

## Increase in cancellation rights for consumers who enter into “Doorstep” contracts during solicited visits from traders.

New regulations came into effect on 1st October 2008 with regard to rights for consumers who enter into contracts during both solicited (at the request of the consumer) and unsolicited (uninvited) visits by traders. These may include visits to the consumers home, workplace, another individuals home, or a visit away from the traders business premises in the UK, organised by the trader, subject to exceptions.

Traders are now obliged to provide the consumer with all of the following terms and conditions:

- A cooling off period of at least seven working days, commencing the date the consumer receives notice from the trader of the right to cancel.
- The right to cancel a contract within the cooling off period, where the total payment value is in excess of £35.
- The consumers cancellation rights must be clearly and prominently visible in any written contract. Where there is no written contract, the cancellation rights must be given in writing.

These regulations apply to all aspects of door to door sales of goods and services, including but not exclusive to, that of home improvement, security, repair and maintenance, energy efficiency products/installations and consumer goods/homeware.

Should these regulations be applicable to your business, you are required to understand the new requirements and ensure your sales contracts are compliant.

In addition to these regulations, the Consumer Protection from Unfair Trading Regulations 2008 (CPRs) came in to effect on 26th May 2008, protecting the consumer from unfair business practices by a trader directly connected with the promotion, sale or supply of products to the consumer.

These CPRs recognise three types of consumer, four types of trading practices, and the fact that different types of consumers will have different reactions to different types of trading practices.

The three types of consumer are listed as:

- The average consumer
- The targeted consumer
- The vulnerable consumer

The trading practices are split into four distinct categories, as follows:

### Prohibited Trading Practices, including:

- **False claims** of membership of trade associations, and that a product has been approved by a public or private body when this is not the case
- **Misleading Availability**, where a consumer is lured into purchasing a specific item at a low price, when the trader is fully aware that he/she does not have sufficient stock to supply the order or is knowingly unable to supply at the advertised price, or forcing the consumer into making an immediate decision by falsely claiming a product is only available for a limited time.
- **Misleading Context**, such as inaccurately claiming a trader is to cease trading or relocate premises when they are not, or deceptively stating the product has curative properties. Advertising a product as “free” where the consumer is required to pay more than the cost of the product for responding to the advertisement and collecting or the delivery of the product. Stating in paperwork, such as an invoice, that the consumer has ordered a product when they have not. Failing to point out that an individual is actually a trader, or appearing to be a consumer, such as not indicating trade status when selling a second hand car.
- **Pyramid Schemes** – the promotion or operation of Pyramid Schemes are prohibited where a consumer receives income derived primarily from the introduction of other consumers into the scheme rather than from the sale or consumption of products
- **Prize Draws** where the prizes advertised in the competition are not awarded or implying the consumer has won a prize when there is no prize or there is a cost incurred by the consumer for the prize
- **Aggressive Sales** - giving the consumer the impression they are unable to leave the premises unless a contact is signed or refusing to leave a consumers home when asked (unless the trader has a legal right to enforce a contractual obligation). Relentlessly contacting the consumer, unless the trader has a legal right to enforce a contractual obligation or informing the consumer that a traders job will be in jeopardy if the consumer does not purchase the product.
- **Pester Power** - encouraging children to purchase a product, or to persuade their parents to purchase the item for them
- **Unreasonable Demands**, such as requesting irrelevant documents where a consumer intends to claim on an insurance policy or failure to respond to a consumer, with the intention of discouraging the consumer from exercising their contractual rights.

## Misleading Actions & Omissions:

- **Misleading Actions** are prohibited under the CPRs and occur when there is a deceptive presentation to the product or information supplied which causes the consumer to take a different purchasing decision. Misleading actions include creating confusion with competitors products, failing to honour commitments made in a code of conduct and general misleading information, such as the nature of the product, its main characteristics / price and the requirement for servicing /parts / replacement and repair.
- **Misleading Omissions** are also prohibited under the CPR's where insufficient information is provided with relation to a product in order for the consumer to make an informed choice and influences their transactional decision.
- **Material Information** - traders are required to provide consumers with information required by the consumer to make an informed choice. It is against the CPR's to withhold or hide material information, or provide information in an unclear, unintelligible or ambiguous manner or to fail to identify the commercial intent.



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## Aggressive Practices:

Aggressive practices which intimidate or exploit customers are prohibited as they restrict consumers ability to make free choices. Commercial practices are deemed to be aggressive where they significantly impair the consumers freedom of choice by way of harassment, coercion or undue influence and thereby causes them to take a different transactional decision.

The following details are used to determine whether or not traders practices are deemed to be aggressive:

- Timing, location, nature or persistence
- Use of threatening/abusive language or behaviour
- Exploitation by the trader of any specific misfortune or circumstance which impairs the consumers judgement in order to influence the consumers decision with regard to the product.
- Any onerous or disproportionate non-contractual barrier imposed by the trader where a consumer wishes to exercise rights under the contract, such as their right to terminate the contract or switch to another product or trader
- Any threat to take legal action, which cannot be taken

## General Duty to Trade Fairly:

Traders have a duty to their consumers to trade fairly. Should the traders fall short of this duty, action may be taken against them.

## Consequences of Non-Compliance:

Failure to comply with the "Consumer Protection from Unfair Trading Regulations 2008" (CPR's) can result in a civil enforcement action being taken out against a trader for a breach of the CPR's under part 8 of the Enterprise Act 2002, which could result in up to two years imprisonment and/or an unlimited fine.

## Further information:

The Department for Business, Enterprise and Regulatory Reform (BERR) has more guidance for businesses on its website:

[www.berr.gov.uk/whatwedo/consumers/buying-selling/Doorstep-selling/index.html](http://www.berr.gov.uk/whatwedo/consumers/buying-selling/Doorstep-selling/index.html)