of promoting and selling goods or services to the consumer;

“on-premises contract” means a contract between a trader and a consumer which is neither a distance contract nor an off-premises contract;

“public auction” means a method of sale where goods or services are offered by the trader to consumers, who attend or are given the possibility to attend the auction in person, through a transparent, competitive bidding procedure run by an auctioneer and where the successful bidder is bound to purchase the goods or services;

“sales contract” means a contract under which a trader transfers or agrees to transfer the ownership of goods to a consumer and the consumer pays or agrees to pay the price (whether or not the contract also covers services);

“service contract” means a contract, other than a sales contract, under which a trader supplies or agrees to supply a service to a consumer and the consumer pays or agrees to pay the price;

“trader” means any natural or legal person, irrespectively of whether privately or publicly owned, who is acting (personally or through an agent) for purposes relating to that person’s trade, business, craft or profession in relation to contracts to which these Regulations apply.

### **Application and scope of these Regulations.**

3. (1) Subject to regulations 4, 14 and 26, these Regulations shall apply, under the conditions and to the extent set out in its provisions, to any contract concluded between a trader and a consumer.

(2) Subject to regulations 4, 14 and 26, these Regulations shall also apply to contracts for the supply of water, gas, electricity or district heating, including by public providers, to the extent that these commodities are provided on a contractual basis.

(3) If any provision of these Regulations conflicts with a provision of another Union act governing specific sectors, the provision of that other Union act shall prevail and shall apply to those specific sectors.

(4) These Regulations shall not apply to contracts-

- (a) for social services, including social housing, childcare and support of families and persons permanently or temporarily in need, including long-term care;
- (b) for healthcare as defined in point (a) of Article 3 of Directive 2011/24/EU of the European Parliament and of the Council of 9 March 2011 on the application of patients' rights in cross-border healthcare, whether or not they are provided via healthcare facilities;
- (c) for gambling, which involves wagering a stake with pecuniary value in games of chance, including lotteries, casino games and betting transactions;
- (d) for financial services;
- (e) for the creation, acquisition or transfer of immovable property or of rights in immovable property;
- (f) for the construction of new buildings, the substantial conversion of existing buildings and for rental of accommodation for residential purposes;
- (g) which, subject to subregulation (6), fall under the definition of packages in the Package Travel, Package Holidays and Package Tours Act 1994;
- (h) which fall within the scope of the Timeshare and Related Contracts Act 1997;
- (i) which, in accordance with the laws of Gibraltar, are established by a public office-holder who has a statutory obligation to be independent and impartial and who must ensure, by providing comprehensive legal information, that the consumer only concludes the contract on the basis of careful legal consideration and with knowledge of its legal scope;
- (j) for the supply of foodstuffs, beverages or other goods intended for current consumption in the household, and which are physically supplied by a trader on frequent and regular rounds to the consumer's home, residence or workplace;
- (k) for passenger transport services, with the exception of regulations 10(1) to (5), 34 and 35;
- (l) concluded by means of automatic vending machines or automated commercial premises; and



- (m) concluded with telecommunications operators through public payphones for their use or concluded for the use of one single connection by telephone, Internet or fax established by a consumer.
- (5) Subregulation (4)(d) is subject to regulation 25(4) and 34 (3).
- (6) Regulations 10(2), 34, 35(1) and 36 shall apply mutatis mutandis to packages as defined in the Package Travel, Package Holidays and Package Tours Act 1994 in relation to the definition of “travellers” at section 2 of that same Act.

## PART 2 PROVISION OF INFORMATION

### Scope and application of Part 2.

- 4.(1) This Part applies to on-premises, off-premises and distance contracts, subject to subregulations (2), (3) and (4) and regulation 3(4).
- (2) This Part does not apply to contracts to the extent that they are-
- (a) for the supply of a medicinal product by administration by a prescriber, or under a prescription or directions given by a prescriber; and
  - (b) for the supply of a product by a health care professional or a person included in a relevant list, under arrangements for the provision of services as part of the health service, where the product is one that, at least in some circumstances is available under such arrangements free or on prescription.
- (3) This Part, except for regulation 10(1) to (5), does not apply to contracts to the extent that they are for passenger transport services.
- (4) This Part does not apply to off-premises contracts under which the payment to be made by the consumer is not more than €50.
- (5) For the purposes of this Part, something is made available to a consumer only if an average consumer would be aware of how to access it.

### Information to be provided before making an on-premises contract.

5. (1) Before the consumer is bound by an on-premises contract, the trader must give or make available to the consumer the information described in Schedule 1 in a clear and comprehensible manner, if that information is not already apparent from the context.

(2) Subregulation (1) shall apply to contracts for the supply of water, gas or electricity, where they are not put up for sale in a limited volume or set quantity, of district heating or of digital content which is not supplied on a tangible medium.

(3) Subregulation (1) shall not apply to contracts which involve day-to-day transactions and which are performed immediately at the time of their conclusion.

**Information to be provided before making an off-premises contract.**

6.(1) Before the consumer is bound by an off-premises contract or corresponding offer, the trader-

- (a) must give the consumer the information listed in Schedule 2 in a clear and comprehensible manner; and
- (b) if a right to cancel exists, must give the consumer a cancellation form as set out in part B of Schedule 3.

(2) The information and any cancellation form must be given on paper or, if the consumer agrees, on another durable medium and must be legible and in plain and intelligible language.

(3) Subregulation (1) shall apply to contracts for the supply of water, gas or electricity, where they are not put up for sale in a limited volume or set quantity, of district heating or of digital content which is not supplied on a tangible medium.

(4) The information referred to in paragraphs (k), (l) and (m) of Schedule 2 may be provided by means of the model instructions on cancellation set out in part A of Schedule 3; and a trader who has supplied those instructions to the consumer, correctly filled in, is to be treated as having complied with subregulation (1) in respect of those paragraphs.

(5) If the trader has not complied with subregulation (1) in respect of paragraph (f), (g) or (l) of Schedule 2, the consumer is not to bear the charges or costs referred to in those paragraphs.

(6) This regulation is subject to regulation 7.

**Provision of information in connection with repair or maintenance contracts.**

7.(1) If the conditions in subregulations (2), (3) and (4) are met, regulation 10(1) does not apply to an off-premises contract where-

- (a) the contract is a service contract;

- (b) the consumer has explicitly requested the trader to provide the service for the purpose of carrying out repairs or maintenance;
  - (c) the obligations of the trader and the consumer under the contract are to be performed immediately; and
  - (d) the payment to be made by the consumer is not more than €200.
- (2) The first condition is that, before the consumer is bound by the contract, the trader gives or makes available to the consumer on paper or, if the consumer expressly agrees, on another durable medium-
- (a) the information referred to in paragraphs (b) to (d) and (f) of Schedule 2;
  - (b) an estimate of the total price, where it cannot reasonably be calculated in advance; and
  - (c) where a right to cancel exists, a cancellation form as set out in part B of Schedule 3.
- (3) The second condition is that, before the consumer is bound by the contract, the trader gives or makes available to the consumer the information referred to in paragraphs (a), (k) and (n) of Schedule 2, either on paper or another durable medium or otherwise if the consumer expressly agrees.
- (4) The third condition is that the confirmation of the contract provided in accordance with regulation 8 contains the information required by regulation 6(1).

**Provision of copy or confirmation of off-premises contracts.**

- 8.(1) In the case of an off-premises contract, the trader must give or make available to the consumer a copy of the signed contract or confirmation of the contract.
- (2) The confirmation must include all the information referred to in Schedule 2 unless the trader has already provided that information to the consumer on a durable medium prior to the conclusion of the off-premises contract.
- (3) The copy or confirmation must be provided on paper or, if the consumer agrees, on another durable medium.
- (4) The copy or confirmation must be provided within a reasonable time after the conclusion of the contract, but in any event-

- (a) not later than the time of the delivery of any goods supplied under the contract;
- (b) before provision begins of any digital content provided under the contract otherwise than on a tangible medium; and
- (c) before performance begins of any service provided under the contract.

(5) If the contract is for the provision of digital content not on a tangible medium and the consumer has given the consent and acknowledgement referred to in regulation 24(1)(a) and (b), the copy or confirmation must include confirmation of the consent and acknowledgement.

**Information to be provided before making a distance contract.**

9.(1) Before the consumer is bound by a distance contract or any corresponding offer, the trader-

- (a) must give or make available to the consumer the information listed in Schedule 2 in a clear and comprehensible manner, and in a way appropriate to the means of distance communication in plain and intelligible language used; and
- (b) if a right to cancel exists, must give or make available to the consumer a cancellation form as set out in part B of Schedule 3.

(2) In so far as the information is provided on a durable medium, it must be legible.

(3) Any cancellation form must be provided on a durable medium and must be legible.

(4) The information referred to in paragraphs (l), (m) and (n) of Schedule 2 may be provided by means of the model instructions on cancellation set out in part A of Schedule 3; and a trader who has supplied those instructions to the consumer, correctly filled in, is to be treated as having complied with subregulation (1) in respect of those paragraphs.

(5) Where a distance contract is concluded through a means of distance communication which allows limited space or time to display the information-

- (a) the information listed in paragraphs (a), (b), (f), (g), (k) and (r) of Schedule 2 must be provided on that means of communication in accordance with subregulations (1) and (2), but
- (b) the other information required by subregulations (1) may be provided in another appropriate way.

(6) If the trader has not complied with subregulation (1) in respect of paragraph (f), (g) or (l) of Schedule 2, the consumer is not to bear the charges or costs referred to in those paragraphs.

**Requirements for distance contracts concluded by electronic means.**

10.(1) This regulation applies where a distance contract is concluded by electronic means.

(2) If the contract places the consumer under an obligation to pay, the trader must make the consumer aware in a clear and prominent manner, and directly before the consumer places the order, of the information listed in paragraphs (a), (f), (g), (r) and (s) of Schedule 2.

(3) The trader must ensure that the consumer, when placing the order, explicitly acknowledges that the order implies an obligation to pay.

(4) If placing an order entails activating a button or a similar function, the trader must ensure that the button or similar function is labelled in an easily legible manner only with the words 'order with obligation to pay' or a corresponding unambiguous formulation indicating that placing the order entails an obligation to pay the trader.

(5) If the trader has not complied with paragraphs (3) and (4), the consumer is not bound by the contract or order.

(6) The trader must ensure that any trading website through which the contract is concluded indicates clearly and legibly, at the latest at the beginning of the ordering process, whether any delivery restrictions apply and which means of payment are accepted.

**Telephone calls to conclude a distance contract.**

11. Without prejudice to regulation 9(5), if the trader makes a telephone call to the consumer with a view to concluding a distance contract, the trader must, at the beginning of the conversation with the consumer, disclose-

- (a) the trader's identity;
- (b) where applicable, the identity of the person on whose behalf the trader makes the call; and
- (c) the commercial purpose of the call.

**Confirmation of distance contracts.**

12.(1) In the case of a distance contract the trader must give or make available to the consumer confirmation of the contract on a durable medium.

(2) The confirmation must include all the information referred to in Schedule 2 unless the trader has already provided that information to the consumer on a durable medium prior to the conclusion of the distance contract.

(3) If the contract is for the provision of digital content not on a tangible medium and the consumer has given the consent and acknowledgment referred to in regulation 24(1)(a) and (b), the confirmation must include confirmation of the consent and acknowledgement.

(4) The confirmation must be provided within a reasonable time after the conclusion of the contract, but in any event-

- (a) not later than the time of delivery of any goods supplied under the contract;
- (b) before provision begins of any digital content provided under the contract otherwise than on a tangible medium; and
- (c) before performance begins of any service provided under the contract.

(5) For the purposes of subregulation (4), the confirmation is treated as provided as soon as the trader has sent it or done what is necessary to make it available to the consumer.

**Burden of proof in relation to off-premises and distance contracts.**

13.(1) This regulation applies to proceedings relating to contravention by a trader of a provision of regulations 6 to 12, other than proceedings-

- (a) for an offence under regulation 40; or
- (b) relating to compliance with an injunction or order under regulation 38 (1) and (2).

(2) If there are facts from which the court could, in the absence of another explanation, hold that the trader contravened the provision, the court must do so unless the trader shows that the trader did not contravene it.

**PART 3  
RIGHT TO CANCEL**

**Application of Part 3.**

14.(1) This Part applies to distance and off-premises contracts between a trader and a consumer, subject to subregulations (2) and (3) and regulations 3(4) and 15.

(2) This Part does not apply to contracts to the extent that they are-

- (a) for the supply of a medicinal product by administration by a prescriber, or under a prescription or directions given by a prescriber;
- (b) for the supply of a product by a health care professional or a person included in a relevant list, under arrangements for the provision of services as part of the health service, where the product is one that, at least in some circumstances is available under such arrangements free or on prescription; or
- (c) for passenger transport services.

(3) This Part does not apply to off-premises contracts under which the payment to be made by the consumer is not more than €50.

**Limits of application: circumstances excluding cancellation.**

15. (1) This Part does not apply as regards the following-

- (a) the supply of-
  - (i) goods, or
  - (ii) services, other than provision of water, gas, electricity or district heating, for which the price is dependent on fluctuations in the financial market which cannot be controlled by the trader and which may occur within the cancellation period;
- (b) the supply of non-prefabricated goods that are made on the basis of an individual choice of or decision by the consumer, or of goods that are clearly personalised;
- (c) the supply of goods which are liable to deteriorate or expire rapidly;
- (d) the supply of alcoholic beverages, where-
  - (i) their price has been agreed at the time of the conclusion of the sales contract,
  - (ii) delivery of them can only take place after 30 days, and
  - (iii) their value is dependent on fluctuations in the market which cannot be controlled by the trader;

- (e) contracts where the consumer has specifically requested a visit from the trader for the purpose of carrying out urgent repairs or maintenance;
  - (f) the supply of a newspaper, periodical or magazine with the exception of subscription contracts for the supply of such publications;
  - (g) contracts concluded at a public auction; and
  - (h) the provision of accommodation, transport of goods, vehicle rental services, catering or services related to leisure activities, if the contract provides for a specific date or period of performance.
- (2) Paragraph (e) of subregulation (1) does not prevent this Part applying to a contract for-
- (a) services in addition to the urgent repairs or maintenance requested; or
  - (b) goods other than replacement parts necessarily used in making the repairs or carrying out the maintenance,
- if the trader provides them on the occasion of a visit such as is mentioned in that paragraph.
- (3) The rights conferred by this Part cease to be available in the following circumstances-
- (a) in the case of a contract for the supply of sealed goods which are not suitable for return due to health protection or hygiene reasons, if they are unsealed after delivery;
  - (b) in the case of a contract for the supply of sealed audio or sealed video recordings or sealed computer software, if the goods are unsealed after delivery; or
  - (c) in the case of any sales contract, if the goods are, according to their nature, inseparably mixed with other items after delivery.

**Right to cancel.**

16.(1) The consumer may cancel a distance or off-premises contract at any time in the cancellation period without giving any reason, and without incurring any costs other than those provided for in-

- (a) regulation 21(3) (enhanced delivery chosen by consumer);
- (b) regulation 21(9) (value of goods diminished by consumer handling);



- (c) regulation 22(5) (goods returned by consumer);
- (d) regulation 23(4) (service provided at consumer's request).

(2) The cancellation period begins when the contract is entered into and ends in accordance with regulation 17 or 18.

(3) Subregulation (1) does not affect the consumer's right to withdraw an offer made by the consumer to enter into a distance or off-premises contract, at any time before the contract is entered into, without giving any reason and without incurring any costs.

**Normal cancellation period.**

17.(1) The cancellation period ends as follows, unless regulation 18 applies.

(2) If the contract is-

- (a) a service contract; or
- (b) a contract for the supply of digital content which is not supplied on a tangible medium,

the cancellation period ends at the end of 14 days after the day on which the contract is entered into.

(3) If the contract is a sales contract and none of subregulations (4) to (6) applies, the cancellation period ends at the end of 14 days after the day on which the goods come into the physical possession of-

- (a) the consumer; or
- (b) a person, other than the carrier, identified by the consumer to take possession of them.

(4) If the contract is a sales contract under which multiple goods are ordered by the consumer in one order but some are delivered on different days, the cancellation period ends at the end of 14 days after the day on which the last of the goods come into the physical possession of-

- (a) the consumer; or
- (b) a person, other than the carrier, identified by the consumer to take possession of them.

(5) If the contract is a sales contract under which goods consisting of multiple lots or pieces of something are delivered on different days, the cancellation period ends at the end of 14 days after the day on which the last of the lots or pieces come into the physical possession of-

- (a) the consumer; or
- (b) a person, other than the carrier, identified by the consumer to take possession of them.

(6) If the contract is a sales contract for regular delivery of goods during a defined period of more than one day, the cancellation period ends at the end of 14 days after the day on which the first of the goods come into the physical possession of-

- (a) the consumer; or
- (b) a person, other than the carrier, identified by the consumer to take possession of them.

**Cancellation period extended for breach of information requirement.**

18.(1) This regulation applies if the trader does not provide the consumer with the information on the right to cancel required by paragraph (k) of Schedule 2, in accordance with Part 2.

(2) If the trader provides the consumer with that information in the period of 12 months beginning with the first day of the 14 days mentioned in regulation 17 (2) to (6), but otherwise in accordance with Part 2, the cancellation period ends at the end of 14 days after the consumer receives the information.

(3) Otherwise the cancellation period ends at the end of 12 months after the day on which it would have ended under regulation 17.

**Exercise of the right to withdraw or cancel.**

19.(1) The consumer must, in order to withdraw an offer to enter into a distance or off-premises contract, inform the trader of the decision to withdraw it.

(2) The consumer must, cancel a contract under regulation 16(1), and inform the trader of the decision to cancel it.

(3) The consumer may, in order to inform the trader under subregulation (2), either-

- (a) use a form following the model cancellation form in part B of Schedule 3; or
- (b) make any other clear statement setting out the decision to cancel the contract.

(4) If the trader gives the consumer the option of filling in and submitting such a form or other statement on the trader's website-

- (a) the consumer need not use it, but
- (b) if the consumer does, the trader must communicate to the consumer an acknowledgement of receipt of the cancellation on a durable medium without delay.

(5) Where the consumer informs the trader under subregulation (2) by sending a communication, the consumer is to be treated as having cancelled the contract in the cancellation period referred to in regulations 17 and 18 if the communication is sent before the end of the period.

(6) In case of dispute it is for the consumer to show that the contract was cancelled in the cancellation period in accordance with this regulation.

**Effect of withdrawal or cancellation.**

20.(1) If a contract is cancelled under regulation 16(1)-

- (a) the cancellation ends the obligations of the parties to perform the contract; and
- (b) regulations 21 to 25 apply.

(2) Regulation 25 also applies if the consumer withdraws an offer to enter into an off-premises or distance contract.

**Reimbursement by trader in the event of withdrawal or cancellation.**

21.(1) The trader must reimburse all payments, other than payments for delivery, received from the consumer, subject to subregulation (9).

(2) The trader must reimburse any payment for delivery received from the consumer, unless the consumer expressly chose a kind of delivery costing more than the least expensive common and generally acceptable kind of delivery offered by the trader.

(3) In a case under subregulation (2), the trader must reimburse any payment for delivery received from the consumer up to the amount the consumer would have paid if the consumer had chosen the least expensive common and generally acceptable kind of delivery offered by the trader.

(4) Reimbursement must be without undue delay, and in any event not later than the time specified in subregulations (5) or (6).

(5) If the contract is a sales contract and the trader has not offered to collect the goods, the time is the end of 14 days after-

- (a) the day on which the trader receives the goods back; or
- (b) if earlier, the day on which the consumer supplies evidence of having sent the goods back.

(6) Otherwise, the time is the end of 14 days after the day on which the trader is informed of the consumer's decision to withdraw the offer or cancel the contract, in accordance with regulation 19.

(7) The trader must make the reimbursement using the same means of payment as the consumer used for the initial transaction, unless the consumer has expressly agreed otherwise.

(8) The trader must not impose any fee on the consumer in respect of the reimbursement.

(9) If (in the case of a sales contract) the value of the goods is diminished by any amount as a result of handling of the goods by the consumer beyond what is necessary to establish the nature, characteristics and functioning of the goods, the trader may recover that amount from the consumer, up to the contract price.

(10) An amount that may be recovered under subregulation (9)-

- (a) may be deducted from the amount to be reimbursed under subregulation (1);
- (b) otherwise, must be paid by the consumer to the trader.

(11) Subregulation (9) does not apply if the trader has failed to provide the consumer with the information on the right to cancel required by paragraph (k) of Schedule 2, in accordance with Part 2.

(12) For the purposes of subregulation (9) handling is beyond what is necessary to establish the nature, characteristics and functioning of the goods if, in particular, it goes beyond the sort of handling that might reasonably be allowed in a shop.

#### **Return of goods in the event of cancellation.**

22.(1) Where a sales contract is cancelled under regulation 16(1), it is the trader's responsibility to collect the goods if-

- (a) the trader has offered to collect them; or
  - (b) in the case of an off-premises contract, the goods were delivered to the consumer's home when the contract was entered into and could not, by their nature, normally be returned by post.
- (2) If it is not the trader's responsibility under subregulation (1) to collect the goods, the consumer must-
- (a) send them back; or
  - (b) hand them over to the trader or to a person authorised by the trader to receive them.
- (3) The address to which goods must be sent under subregulation (2)(a) is-
- (a) any address specified by the trader for sending the goods back;
  - (b) if no address is specified for that purpose, any address specified by the trader for the consumer to contact the trader;
  - (c) if no address is specified for either of those purposes, any place of business of the trader.
- (4) The consumer must send off the goods under subregulation (2)(a), or hand them over under subregulation (2)(b), without undue delay and in any event not later than 14 days after the day on which the consumer informs the trader as required by regulation 19(2).
- (5) The consumer must bear the direct cost of returning goods under subregulation (2), unless-
- (a) the trader has agreed to bear those costs; or
  - (b) the trader failed to provide the consumer with the information about the consumer bearing those costs, required by paragraph (1) of Schedule 2, in accordance with Part 2.
- (6) The consumer-
- (a) is not required to bear any other cost of returning goods under subregulation (2); and
  - (b) is not required to bear any cost of collecting of goods under subregulation (1).

**Provision of service in cancellation period.**

23.(1) Under a service contract, the trader must not begin the supply of the service before the end of the cancellation period provided for in regulation 17(1) unless the consumer has made an express request on a durable medium.

(2) In the case of a service other than provision of water, gas, electricity or district heating, the consumer ceases to have the right to cancel a service contract under regulation 16(1) if the service has been fully performed, and performance of the service began-

- (a) after a request by the consumer in accordance with subregulation (1); and
- (b) with the acknowledgement that the consumer would lose that right once the contract had been fully performed by the trader.

(3) Subregulations (4) to (6) apply where a contract is cancelled under regulation 16(1) and a service has been provided in the cancellation period.

(4) Where the service is provided in response to a request in accordance with subregulation (1), the consumer must (subject to subregulation (6)) pay to the trader an amount-

- (a) for the provision of the service for the period for which it is provided, ending with a day not later than the last day before the trader is informed of the consumer's decision to cancel the contract, in accordance with regulation 19(2); and
- (b) which is in proportion to what has been provided, in comparison with the full coverage of the contract.

(5) The amount is to be calculated-

- (a) on the basis of the total price agreed in the contract; or
- (b) if the total price is excessive, on the basis of the market value of the service that has been provided, calculated by comparing prices for equivalent services provided by other traders.

(6) The consumer bears no cost for provision of the service, in full or in part, in the cancellation period, if-

- (a) the trader has failed to provide the consumer with the information on the right to cancel required by paragraph (k) of Schedule 2, or the information on payment of that cost required by paragraph (n) of that Schedule, in accordance with Part 2; or

- (b) the service is not provided in response to a request in accordance with subregulation (1).

**Provision of digital content in cancellation period.**

24.(1) Under a contract for the provision of digital content not on a tangible medium, the trader must not begin provision of the digital content before the end of the cancellation period provided for in regulation 17(1), unless-

- (a) the consumer has given express consent;
- (b) the consumer has acknowledged that the right to cancel the contract under regulation 16(1) will be lost; and
- (c) the trader has provided the confirmation required by regulation 8(5) or 12(3).

(2) The consumer ceases to have the right to cancel such a contract under regulation 16(1) if before the end of the cancellation period provision of the digital content has begun after the consumer has given the consent and acknowledgement required by subregulation (1).

(3) Subregulation (4) applies where a contract is cancelled under regulation 16(1) and digital content has been provided, not on a tangible medium, in the cancellation period.

(4) The consumer bears no cost for provision of the digital content, in full or in part, in the cancellation period, if-

- (a) the consumer has not given prior express consent to the beginning of the performance of the digital content before the end of the 14-day period referred to in regulation 17;
- (b) the consumer gave that consent but did not acknowledge when giving it that the right to cancel would be lost; or
- (c) the trader failed to provide confirmation required by regulation 8(5) or 12(3).

**Effects of withdrawal or cancellation on ancillary contracts.**

25.(1) Without prejudice to section 15 of the Financial Services (Moneylending) Act, if the consumer exercises his right to cancel from a distance or an off-premises contract in accordance with regulations 16 to 24 of these Regulations, any ancillary contracts shall be automatically terminated, without any costs for the consumer, except as provided for in -

- (a) regulation 21(3) (enhanced delivery chosen by consumer);

- (b) regulation 21(9) (value of goods diminished by consumer handling);
- (c) regulation 22(5) (goods returned by consumer); and
- (d) regulation 23(4) (service provided at consumer's request).

(2) When a trader is informed by a consumer under regulation 19(1) or (2) of a decision to withdraw an offer or cancel a contract, the trader must inform any other trader with whom the consumer has an ancillary contract that is terminated by subregulation (1).

(3) An “ancillary contract”, in relation to a distance or off-premises contract (the “main contract”), means a contract by which the consumer acquires goods or services related to the main contract, where those goods are supplied or those services are provided-

- (a) by the trader; or
- (b) by a third party on the basis of an arrangement between the third party and the trader.

(4) Regulation 3(4)(d) (exclusion of financial services contracts) does not limit the contracts that are ancillary contracts for the purposes of this regulation.

#### **PART 4 GOODS**

##### **Application and scope of Part 4.**

26. (1) This Part applies to a contract under which a trader supplies or agrees to supply goods to a consumer.

(2) This Part does not apply to a contract -

- (a) under which a trader supplies or agrees to supply coins or notes to a consumer for use as currency;
- (b) under which goods are sold by way of execution or otherwise by authority of law;
- (c) intended to operate as a mortgage, pledge, charge or other security;
- (d) made by deed and for which the only consideration is the presumed consideration imported by the deed.



(3) A contract to which this Part applies is referred to in this Part as a contract for the supply of goods.

(4) Contracts for the supply of goods include contracts-

- (a) entered into between one part owner and another;
- (b) for the transfer of an undivided share in goods;
- (c) that are absolute and contracts that are conditional.

(5) A sales contract under which ownership of the goods is transferred from the trader to the consumer is referred to in this Part as a sale.

(6) A sales contract under which ownership of the goods is to be transferred from the trader to the consumer at a future time or subject to a condition to be met later is referred to in this Part as an agreement to sell.

(7) An agreement to sell becomes a sale when the time elapses or the conditions are met subject to which ownership of the goods is to be transferred.

**Goods to be as described.**

27.(1) Every contract for the supply of goods by description is to be **treated** as including a term that the goods will match the description.

(2) If the supply is by sample as well as by description, it is not **sufficient** that the bulk of the goods match the sample if the goods do not also **match** the description.

(3) A supply of goods is not prevented from being a supply by **description** just because-

- (a) the goods are exposed for supply; and
- (b) they are selected by the consumer.

(4) Any information about the goods provided by the trader in accordance with paragraph (a) Schedule 1 or Schedule 2 (main characteristics of goods) is to be treated as included as a term of the contract.

(5) Subregulation (4) does not prevent the trader and consumer expressly agreeing a change to the contract.

**Other pre-contract information included in contract.**

28.(1) This regulation applies to any contract for the supply of goods.

(2) Where regulation 5, 6, 9, Schedule 1 or Schedule 2, other than paragraph (a) of either Schedules, required the trader to provide information to the consumer before the contract became binding, any information provided by the trader under that requirement is to be treated as included as a term of the contract.

(3) Subregulation (2) does not prevent the trader and consumer expressly agreeing a change to the contract.

**Time for delivery of goods.**

29.(1) This regulation applies only to a sales contract under which the trader is required to deliver the goods to the consumer but need not do so at the time when the contract is made.

(2) A contract to which this regulation applies is to be treated as including the following provisions as terms.

(3) Unless the trader and the consumer come to a different agreement about the time of delivery, the trader must deliver the goods to the consumer-

- (a) without undue delay; and
- (b) in any event, not more than 30 days after the day on which the contract is made.

(4) If the trader does not deliver the goods at the time or within the period agreed or (where there is no agreement) in accordance with subregulation (3), the consumer may require the trader to deliver the goods before the end of a further period that is specified by the consumer and is appropriate in the circumstances.

(5) Subregulation (4) does not apply if-

- (a) the trader has refused to deliver the goods;
- (b) delivery of the goods at the time or within the period agreed is essential taking into account all the relevant circumstances at the time the contract was made; or
- (c) the consumer told the trader before the contract was made that delivery at the time or within the period agreed or in accordance with subregulation (3) was essential.

(6) The consumer may treat the contract as at an end if-

- (a) in a case where subregulation (4) does not apply, the goods are not delivered at the time or within the period agreed or (where there is no agreement) in accordance with subregulation (3); or
- (b) in a case where subregulation (4) applies, the goods are not delivered within the time specified by the consumer.

(7) If subregulation (6)(a) or (b) applies but the consumer does not treat the contract as at an end, the consumer may reject the goods or reject some of them.

(8) If the consumer treats the contract as at an end under subregulation (6), the consumer has the right under regulation 33 to receive a refund.

(9) If the consumer rejects goods under subregulation (7), the consumer has the right under regulation 33 to receive a refund in respect of the goods rejected.

(10) This regulation does not prevent the consumer seeking other remedies where it is open to the consumer to do so.

**Passing of risk.**

30.(1) A sales contract is to be treated as including the following provisions as terms.

(2) The goods remain at the trader's risk until they come into the physical possession of-

- (a) the consumer; or
- (b) a person identified by the consumer to take possession of the goods.

(3) Subregulation (2) does not apply if the goods are delivered to a carrier who-

- (a) is commissioned by the consumer to deliver the goods; and
- (b) is not named by the trader for this purpose.

(4) In that case the goods are at the consumer's risk on and after delivery to the carrier.

(5) Subregulation (4) does not affect any liability of the carrier to the consumer in respect of the goods.

**Other pre-contract information included in contract (digital content).**

31.(1) This regulation applies to any contract to provide digital content.

(2) Where regulation 5 and Schedule 1, other than paragraph (a), (i) or (j) of that Schedule, or regulations 6, 9 and Schedule 2, other than paragraph (a), (m) or (v) of that Schedule, required the trader to provide information to the consumer before the contract became binding, any information provided by the trader under that requirement is to be treated as included as a term of the contract.

(3) Subregulation (2) does not prevent the trader and consumer expressly agreeing a change to the contract.

**Information about the trader or service to be binding.**

32.(1) Every contract to provide a service is to be treated as including as a term of the contract (whether or not it does so expressly) anything that-

- (a) is spoken or written to the consumer by or on behalf of the trader about the trader or the service; and
- (b) is taken into account by the consumer when deciding to enter into the contract or when making any decision about the service after entering into the contract.

(2) Without prejudice to subsection (1), any information provided by the trader in accordance with provisions of regulation 5, 6, 9, Schedule 1 or 2 is to be treated as included as a term of the contract.

(3) For the purposes of subregulation (1) a consumer cannot claim to have taken anything into account without regard to anything within subregulation (1)(a) that qualifies it.

(4) This regulation does not prevent the trader and consumer expressly agreeing a change to the contract.

**Right to refund.**

33.(1) A consumer has the right to receive a refund from the trader subject to subregulations (2) to (7)).

(2) If the consumer paid money under the contract, the right to receive a refund is the right to receive back the same amount of money.

(3) If the consumer transferred anything else under the contract, the right to receive a refund is the right to receive back the same amount of what the consumer transferred, unless subsection (4) applies.

(4) If the consumer transferred under the contract something for which the same amount of the same thing cannot be substituted, the right to receive a refund is the right to receive back in its original state whatever the consumer transferred.

(5) If the contract is for the hire of goods, the right to receive a refund extends only to anything paid or otherwise transferred, for a period of hire that the consumer does not get because the contract is treated as at an end.

(6) If the contract is a hire-purchase agreement or a conditional sales contract and the contract is treated as at an end before the whole of the price has been paid, the right to receive a refund extends only to the part of the price paid.

(7) There is no right to receive a refund if-

- (a) none of subregulations (2) to (4) applies;
- (b) subregulation (4) applies but the thing transferred cannot be given back in its original state; or
- (c) subregulation (5) applies, but what the consumer transferred under the contract cannot be divided so as to give back only the amount to which the consumer is entitled.

**Additional payments under a contract.**

34.(1) Under a contract between a trader and a consumer, no payment is payable in addition to the remuneration agreed for the trader's main obligation unless, before the consumer became bound by the contract, the trader obtained the consumer's express consent.

(2) There is no express consent (if there would otherwise be) for the purposes of this paragraph if consent is inferred from the consumer not changing a default option (such as a pre-ticked box on a website).

(3) This regulation does not apply if the trader's main obligation is to provide services within regulation 3(4)(d), but in any other case it applies even if an additional payment is for such services.

**Excessive charges prohibited.**

35.(1) No trader shall charge any consumer, in respect of the use of a given means of payment, fees that exceed the cost borne by the trader for the use of that means.

(2) Subregulation (1) applies only if the use is as a means for the consumer to make payments for the purposes of a contract with the trader, and only to the extent that that contract-

(a) is a sales contract or service contract, or a contract (other than a sales contract or service contract) for the supply of water, gas, electricity, district heating or digital content; and

(b) is not an excluded contract.

(3) An excluded contract is a contract listed in regulation 3(4).

#### **Charges for communication by telephone.**

36.(1) If a trader makes a telephone number available by which a consumer may contact the trader about a contract concluded with the trader, the consumer, when contacting the trader is not bound to pay more than the basic rate.

(2) The telephone number referred to in subregulation (1) must be one of the following-

(a) a geographic number;

(b) a mobile number; or

(c) both numbers.

(3) Subregulation (1) shall be without prejudice to the right of telecommunication services providers to charge for such calls.

### **PART 5 ENFORCEMENT PROVISIONS**

#### **Complaints.**

37.(1) The Consumer Protection Officer is designated the enforcement authority for the purposes of these Regulations.

(2) It is the duty of the enforcement authority to consider any complaint made to it about a contravention of these Regulations, unless the complaint appears to the authority to be frivolous or vexatious.

(3) The enforcement authority which is under a duty to consider a complaint under subregulation (2) must-

- (a) decide whether or not to make an application under regulation 38; and
- (b) give reasons for its decision.

**Orders to secure compliance and notification to the Minister.**

38.(1) The enforcement authority may apply for an injunction, or an order of specific implement, against any person who appears to the authority to be responsible for a contravention of these Regulations.

(2) The court on an application under this regulation may grant an injunction, or such other order and on such terms as it thinks fit, to secure compliance with these Regulations.

(3) The enforcement authority must notify the Minister-

- (a) of any undertaking given to it by or on behalf of any person who appears to it to be responsible for a contravention of regulation 35;
- (b) of the outcome of any application made by it under subregulation (1), and of the terms of any undertaking given to the court or of any order made by the court; and
- (c) of the outcome of any application made by it to enforce a previous order of the court.

**Consumer's right of redress.**

39. (1) Where a trader receives an additional payment which, under regulation 34, is not payable under a contract, the contract is to be treated as providing for the trader to repay the payment to the consumer.

(2) Where a trader makes a telephone number available that contravenes regulation 36, the contract is to be treated as providing for the trader to pay to any consumer using the number to contact the trader about a contract concluded with the trader to pay to the consumer the cost of the consumer's call.

**PART 6  
OFFENCES AND PENALTIES****Offence relating to the failure to give notice of the right to cancel.**

40.(1) A trader is guilty of an offence if the trader enters into an off-premises contract to which regulation 6 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 subregulation (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

**Defence of due diligence.**

41.(1) In any proceedings against a person (A) for an offence under regulation 40 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 subregulation (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 seven clear days before the hearing of the proceedings.

**Liability of persons other than the principal offender.**

42. Where the commission by a person of an offence under regulation 40 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.**

43.(1) Where an offence under regulation 40 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 subregulation (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.

**Duty to enforce.**

44.(1) Subject to subregulations (2) and (3), it is the duty of the enforcement authority to enforce regulation 40 within Gibraltar.

(2) No proceedings for an offence under regulation 40 shall be instituted in Gibraltar except by or on behalf of the enforcement authority.

**Powers of investigation.**

45.(1) If the enforcement authority has reasonable grounds for suspecting that an offence has been committed under regulation 40, he 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 subregulation (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 (if required) 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 could be maintained in legal proceedings.

**Obstruction of authorised officers.**

46.(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 45;
- (b) fails without reasonable cause to comply with any requirement properly made by such an officer under regulation 45; 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 45.

(2) A person giving any information which is required from that person under subregulation (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 subregulation (1) or (2) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

#### **Freedom from self-incrimination**

47. Nothing in regulation 45 or 46 is to be construed as requiring a person to answer any question or give any information if to do so might incriminate that person.

### **PART 7 MISCELLANEOUS**

#### **Restriction on waiver.**

48. A provision in a contract shall be unenforceable if it seeks to waive or restrict, either directly or indirectly, any right which is conferred on a consumer by these Regulations.

#### **Relationship with e-commerce Directive.**

49. Regulations 9 to 11, 23(1) and 24(1), regarding the formal requirements for distance contracts, shall be without prejudice to the provisions on the conclusion of e-contracts and the placing of e-orders set out in Articles 9 and 11 of Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market ('Directive on electronic commerce').

**SCHEDULE 1***Regulation 5(1), 27(4), 28(2), 31(2), 32(2)***Information relating to on-premises contracts**

The information referred to in regulation 5(1) is-

- (a) the main characteristics of the goods or services, to the extent appropriate to the medium of communication and to the goods or services;
- (b) the identity of the trader (such as the trader's trading name), the geographical address at which the trader is established and the trader's telephone number;
- (c) the total price of the goods or services inclusive of taxes, or where the nature of the goods or services is such that the price cannot reasonably be calculated in advance, the manner in which the price is to be calculated, as well as where applicable, all additional delivery charges or, where those charges cannot reasonably be calculated in advance, the fact that such additional charges may be payable;
- (d) where applicable, the arrangements for payment, delivery, performance, and the time by which the trader undertakes to deliver the goods or to perform the service;
- (e) where applicable, the trader's complaint handling policy;
- (f) in the case of a sales contract, a reminder that the trader is under a legal duty to supply goods that are in conformity with the contract;
- (g) where applicable, the existence and the conditions of after-sales services and commercial guarantees;
- (h) the duration of the contract, where applicable, or, if the contract is of indeterminate duration or is to be extended automatically, the conditions for terminating the contract;
- (i) where applicable, the functionality, including applicable technical protection measures, of digital content;
- (j) where applicable, any relevant compatibility of digital content with hardware and software that the trader is aware of or can reasonably be expected to have been aware of.

**SCHEDULE 2**

Regulations 6(1) & (4), 7(2)(a) & (3), 8(2), 9(1), (4), (5) & (6), 9(1), (4) to (6), 10 (2), 12(2), 18(1), 21(11), 22(5), 23(6)(a), 27(4), 28(2), 32(2) and 40(2).

**Information relating to distance and off-premises contracts**

The information referred to in regulations 6(1) and 9(1) is (subject to the note at the end of this Schedule)-

- (a) the main characteristics of the goods or services, to the extent appropriate to the medium of communication and to the goods or services;
- (b) the identity of the trader (such as the trader's trading name);
- (c) the geographical address at which the trader is established and the trader's telephone number, fax number and e-mail address, where available, to enable the consumer to contact the trader quickly and communicate efficiently;
- (d) where the trader is acting on behalf of another trader, the geographical address and identity of that other trader;
- (e) if different from the address provided in accordance with paragraph (c), the geographical address of the place of business of the trader, and, where the trader acts on behalf of another trader, the geographical address of the place of business of that other trader, where the consumer can address any complaints;
- (f) the total price of the goods or services inclusive of taxes, or where the nature of the goods or services is such that the price cannot reasonably be calculated in advance, the manner in which the price is to be calculated, as well as where applicable, all additional delivery charges and any other costs or, where those charges cannot reasonably be calculated in advance, the fact that such additional charges may be payable;
- (g) in the case of a contract of indeterminate duration or a contract containing a subscription, the total costs per billing period or (where such contracts are charged at a fixed rate) the total monthly costs. Where the total costs cannot be reasonably calculated in advance, the manner in which the price is to be calculated shall be provided;
- (h) the cost of using the means of distance communication for the conclusion of the contract where that cost is calculated other than at the basic rate;

- (i) the arrangements for payment, delivery, performance, and the time by which the trader undertakes to deliver the goods or to perform the services;
- (j) where applicable, the trader's complaint handling policy;
- (k) where a right to cancel exists, the conditions, time limit and procedures for exercising that right in accordance with regulations 16 to 19 and the model form set out in Part B of Schedule 3;
- (l) where applicable, that the consumer will have to bear the cost of returning the goods in case of cancellation and, for distance contracts, if the goods, by their nature, cannot normally be returned by post, the cost of returning the goods;
- (m) that, if the consumer exercises the right to cancel after having made a request in accordance with regulation 23(1), the consumer is to be liable to pay the trader reasonable costs in accordance with regulation 23(4);
- (n) where a right to cancel is not provided for in accordance with regulation 15, the information that the consumer will not benefit from a right to cancel or, where applicable, the circumstances under which the consumer loses the right to cancel;
- (o) in the case of a sales contract, a reminder that the trader is under a legal duty to supply goods that are in conformity with the contract;
- (p) where applicable, the existence and the conditions of after-sale customer assistance, after-sales services and commercial guarantees;
- (q) the existence of relevant codes of conduct, as defined in section 2 of the Consumer Protection (Unfair Trading) Act 2008, and how copies of them can be obtained, where applicable;
- (r) the duration of the contract, where applicable, or, if the contract is of indeterminate duration or is to be extended automatically, the conditions for terminating the contract;
- (s) where applicable, the minimum duration of the consumer's obligations under the contract;
- (t) where applicable, the existence and the conditions of deposits or other financial guarantees to be paid or provided by the consumer at the request of the trader;
- (u) where applicable, the functionality, including applicable technical protection measures, of digital content;

- (v) where applicable, any relevant compatibility of digital content with hardware and software that the trader is aware of or can reasonably be expected to have been aware of;
- (w) where applicable, the possibility of having recourse to an out-of-court complaint and redress mechanism, to which the trader is subject, and the methods for having access to it.

**Note:** In the case of a public auction, the information listed in paragraphs (b) to (e) may be replaced with the equivalent details for the auctioneer.

**SCHEDULE 3**

Regulations 6(1) & (4), 7(2), 9(1) & (4) and 19(3)(a).

**Information about the exercise of the right to cancel****A. Model instructions for cancellation***Right to cancel*

You have the right to cancel this contract within 14 days without giving any reason.

The cancellation period will expire after 14 days from the day [See Note 1].

To exercise the right to cancel, you must inform us [See Note 2] of your decision to cancel this contract by a clear statement (e.g. a letter sent by post, fax or e-mail). You may use the attached model cancellation form, but it is not obligatory. [See Note 3]

To meet the cancellation deadline, it is sufficient for you to send your communication concerning your exercise of the right to cancel before the cancellation period has expired.

*Effects of cancellation*

If you cancel this contract, we will reimburse to you all payments received from you, including the costs of delivery (except for the supplementary costs arising if you chose a type of delivery other than the least expensive type of standard delivery offered by us).

We may make a deduction from the reimbursement for loss in value of any goods supplied, if the loss is the result of unnecessary handling by you.

We will make the reimbursement without undue delay, and not later than-

- (a) 14 days from the day you return any goods supplied, or provide evidence that you have returned them; or
- (b) if there were no goods supplied, 14 days from the day on which we are informed about your decision to cancel this contract.

We will make the reimbursement using the same means of payment as you used for the initial transaction, unless you have expressly agreed otherwise; in any event, you will not incur any fees as a result of the reimbursement. [See Note 4].

[See Note 5]

[See Note 6]

**Notes on instructions for completion:**

1. Insert one of the following texts between inverted commas:
  - (a) in the case of a service contract or a contract for the supply of digital content which is not supplied on a tangible medium: “of the conclusion of the contract.”;
  - (b) in the case of a sales contract: “on which you acquire, or a third party other than the carrier and indicated by you acquires, physical possession of the goods.”;
  - (c) in the case of a contract relating to multiple goods ordered by the consumer in one order and delivered separately: “on which you acquire, or a third party other than the carrier and indicated by you acquires, physical possession of the last good.”;
  - (d) in the case of a contract relating to delivery of a good consisting of multiple lots or pieces: “on which you acquire, or a third party other than the carrier and indicated by you acquires, physical possession of the last lot or piece.”;
  - (e) in the case of a contract for regular delivery of goods during a defined period of time: “on which you acquire, or a third party other than the carrier and indicated by you acquires, physical possession of the first good.”.
2. Insert your name, geographical address and, where available, your telephone number, fax number and e-mail address.
3. If you give the option to the consumer to electronically fill in and submit information about the consumer’s cancellation from the contract on your website, insert the following: “You can also electronically fill in and submit the model cancellation form or any other clear statement on our website [insert Internet address]. If you use this option, we will communicate to you an acknowledgement of receipt of such a cancellation on a durable medium (e.g. by e-mail) without delay.”.
4. In the case of sales contracts in which you have not offered to collect the goods in the event of cancellation insert the following: “We may withhold reimbursement until we have received the goods back or you have supplied evidence of having sent back the goods, whichever is the earliest.”.
5. If the consumer has received goods in connection with the contract
  - (a) insert:



—“We will collect the goods.”; or,

—“You shall send back the goods or hand them over to us or ... [insert the name and geographical address, where applicable, of the person authorised by you to receive the goods], without undue delay and in any event not later than 14 days from the day on which you communicate your cancellation from this contract to us. The deadline is met if you send back the goods before the period of 14 days has expired.”

(b) insert:

—“We will bear the cost of returning the goods.”,

—“You will have to bear the direct cost of returning the goods.”,

—If, in a distance contract, you do not offer to bear the cost of returning the goods and the goods, by their nature, cannot normally be returned by post: “You will have to bear the direct cost of returning the goods, ... [insert the amount].”; or if the cost of returning the goods cannot reasonably be calculated in advance: “You will have to bear the direct cost of returning the goods. The cost is estimated at a maximum of approximately ... [insert the amount].”; or

—If, in an off-premises contract, the goods, by their nature, cannot normally be returned by post and have been delivered to the consumer’s home at the time of the conclusion of the contract: “We will collect the goods at our own expense.”; and,

(c) insert:

“You are only liable for any diminished value of the goods resulting from the handling other than what is necessary to establish the nature, characteristics and functioning of the goods.”

6. In the case of a service contract insert the following: “If you requested to begin the performance of services during the cancellation period, you shall pay us an amount which is in proportion to what has been performed until you have communicated us your cancellation from this contract, in comparison with the full coverage of the contract.”.

### **B. Model cancellation form**

To [here the trader’s name, geographical address and, where available, fax number and e-mail address are to be inserted by the trader]:

**1960-04**

**Contract and Tort**

**2013/177**

**Consumer Rights on Contract Regulations 2013**

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I/We [\*] hereby give notice that I/We [\*] cancel my/our [\*] contract of sale of the following goods [\*]/for the provision of the following service [\*],

Ordered on [\*/received on [\*],

Name of consumer(s),

Address of consumer(s),

Signature of consumer(s) (only if this form is notified on paper),

Date

[\*] Delete as appropriate.