

# Consumer Law Bulletin

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**Filing instructions:** This Bulletin contains material available on 1 January 2013. It should be filed behind the Bulletins Guide Card and in front of Bulletin No 319. **Remove Bulletin 307.** If desired Bulletin 307 may be retained outside the Binder for future reference. The Binder should now contain Bulletins Nos 308 to 320.

## ENFORCEMENT

### INFORMATION

Consultation: Proposals for two new European Regulations aimed at improving consumer product safety and the functioning of the European Internal Market through effective market surveillance—Summary of responses

The European Commission has issued draft proposals for two new European Regulations aimed at improving consumer product safety and the functioning of the European Internal Market through effective market surveillance.

The current rules on product safety and market surveillance are spread across a number of pieces of legislation and are fragmented, which has led to overlaps, gaps and confusion.

The proposed Regulations are designed to simplify current rules on market surveillance and enable greater coherence of the rules regulating consumer product safety, product identification and traceability.

- The responses to the consultation included:
- a greater clarity on which products are covered;
- a concern about whether the EU structure would allow this to operate properly; and
- Impact of the requirements on SME's.

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### NEW LEGISLATION

#### ***The Fruit Juices and Fruit Nectars (Wales) Regulations 2013, SI 2013/2750***

These Regulations, which apply to Wales, implement Council Directive 2001/112/EC, as amended, relating to fruit juices and certain similar products intended for human consumption. They revoke and replace the Fruit Juices and Fruit Nectars (Wales) Regulations 2003, SI 2003/1564, as amended.

The Regulations regulate the use of the names fruit juice (reg 4 and Schs 2 and 11), fruit juice from concentrate (reg 5 and Schs 3 and 13), concentrated fruit juice (reg 6 and Sch 4), water extracted fruit juice (reg 7 and Sch 5), dehydrated fruit juice and powdered fruit juice (reg 8 and Sch 6) and fruit nectar (Reg 9 and Schs 7 and 12).

They lay down what additional ingredients and substances may be added to regulated products (Schs 8 and 9) and what treatments the products may undergo in their manufacture (Sch 10).

They require certain particulars to be indicated when trading in regulated products, including:

- (a) A requirement to indicate the kinds of fruits, or (in some cases) the number of kinds of fruits, used to make a regulated product (reg 10);
- (b) An indication of whether extra pulp and cells have been added to a fruit juice (reg 11);
- (c) A requirement for a fruit juice made from a mixture of fruit juice and fruit juice from concentrate to indicate that it is partially made from concentrate or concentrates (reg 12);
- (d) A requirement to indicate any added lemon juice, lime juice or acidifying agents in a concentrated fruit juice that is not intended for delivery to the final consumer (reg 13);
- (e) Various indications for a fruit nectar, including an indication of its fruit content (reg 14).

The Regulations make provision relating to the manner in which the particulars required by these Regulations should be marked or labelled (reg 15).

These Regulations impose an obligation on food authorities to enforce the Regulations (reg 16). The Regulations apply with modifications of the Food Safety Act 1990, s 10, subss (1) and (2) enabling an improvement notice to be served to require compliance with specified provisions of these Regulations (reg 17). The provisions, as applied, make the failure to comply with an improvement notice an offence.

#### ***Food Hygiene Rating (Wales) Regulations 2013, SI 2013/2903***

These Regulations make provision in relation to a food hygiene rating scheme for Wales under the Food Hygiene Rating (Wales) Act 2013.

Regulation 1 includes provision for these Regulations to come into force on 00:01 hours on 28 November 2013, except for reg 8 which comes into force on 28 November 2014.

Regulation 2 provides for a food business establishment that has a food hygiene rating under the non-statutory food hygiene rating scheme launched in Wales by the Food Standards Agency before the commencement of the Act to be given a new rating under the Act by no later than 28 May 2015.

Regulation 3 gives effect to Sch 1, which prescribes the form of a food hygiene-rating sticker.

Regulation 4 prescribes information that a food authority must send to the operator of a food business establishment when notifying the operator of the food hygiene rating given to the establishment following a food hygiene rating inspection. This information is in addition to the written notification of the rating, a written statement of the reasons for the rating, and a food hygiene rating sticker all of which the food authority must send to the operator in accordance with s 3(3)(a) to (c) of the Act.

Regulation 5 prescribes the categories of food business establishment that are exempt from rating under the Act.

Regulation 6 gives effect to Sch 2, which prescribes the form for appealing against a food hygiene rating.

Regulation 7 prescribes information that a food authority must send to the operator of a food business establishment when notifying the operator of its decision to change the food hygiene rating of the establishment as a result of an appeal. This information is in addition to written notification of the new food hygiene rating, a written statement of the reasons for the new rating, and a food hygiene rating sticker for the new rating, all of which the food authority must send to the operator in accordance with s 5(10)(a) to (c) of the Act.

Regulation 8 provides for a food authority to send to the FSA a breakdown (“a rating breakdown”) of an establishment’s rating into its component scores for each of the rating criteria published by the FSA under s 14(1)(c) of the Act. The FSA must publish a statement explaining what the rating breakdown means, and a statement explaining that members of the public may request a copy of the inspection report relating to an establishment from the food authority, and that it will be for the food authority to determine whether the inspection report is to be disclosed.

Regulation 9 prescribes the location and manner in which a food hygiene sticker must be displayed at different types of food business establishment.

Regulation 10 gives effect to Sch 3, which prescribes the form for requesting a re-rating inspection.

Regulation 11 prescribes information that a food authority must send to the operator of a food business establishment when notifying the operator of its decision to change the food hygiene rating of the establishment as a result of

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the operator's request for the establishment to be re-rated in accordance with s 12 of the Act. Section 12(9)(d) requires this information to be sent to the operator within 14 days of the re-rating inspection being completed. The information prescribed by reg 11 is in addition to written notification of the new food hygiene rating, a written statement of the reasons for the new rating, and a food hygiene rating sticker for the new rating, all of which the food authority must send to the operator within 14 days of the re-rating inspection being completed, as required by s 12(9) (a) to (c) of the Act.

Regulation 12 prescribes the information that a food authority must send to the operator of a new food business establishment in its area within 14 days of the establishment's registration.

This regulation should be read in conjunction with the Food Hygiene Rating (Wales) Act 2013 (Commencement No 1) Order 2013, SI 2013/2617 which was considered in the previous bulletin.

### ***The Food (Miscellaneous Amendments) (Wales) Regulations 2013, SI 2013/3049***

These Regulations implement Commission Regulation (EU) No 1079/2013 laying down transitional measures for the application of Regulations (EC) No 853/2004 and (EC) No 854/2004

They also implement Commission Implementing Regulation (EU) No 702/2013 on transitional measures for the application of Regulation (EC) No 882/2004 as regards the accreditation of official laboratories carrying out official testing for *Trichinella*.

In addition they correct a minor error in the Food Safety Act 1990.

These Regulations implement the Commission Regulation by amending the Food Hygiene (Wales) Regulations 2006, SI 2006/1534 to extend transitional measures until 31 December 2016, by omitting the definition of and references to Commission Regulation (EC) No 1162/2009

The Regulations implement the Commission Implementing Regulation by amending the Official Feed and Food Controls (Wales) Regulations 2009 to extend transitional measures until 31 December 2016

These Regulations make a minor amendment to Sch 2 to the Food Safety (Sampling and Qualifications) (Wales) Regulations 2013, SI 2013/479 (reg 4) and to the Food Safety Act 1990, s 9(5)(a) to correct an erroneous reference to a paragraph number (reg 5).

### ***The Feed (Hygiene and Enforcement) and the Animal Feed (England) (Amendment) Regulations 2013, SI 2013/3133***

These Regulations provide for the execution and enforcement of Commission Regulation (EU) No 225/2012 amending Annex II to Regulation (EC) No 183/2005 as regards the approval of establishments placing on the market, for feed use, products derived from vegetable oils and blended fats

and as regards the specific requirements for production, storage, transport and dioxin testing of oils, fats and products derived thereof:

These Regulations amend the Feed (Hygiene and Enforcement) (England) Regulations 2005, SI 2005/3280 by:

- (a) Re-stating the definition of Regulation (EC) No 183/2005 so that, by virtue of the Interpretation Act 1978, s 20A it includes the amendments made by Regulation 225/2012, reg 2(2);
- (b) Providing that any reference in S.I. 2005/3280 to an Annex to Regulation (EC) No 183/2005 is to be construed as a reference to that Annex as it may be amended from time to time (reg 2(3));
- (c) Designating the competent authorities for the purposes of enforcing certain provisions of Regulation 225/2012 (reg 2(4));
- (d) Providing for the fee to be paid for approval of specified establishments (reg 2(5) and Sch 1).

These Regulations also amend the Animal Feed (England) Regulations 2010 (SI 2010/2503) by:

- (a) Removing references to an EU instrument which has been repealed (reg 3(2)); and
- (b) Clarifying the drafting of enforcement provisions relating to Regulation (EC) No 767/2009 of the European Parliament and of the Council on the placing on the market and use of feed.

***The Feed (Hygiene and Enforcement) and the Animal Feed (Scotland) (Amendment) Regulations 2013, SSI 2013/340***

These implement the above requirements for the purposes of Scotland. The content of the regulations is the same as outlined above

***The Food Safety, Food Hygiene and Official Controls (Sprouting Seeds) (Scotland) Regulations 2013, SSI 2013/333***

These Regulations amend the General Food Regulations 2004, SI 2004/3279 (reg 2), the Food Hygiene (Scotland) Regulations 2006, SSI 2006/3 (reg 3) and the Official Feed and Food Controls (Scotland) Regulations 2009, SSI 2009/446 (reg 4) in order to provide for the enforcement of the following EU Regulations.

- (a) Commission Implementing Regulation (EU) No 208/2013 on traceability requirements for sprouts and seeds intended for the production of sprouts;
- (b) Commission Regulation (EU) No 210/2013 on the approval of establishments producing sprouts pursuant to Regulation (EC) No 852/2004 of the European Parliament and of the Council; and
- (c) Commission Regulation (EU) No 211/2013 on certification requirements for imports into the Union of sprouts and seeds intended for the production of sprouts.

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The above EU Regulations should be read with Commission Regulation (EU) No 209/2013 amending Regulation (EC) No 2073/2005 as regards microbiological criteria for sprouts and the sampling rules for poultry carcasses and fresh poultry meat.

***The Food Safety, Food Hygiene and Official Controls (Sprouting Seeds) (Wales) Regulations 2013, SI 2013/3007***

These implement the above requirements for the purposes of Wales. The content of the regulations is the same as outlined above.

***Food Safety, Food Hygiene and Official Controls (Sprouting Seeds and Miscellaneous Amendments) Regulations (Northern Ireland) 2013, SR 2013/291***

These implement the above requirements for the purposes of Northern Ireland. They also bring into effect the changes considered above in the Food (Miscellaneous Amendments) (Wales) Regulations 2013, SI 2013/3049

***The Contaminants in Food (Amendment) Regulations (Northern Ireland) 2013, SR 2013/296***

These Regulations make a minor amendment to reg 2(3) of the Contaminants in Food Regulations (Northern Ireland) 2013, SI 2013/296 in order to correct an error therein.

***The Food Safety and Hygiene (England) Regulations 2013, SI 2013/2996***

These Regulations revoke and re-enact with some minor changes the Food Hygiene (England) Regulations 2006, SI 2006/14 and certain provisions of the General Food Regulations 2004 as they apply in relation to England.

They also provide for the execution and enforcement in England of Regulation (EC) No 178/2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety.

These Regulations also provide for the execution and enforcement of a number of EU Instruments defined as “the EU Hygiene Regulations”. And make consequential amendments to a range of other related legislation.

***The Environmental Noise, Site Waste Management Plans and Spreadable Fats etc (Revocations and Amendments) Regulations 2013, SI 2013/2854***

These Regulations revoke the Environmental Noise (Identification of Noise Sources) (England) Regulations 2007, SI 2007/2458, the Environmental Noise (Identification of Noise Sources) (England) (Amendment) Regulations 2007, SI 2007/2458 and the Site Waste Management Plans Regulations 2008, SI 2008/314.

They also amend the Spreadable Fats (Marketing Standards) and the Milk and Milk Products (Protection of Designations) (England) Regulations 2008, SI 2008/1287 to revoke reg 4 (which prohibits the sale by retail of margarine unless it contains specified proportions of vitamins A and D) and make consequential amendments.

## NEW EU LEGISLATION

### *Council Directive 2013/51/EURATOM of 22 October 2013 laying down requirements for the protection of the health of the general public with regard to radioactive substances in water intended for human consumption*

This Directive lays down requirements for the protection of the health of the general public with regard to radioactive substances in water intended for human consumption. It lays down parametric values and frequencies and methods for monitoring radioactive substances. It does not apply to natural mineral waters meeting the requirements of Directive 2009/54/EC or water that is a medicinal product within the meaning of Directive 2001/83/EC.

The Directive requires that member states shall take all measures necessary to establish an appropriate monitoring programme for water intended for human consumption, to ensure that in the event of non-compliance with the parametric values laid down pursuant to this Directive:

- (a) It shall be assessed whether that poses a risk to human health which requires action; and
- (b) Remedial action shall be taken, where necessary, to improve the quality of water to a level which complies with requirements for the protection of human health from a radiation protection point of view.

## CASES

### *R (on the application of Rasool) v Tower Bridge Magistrates Court, [2013] All ER (D) 125 (Nov)*

This related to the Food Hygiene (England) Regulations 2006, SI 2006/14 and clarified that the person liable as a food business operator did not necessarily need to be the same person listed as the entity or person given in the registration for that premises. It was decided that the person identifiable as being in control of the premises who had not been named on the Food Registration form had been lawfully convicted.

## INFORMATION

### *Press Release: Shoppers to make more informed choices on minced meat*

Currently, meat sold as “lean” can contain as much as 15% fat and 15% collagen. From 1 January 2014, new laws mean that minced meat can only be labelled “lean” if it has a fat content of 7% or less and a collagen content of



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12% or less of the meat protein content. These rules will be introduced over the coming months to give food businesses time to amend labels or consider changes to their products.

In addition, all minced meat must be labelled with the percentage of fat and collagen it contains. These changes will give shoppers clear information on the content of minced meat, enabling them to make informed choices.

Food and Farming Minister, George Eustice said: “For the first time, people choosing “lean” minced meat will be guaranteed a low fat product. Minced meat will be clearly labelled with the percentage of fat, empowering people to make more informed choices about what they buy.”

To retain shoppers’ choice, UK businesses will be allowed to continue to make minced meat that has a fat and collagen content higher than new EU limits, as long as it is clearly labelled with the percentages of each.

The table below (not reproduced) shows the EU Regulations for minced meat. Any EU Member State may allow minced meat to be made with higher levels of fat and collagen as long as products are labelled with a national mark.

UK businesses will have to follow EU regulations on the fat and collagen content of meat labelled “lean.” If UK businesses decide not to follow EU rules on the other three categories of minced meat, they will have to be labelled with a national mark. Percentages of fat and collagen content must be given on all minced meat.

This press release relates to the implementation of Part B of Annex VI of the Food Information Regulations (Council Regulations (EU) No 1169/2011).

## ANIMAL HEALTH

### NEW LEGISLATION

#### *The Animal By-Products (Enforcement) (England) Regulations 2013, SI 2013/2952*

These Regulations revoke, in relation to England, the Animal By-Products (Identification) Regulations 1995, SI 1995/614 and revoke and remake the Animal By-Products (Enforcement) (England) Regulations 2011, SI 2011/881, incorporating certain provisions of the Animal By-Products (Identification) Regulations 1995, SI 1995/614.

These Regulations enforce in England, Council Regulation (EC) No 1069/2009 on laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Council Regulation (EC) No 1774/2002.

These Regulations also enforce in England, Commission Regulation (EU) No 142/2011 implementing Council Regulation (EC) No 1069/2009 laying down health rules as regards animal by-products and derived products not intended for human consumption.



The EU Control Regulation places obligations on operators in relation to animal by-products, including obligations as to disposal and use, prohibitions on feeding, and placing on the market. In addition, there are requirements for operators, plants and establishments to be registered or approved. The obligations vary according to the categorisation of the material; the higher risk animal by-product is categorised as Category 1 material, next in risk is Category 2 and then Category 3 material.

### WEIGHTS AND MEASURES

#### NEW LEGISLATION

##### *The Weights and Measures (Specified Quantities) (Unwrapped Bread and Intoxicating Liquor) Order (Northern Ireland) 2013, SR 2013/261*

This Order makes provision in respect of the quantities (“specified quantities”) in which beer, cider and wine sold in the glass from which it is to be drunk. It makes related provision in respect of capacity measures and quantity indications. In addition, the Order removes specified quantities relating to unwrapped loaves of bread, subject in certain cases to quantity indication requirements.

Article 4 amends the Weights and Measures (Intoxicating Liquor) Order (Northern Ireland) 1989, SR 1989/164 so as to permit retail sales of 2/3 pint of draught beer or cider, to permit wines (other than fortified wines) sold in a quantity of less than 75ml to be sold in any quantity without quantity indications and to provide for the sale of fortified wines only in specified quantities of 50ml or 70ml with quantity indications.

Article 2 makes related amendments to Sch 1 to the Weights and Measures (Northern Ireland) Order 1981, SR 1981/10 to permit the use for trade of capacity measures of two thirds of a pint.

Article 3 amends art 7 of the Weights and Measures (Miscellaneous Foods) Order (Northern Ireland) 1989, SR 1989/69 so as to remove specified quantities relating to unwrapped loaves of bread and to introduce quantity indication requirements applicable to such loaves, when weighing more than 300g and sold otherwise than in traditional quantities (400g or a multiple) or in bulk. In addition, it revokes now redundant exemptions from specified quantities relating to unwrapped loaves of bread in SR 1989/69, Sch 1.

#### INFORMATION

The following documents have been issued by the OIML

##### **OIML D11 (Edition 2013 (E)): General requirements for measuring instruments – Environmental conditions**

The primary aim of this International Document is to provide the OIML Technical Committees, Subcommittees and Project Groups with guidance for establishing appropriate metrological performance testing requirements for influence quantities that may affect the measuring instruments covered by OIML Recommendations

## WEIGHTS AND MEASURES

**OIML V 1 Edition 2013 (E/F) International vocabulary of terms in legal metrology (VIML)**

**OIML R 106–2 Edition 2012 (E) Automatic rail-weighbridges Part 2: Test report format**

This test report format aims to present, in a standardised format, the results of the various tests and examinations to which an automatic rail weighbridge will be submitted with a view to its approval. The test report consists of a “checklist” and the “test report” itself.

### ***Smart Metering System & Equipment Testing—Consultation Response***

The roll out of smart meters will play an important role in Britain’s transition to a low-carbon economy and help to meet some of the long-term challenges in ensuring an affordable, secure and sustainable energy supply

The Data and Communications Company (DCC) is responsible for establishing the shared infrastructure that is required to support the mass roll out of smart meters across Great Britain, in order to link 53 million smart electricity and gas meters in homes and small businesses with the systems of energy suppliers, network operators and energy service companies. This consultation considered the adequacy of the DCC’s systems and services to meet the requirements that are set out in the Smart Energy Code, whether data registration provisions can be met, and whether the systems provided by the DCC are interoperable with the prospective users

The Government confirms its position that suppliers and the DCC (with regard to the communications hubs) will be responsible for carrying out testing to ensure that their equipment is compliant with the relevant technical specification and that their chosen equipment is interoperable with the DCC systems.

The government also confirms that suppliers must retain evidence of this testing and make it available to the DCC upon request. This evidence should be retained for the operational lifetime of the meter such that it can be provided to Ofgem or SEC Panel in relation to any disputes that may arise.

## ENVIRONMENT

### NEW LEGISLATION

***The Energy Efficiency (Eligible Buildings) Regulations 2013, SI 2013/3220***

These Regulations transpose art 5 of the Directive 2012/27/EU on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC.

Regulation 3 sets an energy savings target of 163.6 gigawatt hours to be achieved in eligible buildings owned and occupied by central government. It also requires the Secretary of State to report to the European Commission, on an annual basis, the amount of energy savings achieved in each year of the reporting period of 2014 to 2020.

Regulation 4 places a duty on the competent authorities to encourage public bodies to adopt energy efficiency plans.

***The Motor Fuel (Composition and Content) (Amendment) Regulations 2013, SI 2013/2897***

These Regulations amend the Motor Fuel (Composition and Content) Regulations 1999, SI 1999/3107.

SI 1999/3107 as amended prior to these amending regulations make provision that the ethanol and oxygen content of super unleaded petrol sold at larger filling stations before 1 January 2014 must be no more than 5% and 2.7% by volume respectively.

Regulation 3 amends SI 1999/3107, reg 3(5) by extending the date until which this restriction applies from 1 January 2014 to 1 January 2017.

These regulations reflect the consultation below.

**INFORMATION**

***Response to consultation on a proposed amendment to the motor fuel (composition and content) regulations 1999***

Response confirming the government’s intention to extend the current legal requirement for a petrol protection grade beyond 2013 to mitigate the risk of limited availability of an E5 (petrol which contains no more than 5% ethanol) grade in the eventuality E10 (petrol with 10% ethanol content) is introduced at a large scale while there are still a significant number of non-compatible vehicles in circulation.

**MEDICINES**

**INFORMATION**

***Regulators debating definition of e-cigarettes***

Regulators are struggling to decide how to categorise e-cigarettes, which have been increasing in popularity over the last decade with sales now at \$2bn worldwide.

While called e-cigarettes do not actually contain tobacco and users inhale the nicotine through vapour rather than smoke, some people use them as way to stop smoking and others prefer them to normal cigarettes. Currently regulators are opting for one of three options—categorising them as tobacco products, categorising them as medicinal products, or banning them.

From 2016, e-cigarettes will be regulated as a medicine in the UK, which will allow tobacco companies, such as British American Tobacco, to sell medicinal products. While it was thought the EU would follow the same route, but MEPs have decided not to regulate them, as medicinal products because campaigners said it would limit their popularity.

## CONSUMER CREDIT AND PRICES

### CONSUMER CREDIT AND PRICES

#### NEW LEGISLATION

##### *The Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013, SI 2013/3134*

These Regulations implement most provisions of Directive 2011/83/EU. The remaining provisions of the Directive are implemented in the Consumer Rights (Payment Surcharges) Regulations 2012, SI 2012/3110 and the Enterprise Act 2002 (Part 8 EU Infringements) Order 2013, SI 2013/3168. That Order provides that enforcement procedures under the Enterprise Act 2002, Pt 8 apply in relation to a breach of these Regulations and the Payment Surcharges Regulations and is considered below.

Regulations 6, 7 and 27 provide for a number of excluded contracts (such as contracts for gambling, health services and services of a banking or insurance nature) to which provisions in the regulations do not apply.

Part 2 of the Regulations requires traders to provide information to consumers in relation to contracts concluded between them. Regulation 9 and Sch 1 specify the information that a trader must provide to a consumer before entering into an on-premises contract.

Regulations 10, 13 and Sch 2 specify the information required for an off-premises contract or a distance contract (including delivery arrangements, the trader's complaint handling policy, if there is one, and cancellation rights).

Regulations 12 and 16 require the trader to provide the consumer with a copy of the signed contract or confirmation of the contract, within a reasonable time after the conclusion of the contract.

Regulation 18 provides that a term is implied into the contract between the trader and the consumer that the trader has complied with the information requirements in regs 9 to 14 and 16.

Regulation 19 provides that a trader is guilty of a criminal offence if the trader enters into an off-premises contract without having provided the information on cancellation rights specified by reg 10 and Sch 2.

Part 3 of the Regulations contains provisions concerning a consumer's right to cancel a distance or off-premises contract without giving any reason or incurring any costs other than those specified.

Regulation 30 provides for a cancellation period of 14 days calculated from the date of conclusion of the contract or the date of delivery, according to the type of contract.

Regulation 31 provides that the cancellation period may be extended by up to 12 months if the trader does not provide the consumer with the information on cancellation rights specified in Sch 2.

Regulation 34 requires the trader to pay a refund to the consumer within 14 days of being informed of the cancellation or within 14 days of the goods

being returned or evidence of return being provided; the trader may deduct from the refund an amount reflecting the diminished value of the goods caused by unnecessary handling by the consumer.

Regulation 35 requires the consumer to return any goods to the trader and bear the cost of doing so, unless the trader has agreed to collect the goods or bear the costs of the consumer returning them.

Regulations 36 and 37 provide that the consumer loses the right to cancel where a service or digital content is supplied during the cancellation period, if the consumer acknowledged that the right would be lost in those circumstances.

Regulation 38 provides that an ancillary contract is automatically terminated on cancellation of the main contract.

Part 4 of the Regulations contains provisions concerning protection from unsolicited sales and additional charges that have not been expressly agreed in advance.

Regulation 39 introduces a new provision into the Consumer Protection Unfair Trading Regulations 2008, SI 2008/1277, which provides that a consumer is not required to pay for the unsolicited supply of products.

Regulation 40 provides that a consumer is not required to make payments in addition to those agreed for the trader's main obligation, unless the consumer gave express consent before conclusion of the contract.

Regulation 41 provides that where the trader operates a telephone line for consumers to contact them about a contract entered into with the trader, the consumer must not be bound to pay more than the basic rate for such telephone calls.

Part 5 contains provisions relating to the delivery of goods and the passing of risk from the trader to the consumer.

Regulation 42 sets out provisions relating to the delivery of goods. It provides that goods must be delivered without undue delay and in any event not more than 30 days after the date the contract is entered into. This applies unless the trader and consumer have agreed different arrangements, including cases where there is an obligation to deliver the goods at the time the contract is entered into. Regulation 43 deals with the passing of risk from the trader to the consumer in relation to sales contracts.

Part 6 contains provisions concerning enforcement of the Regulations.

Regulations 44 to 46 provide that local weights and measures authorities and the Department of Enterprise, Trade and Investment in Northern Ireland may consider complaints about surcharges, and may apply to a court for an injunction (or in Scotland an interdict or order of specific implement) against a trader acting in breach of the Regulations.

The Regulations extend to England and Wales, Scotland and Northern Ireland. Regulation 2 provides that the Regulations supersede the Consumer

## CONSUMER CREDIT AND PRICES

Protection (Distance Selling) Regulations 2000, SI 2000/2334 and the Cancellation of Contracts made in a Consumer's Home or Place of Work etc Regulations 2008, SI 2008/1816.

### ***The Financial Services Act 2012 (Consumer Credit) Order 2013, SI 2013/1882***

This Order makes provision in connection with the transfer of responsibility for the regulation of consumer credit from the Office of Fair Trading (OFT) to the Financial Conduct Authority (FCA) from 1 April 2014.

Article 2 provides that references in the Financial Services and Markets Act 2000 (FSMA 2000) to the FCA's functions under FSMA 2000 are to be treated as including references to the FCA's functions under the Consumer Credit Act 1974 (CCA 1974)

Article 3 applies certain provisions of FSMA 2000 to failure to comply with requirements of CCA 1974. These provisions ensure that the FCA is able to use its FSMA 2000 powers to investigate and take appropriate action in relation to contraventions of CCA 1974.

Article 4 provides for the FCA to issue a statement of policy setting out its policies in relation to the exercise of its powers under sections under certain sections of FSMA 2000.

Article 6 provides that a person may not be convicted of an offence under the CCA 1974 in relation to an act or omission in cases where the FCA has already exercised its powers under FSMA 2000, ss 66, 205, 206 or 206A in relation to that act or omission.

Article 7 makes a number of amendments to CCA 1974 to reflect the fact that the FCA will be responsible for regulating consumer credit

Article 8 applies certain provisions of the CCA 1974 to contraventions of certain provisions of FSMA 2000. These provisions ensure that where a duly appointed officer of a local weights and measures authority considers that a relevant offence under FSMA 2000 may have been committed in relation to consumer credit, that officer may use certain CCA 1974 powers to investigate.

### ***The Financial Services and Markets Act 2000 (Consumer Credit) (Transitional Provisions) Order 2013, SI 2013/128***

This Order is made under FSMA 2000, s 426.

Under the Enterprise and Regulatory Reform Act 2013, the OFT will cease to exist on 1 April 2014. The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No 2) Order 2013, SI 2013/1881, and the Financial Services Act 2012 (Consumer Credit) Order 2013, SI 2013/1882, transfer the regulatory framework for consumer credit in large part from the CCA 1974 to FSMA 2000, and confer functions in relation to consumer credit on the FCA in place of the OFT from 1 April 2014.

***The Financial Services and Markets Act 2000 (Designated Consumer Bodies) Order 2013, SI 2013/1882***

The Treasury has the power to designate any body that appears to them to represent the interests of consumers and satisfies the other criteria published by them for the purposes of submitting a complaint to the FCA under FSMA 2000, s 234C.

This Order designates the National Association of Citizens Advice Bureaux, the Consumers' Association, the General Consumer Council for Northern Ireland and the National Federation of Self Employed and Small Businesses as designated consumer bodies for this purpose.

A designated consumer body may submit a complaint under FSMA 2000, s 234C where it considers that a feature, or a combination of features, of the market for financial services in the UK is seriously damaging the interests of consumers. Where such a complaint is made to the FCA, it must publish a response within 90 days setting out how it proposes to deal with the complaint and in particular whether it proposes to take any action. The response must state the reasons for the proposals.

**FAIR TRADING****NEW LEGISLATION*****The Postal Services (Universal Postal Service) (Amendment) Order 2013, SI 2013/3108***

This Order amends the Postal Services (Universal Postal Service) Order 2012, SI 2012/936. Article 3 of this Order removes unused defined terms.

Articles 3, 4 and 6 change the way in which the term “working day” is used, and limit its use to the calculation of routing times. The maximum weight and minimum and maximum dimensions of postal packets required to be dealt with as part of the statutory minimum universal postal service are set out in the Postal Services Act 2011, s 33(1) (PSA 2011) and limitations on the statutory minimum universal postal service are set out in PSA 2011, s 33(3). Articles 5 and 7 of this Order apply these limits to postal packets in relation to all the services described in the principal Order.

Articles 8 and 9 respectively amend the description of the “priority” and “standard” services in Sch 1, paras 2 and 3 of the principal Order to require Certificates of Posting to be provided free of charge and to omit the prohibition of tracking.

Article 10 sets limits of size for postal packets required to be conveyed as part of the “return to sender” service described in Sch 1, para 5 of the principal Order.

Articles 11 to 14 change the descriptions of outgoing international services.

Regulations 15 to 17 amend requirements in the principal Order relating to services for the blind and partially sighted by removing requirements to provide free of charge registered items.



## FAIR TRADING

Article 18 amends the definition of redirection services to cover any addressee.

Articles 19 and 20 set limits of size for postal packets in relation to certain services described in Sch 3, paras 2 and 3 of the principal Order.

### ***Enterprise Act 2002 (Part 8 EU Infringements) Order 2013, SI 2013/3168***

The Consumer Rights Directive, 2011/83/EU places various obligations on traders in relation to the provision of information on consumer rights to cancel, and the taking and charging of payments.

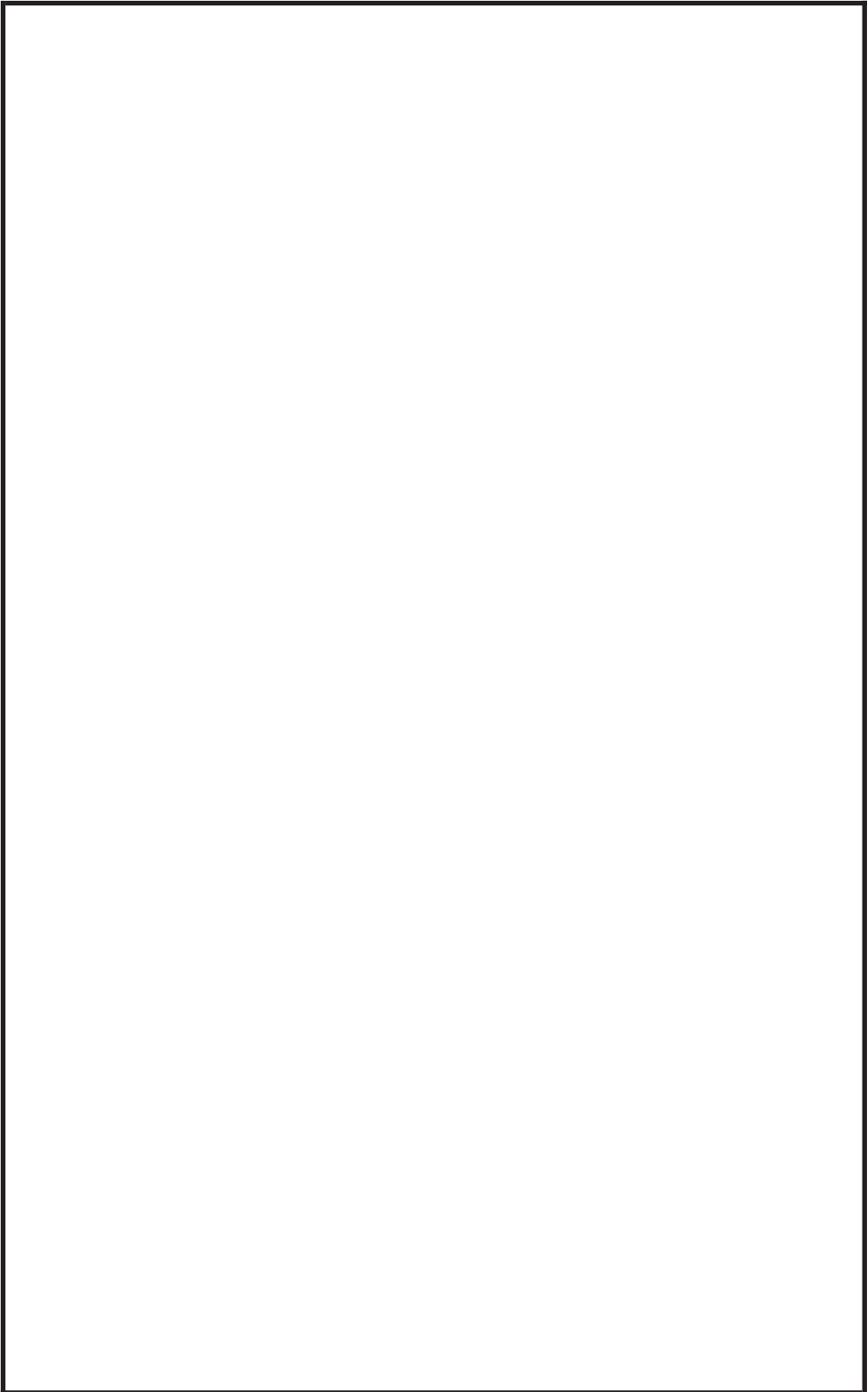
Directive 2011/83/EU was implemented into UK law under Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013, SI 2013/3134 considered above, and the Consumer Rights (Payment Surcharges) Regulations 2012, SI 2012/3110. This order now allows the Enterprise Act 2002, Pt 8 to be used to enforce rights under these statutory instruments.

## INFORMATION

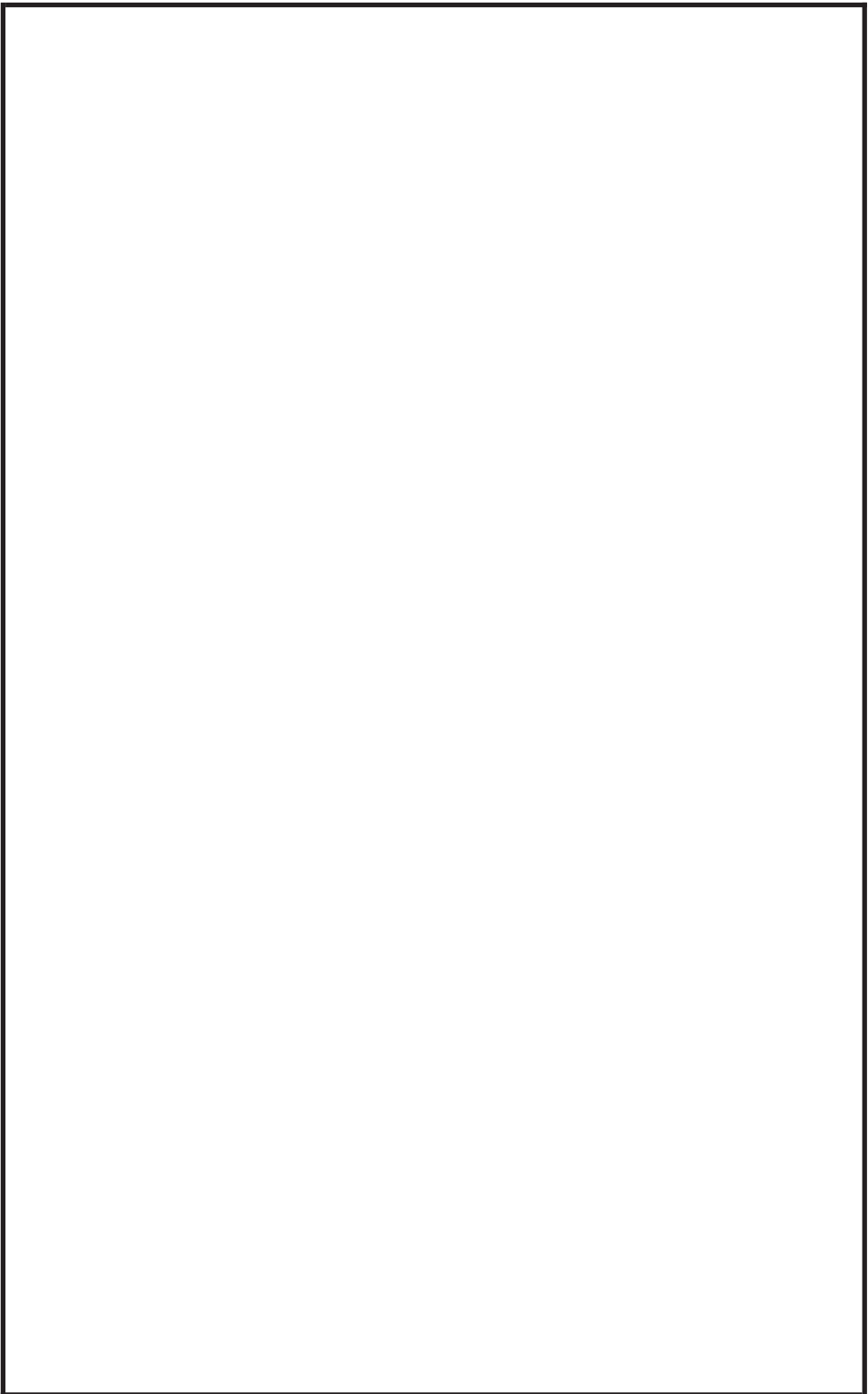
### ***House of Commons Business and Enterprise Committee; Report on Draft Consumer Rights Bill***

The draft Consumer Rights Bill does not provide consumers with adequate protection for contracts for supply of services. The report praised the government for its proposals, but found further clarification is required to provide consumers with additional protection. Recommendations to improve the level of protection the Bill offers consumers were also made. These included:

- The need to outline in the Bill the standard to which it wants contracts for the supply of services to be performed—consumers are less worried over whether a contract is performed with reasonable skill, but are worried over whether it was performed to a stated level;
- The Bill needs a new grey list, outlining terms the government believes is unfair to consumers, needs to be drafted—the new list should protect consumers from unfair circumstances where their right to cancel the contract does not provide a defence;
- The need to employ private enforcers to ensure traders compensate consumers;
- The government will need to clarify certification requirements for collective actions to ensure consumer action groups do not get tangled up in lengthy litigation.







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