

# **Consumer Protection (Fair Trading) (Cancellation of Contracts) Regulations**

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## **THE SCHEDULE 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**

## **Legislative History**

### **CONSUMERS PROTECTION (FAIR TRADING) ACT (CHAPTER 52A, SECTIONS 11 AND 20)**

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

**Rg 1**

[1st March 2004]

## Citation

1. These Regulations may be cited as the Consumer Protection (Fair Trading) (Cancellation of Contracts) Regulations.

## 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 person 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 subparagraph (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