

CONSUMER PROTECTION (FAIR TRADING) ACT 2003

(ACT 27 OF 2003)

**CONSUMER PROTECTION (FAIR TRADING) (CANCELLATION OF CONTRACTS)
REGULATIONS 2003**

In exercise of the powers conferred by sections 11 and 20 of the Consumer Protection (Fair Trading) Act 2003, the Minister for Trade and Industry hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Consumer Protection (Fair Trading) (Cancellation of Contracts) Regulations 2003 and shall come into operation on 1st March 2004.

Definitions

2. —(1) In these Regulations, unless the context otherwise requires —

"cancellation period" means the period described in regulation 4(1);

"consumer information notice" means a notice in the form set out in the Schedule;

"designated person" means a person designated in a consumer information notice as the one to whom notice of cancellation of a contract may be given;

"direct sales contract" means a consumer transaction which is entered into —

(a) during an unsolicited visit by a supplier to —

(i) the place of residence of the consumer;

(ii) the place of residence of another person; or

(iii) the place of business of the consumer;

(b) during a visit by a supplier to any place referred to in paragraph (a) at the express request of the consumer where the goods or services to which the contract relates are other than those for which the consumer requested the visit of the supplier, provided that when the visit was requested the consumer did not know, or could not reasonably have known, that the supply of those other goods or services formed part of the business activities of the supplier; or

(c) after an offer was made by the consumer in respect of the supply by the supplier of the goods or services in the circumstances referred to in paragraph (a) or (b) ;

"notice of cancellation" means a notice of cancellation given under regulation 4;

"regulated contract" means a direct sales contract or a time share contract;

"trade-in allowance" means the greater of —

(a) the price or value of the consumer's goods as set out in a trade-in arrangement; or

(b) the market value of the consumer's goods when taken in trade under a trade-in arrangement;

"trade-in arrangement" means an agreement or arrangement, contained in a direct sales contract or forming the whole or part of a related contract, under which the consumer sells or agrees to sell the consumer's own goods to the supplier or any other person and the goods are accepted as the whole or part of the consideration under the direct sales contract;

"unsolicited visit" means a visit by a supplier, whether or not he is the supplier who supplies the goods or services, which does not take place at the express request of the consumer and includes a visit by a supplier which takes place (otherwise than at the consumer's express request and with or without the consent of the consumer) after the supplier telephones or visits the consumer indicating expressly or by implication that the supplier is willing to visit the consumer.

- (2) For the purposes of these Regulations, references to a supplier —
- (a) shall be construed as references to a supplier within the meaning of the Act with whom a consumer enters into a contract; and
 - (b) in the definitions of "direct sales contract" and "unsolicited visit" and in regulation 3 (e) and (f), shall include an employee or agent of the supplier.

(3) In these Regulations, section 7 (8) of the Act shall apply for the purposes of construing the meaning of the term "business use".

Exclusions

3. These Regulations shall not apply to —

- (a) any excluded transactions specified in the First Schedule to the Act;
- (b) any lease of residential property;
- (c) any contract for the supply of goods or services intended for business use;
- (d) any contract under which the total payments to be made by a consumer do not exceed \$50;
- (e) any direct sales contract if, prior to the visit during which the consumer entered into the contract or made an offer referred to in paragraph (c) of the definition of "direct sales contract" in regulation 2 (1), the terms of the contract were read by or explained to the consumer in the absence of the supplier;
- (f) any direct sales contract resulting from prior negotiations between the consumer and the supplier which took place in circumstances other than those referred to in paragraph (a) or (b) of the definition of "direct sales contract" in regulation 2 (1); and
- (g) any direct sales contract entered into by a consumer —
 - (i) during a visit made by the supplier at the express request of another person to that other person's place of residence or business; or
 - (ii) after an offer was made by the consumer in respect of the supply of the goods or services in the circumstances referred to in sub-paragraph (i), if the consumer attended the visit with the prior knowledge that the supplier would be present to engage in the supply of the goods or services to which the contract relates.

Right to cancel contract

4. —(1) A regulated contract may not be enforced against the consumer at any time earlier than 3 days, excluding Saturdays, Sundays and public holidays, after —

- (a) the day on which the regulated contract is entered into; or
- (b) if the consumer information notice has not been brought to the attention of the consumer before or at the time when the regulated contract is entered into, the day on which the consumer information notice is subsequently brought to the attention of the consumer.

(2) Where a consumer has entered into a regulated contract, the consumer may give notice of cancellation of the contract in accordance with this regulation at any time within the cancellation period.

(3) If in a case falling within paragraph (1) (b), the consumer affirms the regulated contract at any time after the expiry of 3 days (excluding Saturdays, Sundays and public holidays) after the day on which the regulated contract was entered into —

- (a) these Regulations shall not prevent the contract from being enforced against the consumer; and
- (b) the consumer may not at any subsequent time give notice of cancellation under paragraph (2).

(4) If the consumer, having given notice of cancellation of a regulated contract in accordance with this regulation, subsequently enters into a contract (referred to in this paragraph and paragraph (5) as the subsequent contract) with the supplier on substantially the same terms as the cancelled regulated contract at any time before the expiry of the cancellation period of the cancelled regulated contract —

- (a) the subsequent contract shall not be enforced against the consumer at any time within the cancellation period of the cancelled regulated contract; and
- (b) the consumer may give notice of cancellation of the subsequent contract at any time within the cancellation period of the cancelled regulated contract.

(5) Paragraph (4) shall not prevent paragraphs (1) and (2) from applying to the subsequent contract if the subsequent contract is a regulated contract.

(6) Subject to paragraph (7), a notice of cancellation shall be in the form set out in Parts A and B of the Schedule and shall be given —

- (a) by delivering it to a designated person personally;
- (b) by leaving it at, or by sending it by pre-paid post to, an address designated in the consumer information notice; or
- (c) by sending it by facsimile transmission to a facsimile number designated in the consumer information notice.

(7) If the consumer information notice has not been brought to the attention of the consumer or Part A of the consumer information notice has not been properly completed, a notice of cancellation may be given —

- (a) by any other notice in writing of the consumer's intention to cancel the contract under these Regulations; and
- (b) by leaving it at or sending it by pre-paid post to —
 - (i) the usual or last known address of the place of business of the supplier or designated person (if any); or
 - (ii) in the case of a body corporate, the registered office or principal office of the supplier or designated person (if any).

(8) A notice of cancellation sent by a consumer by pre-paid post shall be deemed to have been given at the time of posting, whether or not it is actually received.

(9) Notwithstanding paragraphs (6) and (7), if the supplier agrees to accept notice of cancellation by any additional means, including electronic means, the notice may be given by the means so agreed.

Effect of cancellation of contract

5. —(1) Where a contract is cancelled under regulation 4 —

- (a) the contract shall cease to be enforceable;
- (b) any sum which the consumer has paid under or in contemplation of the contract to the supplier, or to any person who is the agent of the supplier for the purpose of receiving that sum, shall be repaid to the consumer by the supplier;
- (c) the consumer or any person on his behalf shall have a lien on any goods in the possession of the consumer or any person on his behalf for any sum payable to the consumer under sub-paragraph (b) or paragraph (2) (b);
- (d) any security which the consumer has provided in relation to the contract shall be treated as not having had effect and any property lodged with the supplier solely for the purposes of the security shall be returned by him;
- (e) subject to regulations 6 and 7, no sum or other consideration may be recovered by or on behalf of the supplier from the consumer in respect of the contract; and
- (f) any other contract arranged by the supplier and entered into by the consumer for the purposes of the contract prior to the cancellation shall not be enforceable against the consumer.

(2) In the case of a trade-in arrangement, if the contract is cancelled under regulation 4, the supplier shall either —

- (a) return the goods delivered by the consumer under the trade-in arrangement to the consumer in a condition substantially the same as when they were delivered by the consumer; or
- (b) pay to the consumer a sum equal to the trade-in allowance.

(3) When a consumer recovers an amount equal to the trade-in allowance, then, if the title of the consumer to goods delivered by the consumer under the trade-in arrangement did not pass from the consumer, the title vests in the person entitled to the title under the trade-in arrangement.

(4) Subject to paragraph (5), breach of any duty imposed by these Regulations on a supplier or consumer shall be actionable as a breach of statutory duty in a court.

(5) In the case of an action for a breach of duty under paragraph (1) (b), the value of the claim shall not exceed \$20,000.

(6) If, apart from these Regulations, a consumer could have cancelled the contract under any rule of law or any contractual right or other arrangement with the supplier, the fact that the consumer has cancelled the contract pursuant to these Regulations shall not prejudice his right to any compensation that he would have if he had cancelled the contract under that rule of law, contractual right or arrangement.

(7) In determining the amount recoverable in a claim for compensation under a right referred to in paragraph (6), the court shall take account of any compensation which has been given to the consumer in satisfaction of any claim for a breach of duty under these Regulations relating to the cancellation of the same contract.

(8) In determining the amount recoverable in a claim by a consumer for breach of duty under these Regulations, the court shall take account of any compensation which has

been given to the consumer in satisfaction of any claim for compensation referred to in paragraph (6) relating to the cancellation of the same contract.

Return of goods by consumer on cancellation of direct sales contract

6. —(1) Subject to paragraph (2), a consumer who has, before cancelling a direct sales contract under these Regulations, acquired possession of any goods by virtue of the direct sales contract shall —

- (a) be under a duty, subject to any lien, upon the cancellation to return the goods to the supplier; and
- (b) for the time being to retain possession of the goods and take reasonable care of them.

(2) The consumer shall not be under a duty to return —

- (a) perishable goods;
- (b) goods which by their nature are consumed by use and which, before the cancellation, were so consumed;
- (c) goods supplied to meet an emergency; or
- (d) goods which, before the cancellation, had become incorporated in any land or thing not comprised in the contract.

(3) In the event that paragraph (2) applies, the consumer shall be under a duty to pay reasonable compensation for the supply of the goods and for the provision of any services in connection with the supply of the goods before the cancellation.

(4) The consumer shall be discharged from any duty to retain possession of the goods or return them to the supplier at the time he delivers the goods to the supplier or to a person designated by the supplier for such purposes.

Compensation for services on cancellation of direct sales contract

7. Where a consumer cancels a direct sales contract under these Regulations, the consumer shall be under a duty to pay reasonable compensation for the services supplied under the contract before the cancellation.

No imposition of additional duty or liability on consumer

8. —(1) The supplier shall not by a term in a contract impose, directly or indirectly, any additional duty or liability on the consumer in relation to the duties imposed by these Regulations.

(2) Where any term in a contract is inconsistent with paragraph (1), it shall be void to the extent of such inconsistency.

THE SCHEDULE

Regulation 2 (1)

CONSUMER PROTECTION (FAIR TRADING) ACT 2003 (ACT 27 OF 2003)

CONSUMER PROTECTION (FAIR TRADING) (CANCELLATION OF CONTRACTS) REGULATIONS 2003

CONSUMER INFORMATION NOTICE

IMPORTANT INFORMATION ON YOUR RIGHT TO CANCEL

1. You have a right to cancel a direct sales/time share contract within 3 days, excluding Saturdays, Sundays and public holidays, after —
 - (a) the day on which you entered the contract; or
 - (b) if this notice was not brought to your attention before or at the time you entered the contract, the day on which this notice was subsequently brought to your attention.
2. If you affirm the contract at any time after the expiry of 3 days (excluding Saturdays, Sundays and public holidays) after the day on which the regulated contract was entered into, paragraph 1(b) above will not apply even though this notice was not brought to your attention and you will lose your right to cancel the contract under the Consumer Protection (Fair Trading) (Cancellation of Contracts) Regulations (the Regulations).
3. If, having cancelled the contract, you enter into a subsequent contract (on substantially the same terms as the cancelled contract) with the supplier at any time before the expiry of the cancellation period of the cancelled contract, the cancellation period for the subsequent contract will expire when the cancellation period of the cancelled contract would have expired. If, however, the subsequent contract is itself a direct sales/time share contract, you can also rely on the cancellation period explained in paragraph 1 above if it is longer.
4. IF YOU WISH TO CANCEL THE CONTRACT under the Regulations, please complete Part B of the attached Form (Notice of Cancellation) and deliver it personally to the designated person, leave it at or send it by pre-paid post to the designated address, or send it by facsimile transmission to the designated facsimile number. (Designated person and address or facsimile should be provided by the supplier in Part A of the Form).
5. IF THE SUPPLIER DID NOT PROVIDE YOU WITH THE NECESSARY INFORMATION IN PART A OF THE FORM, you can give notice of your intention to cancel the contract under the Regulations by a notice in writing left at or sent by pre-paid post to the usual or last known address of the place of business of the supplier or designated person (if any). If the supplier or designated person is a body corporate, the notice can be left at or sent to its registered office or principal office.
6. If the supplier agrees to accept notice of cancellation by any additional means, you can do so by the means so agreed.

7. A notice of cancellation sent by pre-paid post is considered to have been given at the time of posting, whether or not it is actually received. You are advised to send the notice by registered post to facilitate proof of posting.

8. You may have other rights to cancel the contract apart from the Regulations. Cancellation under the Regulations does not prejudice those other rights.

NOTICE OF CANCELLATION
under the Consumer Protection
(Fair Trading) (Cancellation of Contracts)
Regulations 2003

Part A

(To be completed by the supplier and brought to the attention of the consumer. The supplier may include any other useful contact information.)

Supplier: (Insert name of supplier)

Reference: (Insert supplier's reference number, code or other details to enable the transaction to be identified.)

Designated person/s to whom notice of cancellation to be given:

(Insert at least one name and at least one address or facsimile number)

Part B

(To be completed by the consumer and returned to a designated person ONLY IF YOU WISH TO CANCEL THE CONTRACT under the Consumer Protection (Fair Trading) (Cancellation of Contracts) Regulations 2003.)

I hereby give notice that I wish to cancel my contract referred to in Part A above.

Signature:

Date:

Name:

Address:

Telephone No.(optional):

Fax (optional):

E-mail (optional):

Made this 24th day of December 2003.

HENG SWEE KEAT
Permanent Secretary,
Ministry of Trade and Industry,
Singapore.