

# Consumer Law Bulletin

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**Filing instructions:** This Bulletin contains material available on 1 July 2014. It should be filed behind the Bulletins Guide Card and in front of Bulletin No 322. **Remove Bulletin 311.** If desired Bulletin 311 may be retained outside the Binder for future reference. The Binder should now contain Bulletins Nos 312 to 323.

## ENFORCEMENT

### NEW LEGISLATION

#### INFORMATION

***REVISED CODE OF PRACTICE FOR THE DETENTION,  
TREATMENT AND QUESTIONING OF PERSONS BY POLICE  
OFFICER'S POLICE AND CRIMINAL EVIDENCE ACT 1984  
(PACE) – CODE C***

May 2014

This revised version of PACE Code C sets out the requirements for the detention, treatment and questioning of suspects not related to terrorism in police custody by police officers.

The updated code came into effect on 27 October 2013 and will apply from midnight on 2 June 2014.

## FOOD

### INFORMATION

***Report: Food advertising and children – Making sure we have a healthy debate***

**Summary**

**Background: the food advertising rules**

Both the broadcast and non-broadcast Advertising Codes were significantly tightened in 2007. This followed the publication of a Department of Health

## FOOD

'Choosing Health' White Paper which included a call for the strengthening of the advertising food rules to children, particularly on TV as part of a package of measures aimed at reducing obesity and improving diet and nutrition.

Although both Codes are closely aligned, the rules differ slightly. While the Broadcast Code categorises some foods as High in Fat, Salt or Sugar (HFSS) for TV, it doesn't do so for radio and nor does the Non-broadcast Code for non-broadcast media.

The restrictions around TV ads for HFSS products do not stop children from seeing HFSS TV ads completely, and this is because such an absolute restriction would have been disproportionate to the evidence around advertising's impact on food choices.

### **The debate: expert opinion**

The complexity of the debate is perhaps best demonstrated by the key findings from the work of Professor David Buckingham, 'The Impact of the Commercial World on Children's Wellbeing'.

This report found 'a surprisingly small amount of reliable evidence relating specifically to television advertising and to obesity'.

### **Advergames**

Advergames are typically electronic games used to advertise a product, brand or organisation. Concerns have been raised on and whether they're suitable for children, particularly when it comes to food and drink advertising.

Advergames by food companies have to stick to strict rules, and the ASA has banned those, which promoted overeating. AP published new guidance on advergames in 2012, which makes clear that ads should be obviously identifiable as such and should be prepared responsibly.

### **Future work**

In February 2014 the ASA, alongside its sister organisation the Committee of Advertising Practice, announced it was conducting further work to make sure the regulation of food and soft drink advertising continued to be effective and proportionate, particularly when it comes to protecting children online. This work includes:

- commissioning a leading youth researcher to conduct a comprehensive literature review of the impact of digital and online marketing of food and drink products to children;
- undertaking a proactive monitoring survey of food ads, with a focus online, to assess whether there are any problem areas; and
- taking action to bring advertising that breaks the rules into line.

***Press Release: Councils urge food giants to commit to standardised food labelling*****Summary****Background**

Recent studies show 67% of men, 57% of women and a quarter of children in the UK are either overweight or obese. To combat this problem, the Department of Health introduced the traffic light labelling system in 2013, allowing shoppers to find out, at a glance, levels of fat, salt, sugar, saturates and calories in the food they buy. The labelling is on the front of food packaging and divides items into low, medium and high levels, with the highest marked in red.

**Standardisation**

The current labelling system is voluntary, and while around 60% of companies, including the major supermarkets, have signed up to it, some other large food and drink manufacturers have introduced their own systems. According to the LGA, a standardised system of food labelling would help prevent consumers from unwittingly buying items with high levels of fat, salt and sugar, as well as taking on one of the UK's most serious public health issues.

**CONSUMER CREDIT AND PRICES****INFORMATION*****Drop in the number of rapid payday loans***

Payday lenders are reducing the number of rapid loans they offer consumers, new research has found. The research from the Financial Conduct Authority shows around 70 firms have not applied for permissions to continue offering quick credit to customers following the introduction of new rules governing the lenders.

**MEDICINES****NEW LEGISLATION*****Misuse of Drugs and Misuse of Drugs (Safe Custody) (Amendment) (England, Wales and Scotland) Regulations 2014***

These Regulations amend the Misuse of Drugs Regulations 2001 (the '2001 Regulations').

Regulation 3 adds groups of 'NBOMe' compounds and groups of benzo-furan compounds to Schedule 1 to the 2001 Regulations.

Regulation 4 adds Lisdexamphetamine to Schedule 2.

Regulation 5 adds Tramadol to Schedule 3.

Regulation 6 adds Zaleplon and Zopiclone to Schedule 4. The schedule in which a controlled drug is placed primarily affects the extent to which the

## MEDICINES

drug can be lawfully imported, exported, produced, supplied or possessed and dictates the record keeping, labelling and destruction requirements in relation to that drug.

Regulation 7 amends The Misuse of Drugs (Safe Custody) Regulations 1973 to insert Tramadol into the list of exempted drugs in Schedule 1 to those Regulations.

### *The Misuse of Drugs (Designation) (Amendment) (England, Wales and Scotland) Order 2014*

Section 7(3) of the Misuse of Drugs Act 1971 requires regulations to be made to allow the use for medical purposes of the drugs which are subject to control under that Act. Section 7(3) does not apply to any drug designated by order under section 7(4) as a drug to which section 7(4) is to apply.

This Order amends the Misuse of Drugs (Designation) Order 2001 by inserting groups of 'NBOMe' compounds and groups of benzofuran compounds into Part 1 of the Schedule to that Order.

## SAFETY

### NEW LEGISLATION

These Regulations consolidate and modernise the petrol storage legislative framework in England, Scotland and Wales.

Regulation 4 provides the general prohibition preventing the keeping of petrol, except in compliance with regulation 5 or 13.

Part 2 (regulations 5–12) deals with the storage of petrol in dispensing premises, ie non-domestic premises.

Regulation 5 requires that such storage be in accordance with a valid storage certificate.

Regulations 6 and 7 make provision for the application, grant and validity of storage certificates. Prescribed material changes (regulation 8 and specified in Schedule 1) require notification to the petroleum enforcement authority, which results in the issue of a new storage certificate subject to certain requirements in regulation 6.

Regulations 9 and 10 make provision for a change of operator of dispensing premises to be notified to the petroleum enforcement authority.

Regulation 11 makes provision for appeals to the Secretary of State from refusals to grant storage certificates by petroleum enforcement authorities and regulation 12 applies general prohibitions on the dispensing and supply of petrol.

Part 3 (regulations 13–17) deals with the storage of petrol in domestic and other relevant premises.

Regulation 13 and paragraph 1 of Schedule 2 make provision for the storage of minimal amounts up to a maximum of 30 litres. Where there is a larger

quantity, up to 275 litres, storage is provided for on notification under paragraph 2 of Schedule 2. Where storage is required for quantities in excess of 275 litres provision is made on the basis of a licence issued under regulation 14. Appeals from refusals to grant licenses for storage are provided for in regulation 15, while regulations 16 and 17 make provision for the renewal, variation and revocation of licences.

Part 4 of the Regulations (regulations 18–26) contains various miscellaneous provisions for enforcement, manufacture of portable petrol storage containers (regulation 19 and Schedule 3), repairs of containers (regulation 20), the prohibition on direct filling of fuel tanks from road tankers, and transitional provisions relating to repealed or revoked legislation listed in Schedule 4 (regulations 22–25).

Regulation 26 requires the Secretary of State to review the operation and effect of these Regulations and publish a report within five years after they come into force and every five years after that. Following the review the Secretary of State must consider whether the Regulations should be allowed to remain as they are, or be revoked or amended. A further instrument would be needed to revoke the Regulations or to amend them.

## **INFORMATION**

### ***EU Regulations could prove disastrous for the perfume industry***

Daily Telegraph, 29 May 2014: Perfumes may need to be reformulated under new European Commission Regulations aimed at protecting consumers with allergies. Chanel No 5 and Miss Dior, the two most popular perfumes in the world, could be banned under the new rules as they contain mosses. As a result, the perfume houses are trying to synthesis new aromas, which will provide them with their woody base notes.

## **ENVIRONMENT**

### **NEW LEGISLATION**

#### **Water Act 2014**

The Water Act will allow businesses, charities and public sector customers will have the freedom to switch supplier from 2017.

The Act is intended to reform the water industry to make it more innovative and responsive to customers and to increase the resilience of water supplies to natural hazards such as drought and floods. It will also bring forward measures to address the availability and affordability of insurance for households at high flood risk and ensure a smooth transition to the free market over the longer term.

The main measures for the water sector include:

- enabling all business, charity and public sector customers in England to switch their water and sewerage supplier;
- establishing a cross-border arrangement with Scotland;

## ENVIRONMENT

- enabling businesses to provide new sources of water or sewerage treatment services;
- developing a national water supply network by making it easier for water companies to buy and sell water from each other;
- enabling owners of small-scale water storage to sell excess water into the public supply;
- enabling ministers to set the level to which a water company needs to plan to cope with droughts;
- enabling developers and new water or sewerage companies to connect new building developments to the water mains and sewerage system;
- improving the regulations relating to merger of water sewage undertakers; and
- providing Ofwat a new over-arching duty to take greater account of long-term resilience and changes to improve Ofwat's regulation of the water industry.

The Act includes additional measures to restore the sustainable abstraction of water and improve the way water resource management and drought planning are managed.

It also encourages the use of Sustainable Drainage Systems (SuDS) by clarifying that building and maintenance of SuDS can be a function of sewerage undertakers.

### ***Ecodesign for Energy-Related Products and Energy Information (Amendment) Regulations 2014***

These Regulations amend the Ecodesign for Energy-Related Products Regulations 2010 (the '2010 Regulations') and the Energy Information Regulations 2011 and partially implement a number of Commission Regulations as follows:

Regulation 2(2) updates the reference to the applicable implementing measure for electrical and electronic household and office equipment in Schedule 1 to the 2010 Regulations;

Regulation 2(3) updates the reference to the applicable implementing measure for televisions in Schedule 1 to the 2010 Regulations;

Regulation 2(4) adds the following products to Schedule 1 to the 2010 Regulations from 1 July 2014: computers and computer servers, vacuum cleaners, water heaters and hot water storage tanks, space heaters and combination heaters, domestic ovens, hobs and range hoods; and

Regulation 3 adds the following products to Schedule 1 (EU measures) to the Energy Information Regulations 2011 to apply from the dates referred to in regulation 3: vacuum cleaners, water heaters, hot water storage tanks and packages of water heater and solar device, space heaters, combination

heaters, packages of space heater, temperature control and solar device and packages of combination heater, temperature control and solar device, domestic ovens and range hoods.

## **FAIR TRADING**

### **NEW LEGISLATION**

#### ***Intellectual Property Act 2014***

UK businesses will be able to better protect their intellectual property rights in the UK and abroad. A key part of the Intellectual Property Act is the creation of new powers for the UK to implement the Unified Patent Court Agreement. This is a central part of introducing a single patent across almost all EU countries.

The Intellectual Property Act also provides new protections for designers, and removes some of the uncertainties for businesses when protecting their designs. It will also introduce a number of online services to help businesses better manage their intellectual property.

The key elements will include:

- providing new protections for pre-publication research to ensure the UK's universities and the research sector remains a world-leader;
- the introduction of a criminal sanction for intentional copying of registered designs – this will deter those who knowingly copy UK registered designs and will provide greater protection for our hugely important design sector;
- measures to help businesses assess the strength of their IP case before going through formal and costly legal proceedings, with the creation of a design opinions service;
- the expansion of the existing patent opinions service to give businesses involved in potential patent litigation an impartial view on the strength of their case on a much wider range of issues;
- an exemption to the Freedom of Information Act to better protect pre-publication research. As a result researchers can more easily validate and analyse their work before putting it into the public domain; and
- allowing the UK Intellectual Property Office to share information on unpublished patent applications with other national patent offices. This will help clear backlogs internationally.

### **INFORMATION**

#### ***Scrap Metal Dealers Act 2013***

#### ***Determining suitability to hold a scrap metal dealer's licence***

#### ***Statutory guidance for local authorities in England and Wales***

First publication: 1 October 2013

Revised: May 2014

## FAIR TRADING

Direction on what information should be considered, such as offences, enforcement action, previous refusals or revocations and procedures in place that adhere are included in this guidance. A revised version was issued in May 2014.

### LICENSING

#### NEW LEGISLATION

##### *The Licensing Act 2003 (Mandatory Conditions) Order 2014*

Sections 19A and 73A of the Licensing Act 2003 (as inserted by section 32 and Schedule 4 to the Policing and Crime Act 2009) provide for the Secretary of State to prescribe by order up to nine mandatory conditions applicable to relevant premises licences and club premises certificates.

Relevant premises licences and relevant club premises certificates are those authorising the sale and supply of alcohol to the public in licensed premises or to members or guests of clubs in club premises.

The Schedule to the Order sets out a mandatory condition which applies to relevant premises licences and club premises certificates.

Paragraph 1 provides that the condition requires a relevant person to ensure that no alcohol is supplied from the premises to which the licence or certificate relates at a price below the permitted price.

Paragraph 2 contains relevant definitions for the purposes of paragraph 1. The permitted price is defined as the aggregate of the duty chargeable in relation to the alcohol on the date of its sale or supply and the amount of that duty multiplied by a percentage which represents the rate of VAT chargeable in relation to the alcohol on the date of its sale or supply. A relevant person is defined as a premises licence holder, designated premises supervisor or personal licence holder (in relation to premises in respect of which there is a premises licence) and a member or officer of a club who is present and able to prevent a supply of alcohol (in relation to premises in respect of which there is a club premises certificate).

Paragraph 3 provides that the permitted price is rounded up to the nearest penny.

Paragraph 4 provides that a change to the permitted price which would apply as a result of a change to the rate of duty or VAT charged in relation to alcohol would not apply until the expiry of the period of 14 days beginning on the day on which the change in the rate of duty or VAT takes effect.

##### *The Wireless Telegraphy (Licence Charges) (Amendment) Regulations 2014*

These Regulations amend the Wireless Telegraphy (Licence Charges) Regulations 2011 (the 'Principal Regulations').



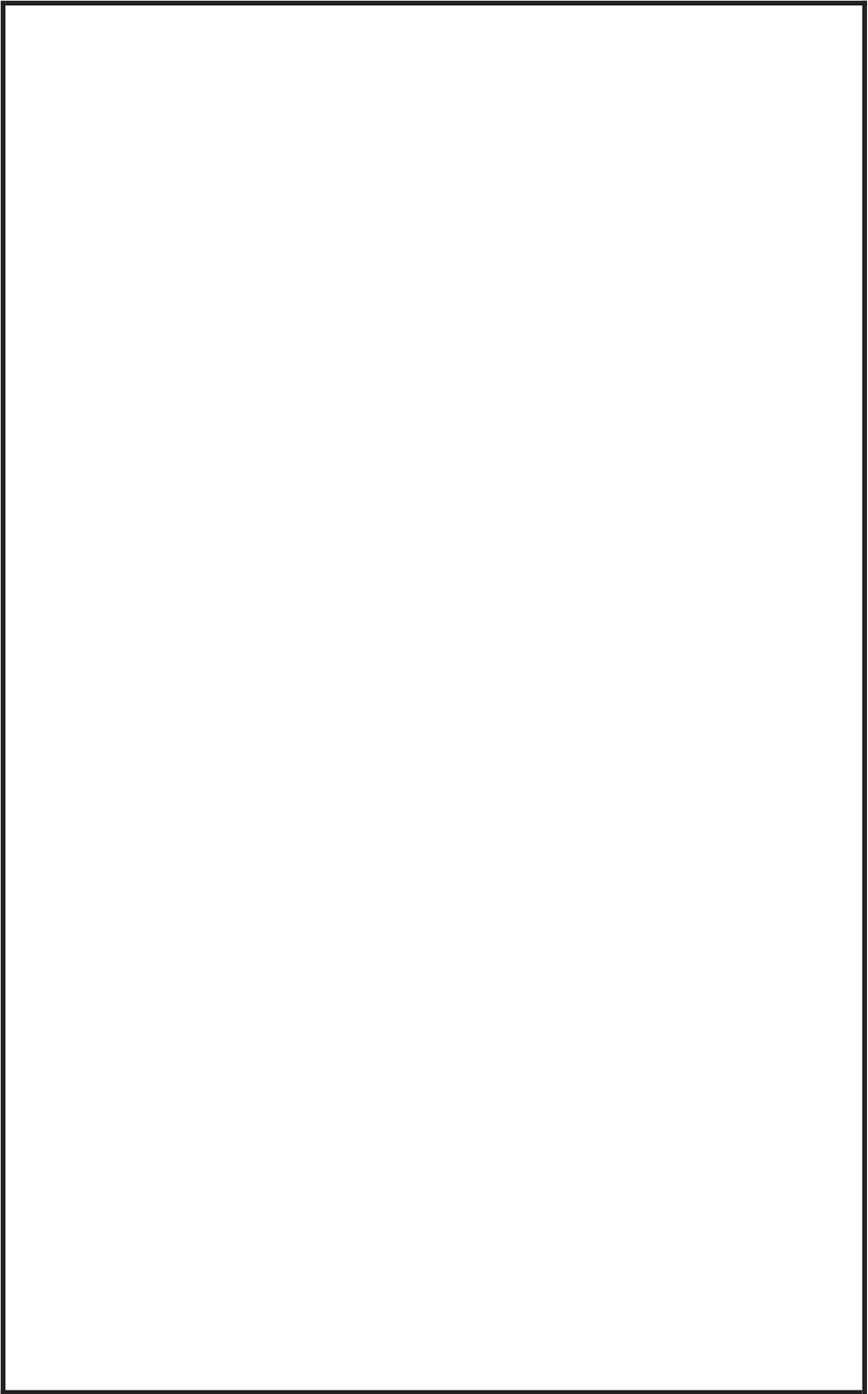
These Regulations increase the maximum fees which may be payable for wireless telegraphy licences in the Aeronautical sector, add new fees for licences in the Broadcasting sector and change the names of licence classes in the Public Wireless Network sector.

The Regulations also introduce new fees for licences in the Point to Point Fixed Links sector.

***Gambling (Licensing and Advertising) Act 2014 (Transitional Provisions) Order 2014***

This Order provides for the transitional arrangements that will apply in respect of advance applications made under the Gambling Act 2005 ('2005 Act') for, or to vary, a remote operating licence in anticipation of the coming into force of the new licensing requirement in subsections (1)(1) and (2) of the Gambling (Licensing and Advertising) Act 2014 ('the 2014 Act').





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