



Department
for Business
Innovation & Skills

**CONSUMER CONTRACTS
(INFORMATION, CANCELLATION
AND ADDITIONAL CHARGES)
REGULATIONS**

Implementing Guidance

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Consumer Contracts (Information, Cancellation and Additional Charges) Regulations

If you are a trader selling goods, services or digital content to a consumer, these regulations will apply to you.¹

The regulations set out:

- the information which a trader must give to a consumer before and after making a sale
- how that information should be given
- the right for consumers to change their minds when buying at a distance or off-premises
- delivery times and passing of risk
- a prohibition on any additional payments which appear as a default option
- a prohibition on consumers having to pay more than the basic rate for post-contract customer helplines.

These regulations will apply to contracts concluded on or **after 13 June 2014**.² On this date, the distance selling regulations 2000 and off-premises (doorstep) regulations 2008 will be revoked.

Where goods received are faulty or not fit for purpose or as described, consumers have different rights which are covered by separate legislation.³

Information:

- Many of the information provisions are already required by existing legislation and will be familiar to traders, but a small number are new. For example, information, when buying digital content, on what systems or hardware it will work with.
- Schedule 1 to the regulations lists the information to be provided for on-premises contracts
- Schedule 2 to the regulations lists the information to be provided for distance and off-premises contracts
- Where cancellation rights exist, all distance and off-premises sellers covered by the regulations will need to provide the cancellation form set out in Schedule 3 to the regulations.

¹ See B below for exemptions

² Cancellation of Contracts in a Consumer's Home or Place of Work etc. Regulations 2008

³ <https://www.gov.uk/government/publications/draft-consumer-rights-bill>

- The online trader will need to make absolutely clear, through for instance a labelled 'pay now' button, where there is an obligation to pay.

Cancellation rights (distance and off-premises contracts only):

- Cancellation rights will continue to apply to off-premises and distance contracts only. The cancellation period will extend from the current 7 calendar days (for off-premises) and 7 working days (for distance sales) to 14 calendar days for both to give consumers more time to change their minds.
- Consumers should return items within 14 days of cancellation
- Online and other distance or off-premises traders will be able to withhold refunds until goods are returned (or evidence of return is provided) and they can reduce the amount of money refunded for goods returned which show evidence of use beyond the handling necessary to see whether the goods are as expected.
- Traders must refund within 14 days of cancellation of service contract or receipt of goods (or of evidence of the consumer returning them).
- Where the consumer cancels a contract, any ancillary contract (such as a warranty or credit agreement) is automatically cancelled.

Delivery and risk

- Unless the trader and consumer agree otherwise, delivery of goods should be without undue delay and within 30 days.
- Risk passes from the trader to the consumer when the goods are delivered unless the courier is one not offered or named by the trader as an option, but chosen and arranged by the consumer. In this case risk passes to the consumer when the item is delivered to the courier.

No additional payments as default option

- Traders will need the active consent of the consumer for all payments – pre-ticked boxes for additional payments, for instance, will no longer be permitted.
- Consumers will not be liable for costs which they have not been told, pre-contract, that they must bear.

No phone charges in excess of basic rate for post-contract phone queries

- Where traders offer telephone helplines for consumers to contact them about something they have bought, there should be a number available on which the consumer can call for this purpose at no more than the basic rate.

Frequently asked questions

- A. Definitions
- B. Exemptions
- C. Application to on-premises traders
- D. Application to distance sellers
- E. Particular rules for supply of digital content
- F. Application to traders selling off-premises
- G. Provision of Information
- H. Cancellation rights
- I. Prohibition on default option for additional payments
- J. Prohibition on phone charges exceeding basic rate

A. Definitions

What is a distance contract or an off premises contract?

I sell on the phone but also visit people to sell my products. What kind of contracts are these?

1. Phone and online sales, where the trader and consumer are not physically together, are distance contracts. Contracts concluded away from business premises and where both are present, e.g. when visiting homes, are off-premises contracts. Generally, the same information must be given for both, although requirements over the way information is given are slightly different and it remains a criminal offence not to inform a consumer buying off-premises of their cancellation rights.

I sell from a regular pitch at a Saturday market. Am I selling off-premises?

2. No. Off premises contracts are concluded at places which are **not** the business premises of the trader. Business premises includes movable premises such as market stalls, provided you carry on your business there on a usual basis.

What is a sales, service or digital contract?

3. The regulations recognise three types of contract: sales contracts (including digital content on a tangible medium such as a DVD), service contracts and contracts for digital content supplied through downloads and streaming. A service contract covers the provision of services only. Sales contracts cover both contracts for the supply of goods alone AND mixed contracts such as the supply and fitting of appliances. As a rule of thumb, in the regulations, where there is a sales contract which is a mixed contract, the goods rules for return

and reimbursement will apply to the goods supplied, and the rules on services supplied in the cancellation period will apply to any services offered. (See also questions on 'cancellation' below)

I run team-building and leadership courses. As part of the course I give the students pens and a folder. Is this a sales contract?

4. This is likely to be a service rather than a sales contract unless provision of the folder was a key part of the contract. In determining whether a contract is a 'sales' or 'services' contract, it is useful to consider whether transfer of ownership of any goods is a key objective. Whereas, for the supply and fitting of a washing machine, this would clearly be the case, and so would be a sales contract, the inclusion of pens and stationery for a training course is unlikely to be.

What is an ancillary contract?

5. An ancillary contract is a contract related to the main contract but subsidiary to it. This will tend to be types of contract which the consumer would have been unlikely to have entered into if they had not entered into the main contract. Examples include a warranty for a television, insurance for a jewellery purchase or a credit agreement to buy a sofa. Under the regulations, where the consumer cancels the main contract, the ancillary contract is automatically cancelled and it is the trader's responsibility to notify any relevant third party. [See also 'cancellation rights' in section H. below]

I sell electrical goods online. I know I must offer 14 day cancellation period. I don't offer a warranty but the customer has bought one elsewhere. Is this an ancillary contract?

6. No. There are two conditions which must be met for a contract to be ancillary under the regulations. It must be for the purchase of goods or services related to the main contract AND, be provided by the trader to the main contract or by a third party **with whom the trader has an arrangement**. So if you offered a warranty to the consumer, at checkout, whether offered directly by you, or by a third party, that would be an ancillary contract. But if the consumer approached another trader independently for a warranty, that would not be an ancillary contract.

B. Exemptions

Which sectors are not covered?

1. Contracts exempt from the provisions in the regulations:
 - o gambling as covered by the Gambling Act 2005

- construction and sale of immovable property including building of new properties
- residential letting contracts
- package travel contracts
- timeshare contracts
- supply of consumables by regular roundsmen such as milkmen
- purchases from vending machines
- single telecom connections (e.g. payphones and café internet connection)
- financial services are generally exempt although warranties, credit agreements and insurance which are offered in conjunction with the sale of a non-financial goods or services, will still need to meet the requirements for cancellation of ancillary contracts and additional payments not being a default option.

2. *Contracts which are only partly covered:*

- passenger transport contracts are exempt from cancellation rights and from most of the information requirements.
- Low value off-premises contracts (value less than £42) are exempt from the information and cancellation provisions of the regulations but subject to those on additional payments and charges and delivery and risk.
- Items dispensed on prescription are exempt from the information and cancellation provisions of the regulations.

I am an estate agent. The regulations exempt contracts which create rights in immovable property? Do I need to comply with the regulations?

3. Yes. The exemption relates to the contract between the vendor or landlord/lessor and the buyer or tenant/lessee, and not to associated services such as marketing, vetting, inventory listing etc. by estate agents.

I am a builder and have agreed a contract with a local resident to build a large extension at the back of their house and a summer house at the bottom of their garden? Does the 'creation of immovable property' exemption mean that the regulations won't apply to the goods and services I am providing?

4. No, you will be subject to the regulations. The exemption refers to 'standalone' residential properties such as new builds and substantial conversion work comparable to constructing a new building such as flat conversions. Extensions, conservatories and the like do not create new rights to the property but simply extend an existing property, so the regulations apply.

I'm a retailer selling high value jewellery online. Consumers can buy insurance for their purchases on my site. Insurance is a financial service. Does that mean none of the regulations apply?

5. The regulations will of course apply to the jewellery sale. In addition, two of the regulations will also apply to the insurance part of the transaction. The insurance bought in this way is likely to be an ancillary contract and so will be automatically cancelled should the consumer change their mind within the cancellation period. In addition, the express consent for additional payments provision will apply which means that the consumer must actively agree the payment e.g. by ticking the relevant box. Payment must not be the default option for any additional payment, whether of a financial services nature or not.

C. Application to On-Premises retailers

[I have a shop on the high street. What do I have to do?](#)

1. Firstly, check that the goods or services you sell are not within those wholly or partly exempt from the regulations. (See B1/2 above)
2. Schedule 1 lists the information that you need to provide to the consumer buying in your shop. This is unlikely to differ materially from what you already do. The regulations only require you to give the information in Schedule 1 where it is not obvious from the circumstances. Thus, you would not need to give information such as your address if the location of the shop is evident nor, for instance, a description of a dictionary if the customer can pick it up to examine it, the front cover makes clear what it is.
3. If you agree to deliver any items, unless you agree otherwise with the customer, goods should be delivered without undue delay and within 30 days.
4. If you offer a phonenumber for post contract queries, there should be a number available on which the consumer can call for this purpose at no more than the basic rate. (See guidance on basic rate in section J below)
5. Any purchases in your shop which can be classed as day-to-day transactions completed immediately, will be exempt from the information requirements in schedule 1. However, even if this exemption from the regulations applies, you still need to comply with applicable information requirements in both the Consumer Protection from Unfair Trading Regulations (the 'CPRs') and the price marking order, which require important information on the nature and price of products to be given.

[Day-to-day transactions which are completed immediately are exempt from the information requirements for on-premises traders. What are these?](#)

6. The principle behind the exemption for day-to-day transactions sold on premises is that the consumer will be very familiar with the goods or services, and their cost, so that that the level of information required by the Regulations would be superfluous. Thus buying a cup of coffee, the daily paper, weekly

groceries, a tube of toothpaste etc. would all constitute day-to-day transactions. By their nature, such transactions are likely to be low cost items.

D. Application to distance sellers (for sellers of downloaded digital content see also E. below)

I am an online trader selling to consumers. What do I need to know?

1. Under the current Consumer Protection (Distance Selling) Regulations 2000 you will already be familiar with many of the information and cancellation rights.
2. Firstly, check that the goods or services you sell are not within those exempt from all or part of the regulations. See B1/2 above
3. Provide the information listed in Schedule 2 of the regulations and make available (e.g by giving a link) a model cancellation form as set out in Schedule 3, (if a right to cancel exists) precontract in a manner which is suitably clear for the consumer to understand and appropriate to the distance means being used (e.g. over the phone, on your website etc.)
4. Make sure you make clear all costs, including potential ones they may incur in the future. If you cannot give a firm cost upfront, you must show on what basis the final cost will be calculated. With regard to returns, you must make clear that the consumer must pay for returns if they cancel, unless you are willing to pay for that cost. If the item is not normally returnable by post, you should give an indication of how much it would cost the consumer to return.
5. For online sales the consumer must explicitly acknowledge any obligation to pay. (For example, a button that says 'pay now'). This is the case, even if taking payment is to be deferred (e.g. if preceded by a free trial period).
6. You must make information on main characteristics, total price (including any delivery or other charges), and if applicable the minimum duration of any obligation and how to terminate, clear and prominent, directly before the consumer places their order.
7. Make sure that any additional payments are not a default option which the consumer has to act to avoid. (e.g. do not pre-tick boxes for the consumer which they would have to untick to avoid a charge).
8. Once the contract is concluded you must provide confirmation on a durable medium [see section G below - 'Providing Information'] within a reasonable time and not later than the delivery of the goods or commencement of services. (For digital content – see E. below)

The burden of proof that the required information has been given rests with the trader so it is in your interests to keep good records.

9. If the consumer wishes any services to commence within the 14 day cancellation period you should gain their explicit consent and advise them that

if they later cancel they will need to pay for any services delivered until the point at which they cancel.

10. The customer has 14 days from receipt of the goods or conclusion of a contract for services to change their mind. They do not have to give a reason. (See H6 below for exceptions to right to cancel)

11. Provided the customer makes a clear statement that they want to cancel this need not be in writing. Once they have done so, they should return any goods within 14 days.

12. You should ensure that any third party to an ancillary contract is notified and that, where appropriate, refunds are effected (see ancillary contracts below).

13. You should refund all monies received, including the outbound delivery cost, within 14 days of cancellation of the services contract or within 14 days of receiving goods back. If the consumer provides proof of return before you receive the goods back, you should refund within 14 days of receiving that proof. If the consumer chose to have the goods delivered by more expensive means than the cheapest standard delivery option offered, you do not have to refund the full outbound delivery cost, but only the cost of the standard delivery option which the consumer could have chosen.

14. You have a right to deduct monies from refunds where goods show signs of unreasonable use leading to diminished value. You cannot usually deduct for removal of packaging to inspect the item, but you can deduct for damage or wear and tear where the item has not just been checked but used.

15. Unless you agree otherwise with the customer, goods should be delivered without undue delay and within 30 days. If you agree a particular date or period for delivery, you should deliver within that time

16. If you offer a phonenumber for post contract queries, there should be a number available on which the consumer can call for this purpose at no more than the basic rate. [See guidance on basic rate in section J below

[I am a trader selling tickets online, what do I need to do?](#)

17. Schedule 2 of the Regulations lists the information you must provide to the consumer. Information on the main characteristics of the tickets and their total price (including delivery costs and other charges) must be given to the consumer in a clear and comprehensible way before the consumer purchases the ticket. Main characteristics include (if known to you) the date and time of the event and the content of the event (eg who is performing). For a ticket associated with a particular reserved seat (eg Seat 1, Row A) the seat number is a main characteristic that you should give the consumer. Depending on the circumstances, the face value of a ticket you are reselling may also be a main characteristic you should give. Where the ticket is for a specific date cancellation rights will not apply. You must also make sure you

comply with other aspects of these regulations such as ensuring that additional payments are not selected automatically for the buyer and that where phone helplines are offered for post-contract queries, the caller does not have to pay more than the basic rate (see section J).

E. Particular provisions for sellers of downloaded digital content

[I sell digital content downloads. Do the regulations apply to me?](#)

1. Yes, they do.
2. You will be subject to the information requirements as set out in points 1. – 7. in D. above. You also need to be aware of the following points.
3. Confirmation of the contract should be given on a durable medium and sent within a reasonable time frame after the conclusion of the contract.
4. Consumers will not have a right to cancel once a download has started PROVIDED you have told them this and obtained their explicit acknowledgement to this.
5. If you offer a phonenumber for post contract queries, there should be a number available on which the consumer can call for this purpose at no more than the basic rate. [See guidance on basic rate in section J below

F. Application to off-premises sellers

[I sell household repair services and goods to consumers in their homes. What do I need to know?](#)

1. The provisions of the Cancellation of Contracts made in a Consumer's Home or Place of Work etc. Regulations 2008 (also known as the 'doorstep' or off-premises regulations) currently set out cancellation rights for consumers. The 'doorstep' regulations will be replaced by these new regulations which will:

- extend the cancellation period to 14 days
- start the cancellation period, for sales contracts (including mixed contracts), from when the goods are received or for services contracts from when the contract is concluded and

- provide a new model cancellation form for you to give to the consumer.

They also set out the information you must give the consumer both before and once the contract is concluded.

2. Firstly, check that the goods or services you sell are not within those exempt from all or part of the regulations. (See B1/2 above)
3. Provide the information listed in Schedule 2 precontract , including the model cancellation form if the consumer has a right to cancel. The information and form should be provided on paper or, if the consumer agrees, another durable medium (see G. below on forms of durable media) and in a manner which is clear for the consumer to understand.
4. Make sure you make clear all costs, including potential ones they may incur in the future. If you cannot give a firm cost upfront, you must show on what basis the final cost will be calculated. With regard to any returns, you must make clear that the consumer must pay for returns if their contract includes goods to be returned, unless you are willing to pay for that cost.
5. Where goods sold are left with the customer at the time the contract is made and by their nature cannot normally be returned by post (for example bulky items like furniture), you are responsible for collecting them and the customer is not obliged to pay for their return.
6. Make sure that any additional payments are not a default option which the consumer has to act to avoid. (e.g. if you provide a form do not pre-tick boxes for the consumer or include wording that must be deleted to avoid additional payments).
7. If the consumer wishes any services to commence within the 14 day cancellation period you should gain their explicit consent on a durable medium and advise them that if they later cancel they will need to pay for any services delivered until the point at which they cancel.
8. Once the contract is concluded you must provide a copy of the signed contract, or confirmation of the contract. This must be provided on paper or, if the consumer agrees, on another durable medium, (see below under 'Providing Information') not later than the delivery of the goods or commencement of services.

The burden of proof that the required information has been given rests with the trader so it is in your interests to keep good records.

9. If you have been called to a home by the consumer to effect emergency repairs the consumer does not have a right to cancel. However, they do have a right to cancel any non-urgent services, or any goods other than replacement parts you needed to use for the emergency repairs, which they contracted for whilst you are there.

10. Otherwise, the customer has 14 days from receipt of the goods or conclusion of a contract for services to change their mind. They do not have to give a reason. (See H.6. below for exceptions to right to cancel)

11. Provided the customer makes a clear statement that they want to cancel this need not be in writing. Once they have done so, they should return any goods within 14 days.

12. You should ensure that any third party to an ancillary contract is notified and that, where appropriate, refunds are effected (see ancillary contracts below).

13. You should refund all monies received, including the outbound delivery cost, within 14 days of cancellation of the services contract or within 14 days of receiving goods back. If the consumer provides proof of return before you receive the goods back, you should refund within 14 days of receiving that proof. If the consumer chose to have the goods delivered by more expensive means than the cheapest standard delivery option offered, you do not have to refund the full outbound delivery cost, but only the cost of the standard delivery option which the consumer could have chosen.

14. You have a right to deduct monies from refunds where goods show signs of unreasonable use leading to diminished value. You cannot usually deduct for removal of packaging to inspect the item, but you can deduct for damage or wear and tear where the item has not just been checked but used.

15. Unless you agree otherwise with the customer, goods should be delivered without undue delay and within 30 days. If you agree a particular date or period for delivery, you should deliver within that time

16. If you offer a phonenumber for post contract queries, there should be a number available on which the consumer can call for this purpose at no more than the basic rate. (See guidance on basic rate below at J)

G. Providing Information

Provision on a durable medium

1. The purpose of the 'durable medium' requirement is to ensure that, should a dispute arise at some point after the contract has been concluded, both parties have a record about what was agreed. The burden of proof that the relevant information has been provided rests with the trader. A durable medium allows the consumer to access information directed personally to them, in an unchangeable format for as long as they might reasonably need it.

2. A durable medium allows, amongst other things, for information to be addressed personally to the recipient. Although information should be personally directed to the consumer, (for instance in an email, letter or personal account) the information itself need not be exclusive or tailored to the consumer, in the same way that a letter directed specifically to a customer can include standard terms and conditions

I am a trader selling online and off-premises. I am trying to move away from a paper-based system. How can I meet my obligations to provide information on a durable medium?

3. The regulations require confirmations for distance contracts and off-premises contracts to be provided on a durable medium⁴. The confirmation is additional to the information you must give the consumer before making the sale. You do not need to include this information in your confirmation if you have already provided it on a durable medium pre contract.

4. There are a number of ways in which the trader can meet their obligation to ensure that they provide the relevant information in a durable medium.

- A **letter** is a durable medium. **Sending it** is provision of that medium. Provided the trader took reasonable care to send it to the address given to them by the consumer the trader is likely to have met their obligation.
- A **CD/DVD** is a durable medium. **Sending it** is provision of that medium. Even if the consumer does not have a CD/DVD player, the information has still been provided.
- An **email** is a durable medium. However, information contained via link to a website which may change, and which is embedded in an email is not. **Sending** the email to the address given by the consumer is provision of that medium. If the consumer does not look at their email account, or deletes the email, the information has nevertheless been provided on the durable medium.
- A **text** message is a durable medium. **Sending** it to the consumer's notified telephone number is provision.
- A '**personal account**' (such as those used by phone companies for online billing) on a trader website can be, or include an aspect which is a durable medium. It must be capable of storing information personal to the consumer, in a format which will be left unchanged and remain accessible to the consumer for a reasonable amount of time. **Placing** the information in the relevant part of the personal account is the provision of the information on the durable medium so that if the

⁴ For off-premises contracts the consumer must agree to receive information on a durable medium other than paper

consumer wants to see it they have to log into it (in a similar way that they have to open emails, a letter or a text).

I sometimes visit homes to sell services. Do I always need to hand over a confirmation letter or send one in the post for these sales?

5. Whilst confirmation must always be provided for off-premises sales on a durable medium, it need not be in the form of a letter in the post if the consumer agrees to receive it on another durable medium, like those listed above. Again, the confirmation is additional to the information you must give the consumer before making the sale but you do not need to repeat this information if you have already provided it in writing or on an agreed durable medium.

I sell conveyancing services online. Do I need to get the consumer's express request to begin my services in the cancellation period on a durable medium?

6. No. Only the early start of services under off-premises contracts require the consumer's express request to be made on a durable medium.

More favourable terms

7. The regulations do not preclude the trader from offering more favourable terms than required by the regulations.

I sell kitchenware to consumers and offer a 28 day money-back period. Do I have to tell them about the 14 days?

8. You do not have to tell them about the 14 days if you offer more and give the consumer full information about your terms. However, if your favourable terms do not include all of the requirements mandated under the regulations you must make this clear. For instance, if the consumer selects your standard delivery option then, if they cancel and return the goods, your refund should include any outbound delivery costs should they change their mind within the statutory 14 day cancellation period. You can, however, ask them to pay both outbound and inbound delivery costs if they cancel outside that period. If you intend that they should pay for such a return within your extended period (i.e. after 14 days have elapsed) you must make this clear.

H. Rules on Cancellation (these apply to distance and off-premises contracts)

1. Unless outside the scope of the regulations (or the relevant Parts) (see B1/2 above) or specifically exempted from cancellation rights (see H.6 below), consumers who enter into (or offer to enter into) off premises or distance contracts will have 14 calendar days in which to change their minds, and do not have to give a reason for doing so. They must be provided with the cancellation form as set out in schedule 3 of the regulations but do not have to use it as long as they make clear that they are cancelling.

Because the burden of proof for showing cancellation within the cancellation period rests with the consumer, it will be in the consumer's interest to keep some record of the cancellation.

2. The 14 days for cancellation start the day after the goods have been received or, in the case of service contracts, the contract was entered into. Where different goods within an order are delivered at different times the cancellation period will run from the day after delivery of the last item.

3. The consumer should generally return any goods within 14 days unless the trader has offered to collect them

4. The trader should refund within 14 days of receiving the goods back or receiving proof they have been sent back, or in the case of services, of being informed of cancellation.

5. Where services to which cancellation rights apply are delivered during the cancellation period (for example the provision of water, gas, electricity and district heating) the trader will need to take into account the nature of that service and the consequences of cancellation in that context in order to ensure that a consumer does not incur liability as a result of exercising the right to cancel. The obligations of the consumer in the event of withdrawal should not discourage the consumer from exercising his right of withdrawal.

[What types of contracts are exempt from cancellation rights?](#)

6. As well as contracts wholly exempted from the regulations, a number of online and off-premises contracts do not attract cancellation rights. These include:

- 'investment' type products such as vintage wines, subject to speculative purchase and where the price in the financial market may vary (utilities such as supply of gas are not covered by this exception).
- Bespoke and customised goods
- Goods which will deteriorate or expire rapidly
- Newspapers and magazines (but not subscriptions for such)
- Contracts concluded at public auction

- Goods received sealed for health protection or hygiene reasons once unsealed
- Sealed audio, video and software products once unsealed
- Goods once they have been inseparably mixed after delivery
- Contracts where the consumer has contacted the trader to effect urgent household repairs
- Contracts for accommodation, transport of goods, vehicle rental, catering or services related to leisure activities if the contract provides for a specific date or period of performance.
- Services which have been fully performed (i.e. completed).

I'm a trader selling goods on ebay. Does the auction exemption apply to me?

7. No. The exemption is for goods sold at a public auction, which is defined as an auction which a consumer can, if they wish, attend in person.

A customer called me because a pipe had broken and flooded the kitchen. I went straight over and repaired the pipe. While I was there I agreed to provide new lagging for the hotwater cylinder which had deteriorated. She called me the next day to cancel. Can she do that?

8. Yes. Although you were there to carry out immediate emergency repairs, any additional work of a non-urgent nature attracts cancellation rights in the same way as any other non-emergency repair. In this situation, before you agree to supply lagging you should tell her of her cancellation rights and provide the cancellation form. She is not obliged to use the form. The phone call would suffice.

There is an exemption for leisure service activities on specific dates. What kind of things does that exempt?

9. This exemption helps protect traders who may set aside specific capacity for a consumer which they may not be easily able to fill or resell should the consumer change their mind. This would include car hire, wedding venues, theatre tickets for specific performances etc. Traders may still of course decide to offer the consumer the ability to cancel should they choose.

I supplied and fitted a dishwasher for a customer under an off-premises contract. A week later she contacted me and told me she no longer wanted the dishwasher, that it had not been used and that she was returning it. Can she do that?

10. Yes she can provided she cancelled within 14 days of delivery of the dishwasher at her home. Although plumbed in, the dishwasher can be removed. She must however pay you the charge agreed for the installation service you provided. This is provided you had her express consent to start the work in the cancellation period and told her she would have to pay. She must also pay for the return of the dishwasher, if you told her she would be

liable, in advance and provided you did not deliver the dishwasher to her at the time the contract was entered into. In addition, she will be liable for any diminished value if when the dishwasher is returned it shows signs of use.

I offer will-writing services online. I agreed to start work for a customer who then changed their mind 10 days later. I'd already started on the work. Can they do that?

11. Yes they can. However, provided you obtained their express consent to starting the service in the cancellation period, and informed them that they would have to pay for any work done in that period, you can charge for work done until the point of cancellation

I provide and install garage doors. Can my customer cancel once they've ordered and can I recoup any costs if they do?

12. If you agree the contract by phone or online or at the customer's home, then they will have a right to cancel unless the door has been specifically made to a non-standard specification.

I sell premier league football shirts online. Customers can order a shirt with their own name on it or that of a premier league team player. Can the consumer change their mind after they have ordered?

13. Items made to a particular, often unique specification are exempt from cancellation rights on the basis that a trader might otherwise be left with a product so specific to a particular consumer's needs that there is no other market for it once the consumer has cancelled the contract. Judgements of what is truly bespoke will, therefore, inevitably be on a case by case basis. In the above case, the customer should be able to cancel a shirt bearing a team player name on it. However, a shirt bearing their own name would be likely to constitute a personalised item to which cancellation rights do not apply.

14. An item made up following a consumer order does not necessarily make it a bespoke item which is exempt from cancellation rights. An item, for example a sofa or computer, can be assembled following an order but the component parts may be made up of parts offered from a standard range. So, for instance, a sofa where the consumer chooses a fabric and colour from a range on offer will not be bespoke for the purposes of these Regulations. However, if the consumer asks the trader to source a special finish and which is not in the range generally offered by the trader, that is likely to be a bespoke item.

Refunds

15. The trader must refund the consumer within 14 days of receiving the goods back or proof of the return of the goods if that is earlier. That refund should include the cost of outbound delivery (provided the standard delivery

option was used), but need not include the cost of the return delivery to the trader unless the trader offered to bear this or did not tell the customer that they would have to. In the case of services refund should be within 14 days of cancellation of the contract.

I sell toys online. A customer recently ordered a large toy model to assemble, to be sent by express delivery, but changed their mind and returned it. Not only was it not returned in the original bubble wrap and brown box I used, but the model's box with photo and description was torn and the plastic packets containing the plastic bricks inside had been opened. What can I do?

16. You cannot deduct for the bubble wrap and brown box since it would have been reasonable for the customer to remove these to see the item in the way they would in a shop. However, it would not have been necessary to go further and open the box nor especially to open the sealed packets. You will therefore be able to reduce the refund to reflect the diminished value. In addition, you will only need to refund the standard cost of delivery (provided this was offered) and not the full cost of the express delivery chosen by the customer. And provided that you told the customer that the cost of return delivery would fall to them, you need not pay for that.

A customer has changed their mind and returned a toaster bought online. The box is intact but there are crumbs in the toaster. Can I deduct any money from the refund?

17. The consumer should be permitted to inspect the toaster in the same way that they might in a shop to ensure it is as described. Money should not therefore be deducted if it is reasonable for the consumer to remove the packaging to inspect the item. However, using the toaster goes beyond what is needed to ascertain the nature of the toaster, and is not something the consumer would do in a shop. Money can therefore be deducted to reflect diminished value. The consumer need not 'test' the toaster since, if the toaster proves to be faulty the consumer has rights under other legislation.

A customer has complained that the dress she received was a blue one rather than the red she ordered. She is returning it for a replacement. It was our mistake but don't the regulations say she should pay for returns?

18. No. Where goods are faulty, or not of satisfactory quality, or do not meet the description given consumers have additional and different rights, including that the trader must bear the costs of providing a replacement such as delivery costs for return and re-delivery.

Collection of cancelled goods

I offer a chargeable collection service for items where the consumer changes their mind. Is this permitted?

19. Yes. Provided the consumer is aware before they commit to the contract that returns will be at their expense, you may charge. However, if the item was left with the consumer when the contract was concluded at their home and by its nature cannot normally be returned by post, then the consumer does not need to pay for the return but must make it available for collection.

Automatic cancellation of ancillary contracts

20. If the consumer cancels a contract, any ancillary contract is automatically terminated. The trader must inform any other trader who is party to the ancillary contract, without delay, that the consumer has cancelled the main contract. This does not, of course, prevent the parties to an ancillary contract, such as a warranty, from agreeing to continue warranty protection to cover other items than the cancelled item. Where third parties offer the ancillary contract, responsibility for refund should follow the original flow of funds. If the money for the ancillary contract was paid directly to the trader they should reimburse the consumer and recover from the third party. If the money was paid directly to the third party, it is the responsibility of the third party to refund the money to the consumer.

Limiting cancellation rights

Can my customer waive their cancellation rights?

21. Where cancellation rights apply, the consumer **cannot** waive those rights (although the consumer is of course free to choose not to exercise their right to cancel). However, provided that the consumer has been made aware, pre-contract, of their obligations with regard to payment for services or products used, and the trader has obtained express consent (on a durable medium for off-premises services) for the commencement of services in the cancellation period, then if the consumer later cancels, the trader may deduct money for goods used, or recoup the cost of any services delivered until the point of cancellation.

I. Prohibition of default option for additional payments

I use a pre-ticked box to sign up customers to our free online news letter. Will your regulations stop me doing that?

1. No. The regulation applies only where additional payment is being sought. What regulation 40 requires is that the consumer must actively agree any payment. There should not be a default option which they need to disapply in order to avoid the payment.

I sell online gift products and offer gift wrapping for an additional £3. I make this clear at the checkout and in order to facilitate the customer experience, ask them to tick the box if they do not want the gift wrap. As I am not pre-ticking the box, can I continue to do this?

2. No. The ban is not on pre-ticked boxes per se, although this has become short-hand for the principle. More properly the prohibition is on any practice which makes the additional payment the default option and where the consumer must act to avoid the payment. So in the case of the gift wrap, in order to avoid this optional additional payment, the consumer would have to act i.e. tick the box. This would therefore breach the regulations.

J. Prohibition on customer helplines charging more than basic rate

[How can I comply with the basic rate requirement?](#)

1. Where a telephone helpline is provided, the basic rate requirement means not charging more to phone a trader about something you have bought than to call a friend or relative, that is to say the simple cost of connection. This telephone number provided should not provide the trader with a contribution to their costs

2. The following numbers, if used by traders, would comply with the regulations:

- Geographic numbers or numbers which are always set at the same rate, which usually begin with the prefix 01, 02, or 03;
- Calls which can be free of charge to call, for example, 0800 and 0808 numbers. In certain circumstances charges to these numbers can be applied, for example, for those ringing from a mobile. However, OFCOM's proposed reforms will mean these numbers will soon become free in all circumstances;
- Mobile numbers, which usually begin with the prefix 07.

3. Premium rate numbers would not comply. They begin with the prefix 09.

4. Other revenue sharing numbers would not comply. These are numbers in which a portion of the call charge can be used to either provide a service or make a small payment to the trader. These usually have the prefix 084 or 0871, 0872 or 0873.

5. Numbers with the prefix 0870 are not revenue sharing numbers. However, they can be higher than a geographic cost, and will vary depending on the tariff of the consumer's telecom company. They would therefore not comply.

Following OFCOM reforms in 2015 these numbers will permit revenue sharing and in any case would no longer comply with the basic rate requirements.

6. OFCOM has ensured those wishing to change from a 0845 number have access to 03 numbers where the only change will be the substitution of the digit '3' instead of the '8' in the prefix.

[Do the regulations say that I have to provide a telephone helpline?](#)

7. No. Regulation 41 on charges for customer helplines only applies if you offer a telephone line on which consumers can contact you about something they have bought.

8. Nor does the Regulation require that all numbers operated by a business are at a basic rate. Only that where the trader provides a telephone line so that the consumer can contact them about a contract concluded, there should be a number available on which the consumer can call for this purpose at no more than the basic rate. For example, as there are times when consumers may prefer 0845 numbers to geographic numbers it may be desirable in some circumstances to maintain both access numbers. If traders take this approach the 'basic rate' compliant telephone number should be communicated as prominently as one that is not.

9. Sales lines, and those offering services paid for through a phone bill (e.g. a weatherline) are unaffected.

[Do I have to subsidise the phonecall?](#)

10. No. There is no requirement to subsidise the phone call.

[I am a sole trader using a mobile number. Is this permitted?](#)

11. Yes, standard mobile numbers are permitted.

[I sell computers and offer technical phone support. I use a revenue sharing arrangement with my telephone provider to fund this service. Does the number have to comply with regulation 41?](#)

12. Where a trader offers a technical support line, this need not come under regulation 41, provided it is a discrete service, and not one on which the caller is also expected to call to discuss problems with a purchase already made. Provided the trader makes it clear that it is a separate service for which a separate fee (paid for through the enhanced cost of the call) is payable and not one for post purchase problems, regulation 41 will not apply. Horoscope and weather lines are similarly excluded. Regulation 41 applies where a phone line is offered which allows a customer to contact the trader about a problem which may have arisen with a product already purchased or to exercise cancellation rights.

13. If, however, a consumer having contacted a 'paid through a telephone bill' service, is unhappy and wishes to raise an issue (for instance the recording was muffled and they could not hear it properly) then, if the provider offers a phone line for such complaints, that phone line should comply with regulation 41.

14. The Government will review implementation of the provision on basic rate, after OFCOM's reforms are also implemented in 2015.

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