

# TRADER ALERT: Consumer Law Changes - Are You Ready for 13 June 2014...?



## ► Inside

- 14 day cooling off period
- New 'pre-contact' information
- Express consent
- Restrictions on charges for helplines



## Introduction

If you trade with consumers, you should read on! The (somewhat indelicately named) Consumer Contracts (Information, Cancellation and Additional Charges) Regulations come into force on 13 June 2014. They implement part of the Consumer Rights Directive and contain important changes.

Below is a simple summary of some of the key changes. This is not an exhaustive note, but we hope you find it helpful.

---

## Main 14 day cooling off period

If you make online, telephone or other distance sales, or off-premise sales, you need to notify consumers that they have 14 calendar days to cancel.

There are some limited exceptions for certain goods/services, including for personalised goods, accommodation, car rental, catering, and leisure activities where the contract provides for a specific date/period of performance. It is also worth noting that financial services are, on the whole, the subject of separate Regulations.

Failure to notify the consumer of the right to cancel may mean that:

- the consumer's right to cancel is extended by up to 12 months
- you risk financial loss and/or enforcement action by Trading Standards (and possible criminal sanctions in the case of 'off-premises' sales).

If a consumer exercises his/her right to cancel:

- the consumer is responsible for the cost of returning the goods (assuming you have given the consumer the requisite pre-contract information (see further below), unless you offered to collect the goods
- you may make a deduction for 'unnecessary handling' (we paraphrase)
- you must make the relevant refund within 14 days of receiving the goods back or of the consumer supplying evidence of the goods having being sent back
- you must refund the consumer the least expensive outbound delivery charge
- if the consumer consented to you providing services (e.g. subscription services) during the cooling off period, you may charge an amount for the services provided during the cooling off period that is proportionate to the full coverage of the contract
- 'ancillary contracts' such as insurance or extended warranties will automatically terminate. Note that ancillary contracts can include contracts between the consumer and a third party.

If you supply services or digital content, a consumer loses his/her right to cool off where he/she:

- asks you before the end of the 14 day cooling off period to start providing services and acknowledged that they would lose the right to cancel once the services had been fully performed
- asks you before the end of the 14 day cooling off period to supply digital content, acknowledged that he/she would lose their right to cancel, and you have started to supply the digital content.

---

## New 'pre-contract' information that you must provide

You must give consumers more comprehensive information than previously required before entering into a contract where a consumer agrees to pay for goods or services. The requirement applies to any form of sales contract whether made in a shop, by telephone, online, at a trade fair or in someone's home.

There are some limited exceptions, such as day-to-day transactions that are completed immediately (although you still need to comply with the Consumer Protection from Unfair Trading Regulations).

All of the 'pre-contract' information that you need to provide is set out in Schedules 1 & 2 of the Regulations. This 'pre-contract' information will form an integral part of your contract with the consumer, so you need to be sure that the information provided is complete and accurate. Also, bear in mind that the information cannot be changed unless the consumer agrees.

Identified below are some of the additional pieces of information that a consumer now needs to know before you enter into a distance sales contract (e.g. online or telephone):

details of your complaints handling policy

functionality and interoperability of any digital content and details of any technical restrictions in respect of digital content existence of relevant codes of conduct and how copies can be obtained the fact that there is no right of cancellation for certain types of contract how the consumer can



exercise any right to cancel to which they are entitled. In particular, you must:

- provide a 'model cancellation form' and also make clear that the consumer is not obliged to use it to exercise the cancellation right
- tell the consumer that he/she has 14 days to return goods (or hand them over) and that they must pay for the cost of returning goods (unless you have agreed to collect them).
- Express consent needed for additional items

You may not charge consumers for additional or ancillary items, such as warranties or insurance, without obtaining the consumer's prior express consent to the additional charges. Pre-ticked boxes will not suffice.

---

## Restrictions on charges for help lines

If you offer a helpline for consumers to contact you about a concluded contract, such as to make a complaint or exercise a right to cancel, you must not charge more than the basic telephone rate. Note that this particular requirement does not relate to pre-contract calls and may not necessarily relate to technical help lines.

### For further information on this subject please contact:

#### James Gill

Partner

+44 (0) 20 7074 8217

[james.gill@lewissilkin.com](mailto:james.gill@lewissilkin.com)

#### Bryony Long

Partner

+44 (0) 20 7074 8435

[bryony.long@lewissilkin.com](mailto:bryony.long@lewissilkin.com)

