

ANNEX

No. S 000

CONSUMER PROTECTION (FAIR TRADING) ACT (CHAPTER 52A)

CONSUMER PROTECTION (FAIR TRADING) (CANCELLATION OF CONTRACTS) REGULATIONS 2009

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In exercise of the powers conferred by sections 11, 18A and 20 of the Consumer Protection (Fair Trading) Act, 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 2009 and shall come into operation on 15th April 2009.

Definitions

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

“cancellation period” means the period specified in regulation 4(1);

“consumer information notice” means a notice in writing containing the information required under regulation 4(6);

“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 —
 - (i) the goods or services to which the contract relates are not goods or services for which the consumer requested the supplier’s visit; and
 - (ii) the consumer did not know, or could not reasonably have known, the supply of such goods or services formed part of the supplier’s business activities; 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);

“extended cancellation period” means the period specified in regulation 4(1A);

“initial contact” means —

- (a) any meeting of the supplier and the consumer at a place other than the supplier’s permanent place of business; or
- (b) any communication between the supplier and the consumer by telephone;

“long-term holiday product contract” means a contract between a supplier and a consumer —

- (a) the main effect of which is that the consumer, for consideration, acquires the right to obtain discounts or other benefits in respect of accommodation, and
- (b) which has a duration of more than one year, or contains provision allowing for the contract to be renewed or extended so that it has a duration of more than one year,

irrespective of whether the contract makes provision for the consumer to acquire other services;

“notice of cancellation” means a notice of cancellation given under regulation 4;

“regulated contract” means a direct sales contract, a long-term holiday product contract, a time share contract or a time share related contract;

“supplier’s permanent place of business” does not include the supplier’s temporary premises at a trade fair, exhibition or promotional event;

“time share related contract” means a contract to assist a consumer to dispose of his time share rights conferred under 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.

(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” in paragraph (1) and in regulation 3(e) and (f), shall include an employee or agent of the supplier.

(3) For the purposes of the definition of “unsolicited visit” in paragraph (1), a consumer shall not be considered to have made an express request for a visit by the supplier by reason only that the consumer consented to the visit by the supplier during or after an initial contact at which the supplier indicates expressly or by implication that the supplier is willing to visit the consumer.

(4) 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);
 - (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; and
 - (h) any contract for the supply of financial products or financial services in respect of which a right of cancellation exercisable within a specified period is conferred on the consumer by any written law administered by the Monetary Authority of Singapore or directions issued under section 101 or 293 of the Securities and Futures Act (Cap. 289) by the Monetary Authority of Singapore.

Advance consideration

3A. A supplier shall not (either in person or through another person) request or accept any consideration, from —

- (a) a proposed consumer in contemplation of a long-term holiday product contract, a time share contract or a time share related contract; or
- (b) a consumer under a long-term holiday product contract, a time share contract or a time share related contract before the expiration of the cancellation period.

Product information notice

3B.—(1) A supplier who proposes in the course of its business to enter into a time share contract or a long-term holiday product contract with a consumer shall, prior to the entering of the contract, provide the consumer, free-of-charge, with a product information notice relating to the time share accommodation or long-term holiday product, as the case may be, which complies with paragraph (2).

(2) A product information notice shall in relation to the time share accommodation or long-term holiday product, as the case may be, set out the information referred to in the Third Schedule in a manner which is —

- (a) clear, comprehensible and accurate; and
- (b) sufficient to enable the consumer to make an informed decision about whether or not to enter into the contract.

Right to cancel contract

4.—(1) A regulated contract may not be enforced against the consumer at any time earlier than 5 days (excluding Saturdays, Sundays and public holidays) after —

- (a) the day on which the regulated contract is entered into;
- (b) the day on which the consumer information notice is subsequently brought to the attention of the consumer, 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; or
- (c) if the regulated contract is a long-term holiday product contract, the day on which the information relating to the discounts or other benefits in respect of accommodation, or the technical means of accessing such information, is provided to the consumer, if such information or the technical means of accessing such information has not

been provided to the consumer before or at the time when the contract is entered into.

(1A) Where consideration is requested or accepted in contravention of regulation 3A, or a contract is entered into in contravention of regulation 3B, the cancellation period referred to in paragraph (1) shall be extended by a further 3 months.

(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 or extended cancellation period, as the case may be.

(3) If the consumer affirms the regulated contract at any time after the expiry of 5 days (excluding Saturdays, Sundays and public holidays) after the day on which —

- (a) the regulated contract was entered into; or
- (b) the consumer information notice was brought to the attention of the consumer,

whichever is the later —

- (i) these Regulations shall not prevent the contract from being enforced against the consumer; and
- (ii) 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 or extended cancellation period, as the case may be, of the cancelled regulated contract —

- (a) the subsequent contract shall not be enforced against the consumer at any time within the cancellation period or extended cancellation period, as the case may be, 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 or extended cancellation period, as the case may be, of the cancelled regulated contract.

(5) Paragraph (4) shall not prevent paragraphs (1), (1A) or (2), or regulations 3A or 3B from applying to the subsequent contract if the subsequent contract is a regulated contract.

(6) A consumer information notice shall inform the consumer of his right to cancel the contract under these Regulations and in particular shall contain the information specified in the First Schedule.

(7) A notice of cancellation may be in the form set out in the Second Schedule or in any other notice in writing of the consumer's intention to cancel the contract under these Regulations.

(8) Subject to paragraph (9), a notice of cancellation 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.

(9) If the consumer information notice has not been brought to the attention of the consumer or does not contain any of the information specified in Part A of the First Schedule, a notice of cancellation may be given by leaving it at or by sending it by pre-paid post to —

- (a) the usual or last known address of the place of business of the supplier or designated person (if any); or
- (b) in the case of a body corporate, the registered office or principal office of the supplier or designated person (if any).

(10) 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.

(11) Notwithstanding paragraphs (8) and (9), 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 within 60 days after the consumer has given notice of cancellation of the contract to 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 the supplier within 60 days after the consumer has given notice of cancellation of the contract to the supplier;
 - (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 shall vest in the person entitled to the title under the trade-in arrangement.
- (4) Subject to paragraph (5), the 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 \$30,000.
- (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 a 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 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) Where 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 regulated contract

7. Where a consumer cancels a regulated 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.

Burden of proof

9. In any proceedings taken in any court between the consumer and a supplier where a dispute arises as to whether —

- (a) the consumer information notice has been brought to the attention of the consumer in accordance with regulation 4(1)(b);
- (b) the consumer information notice informed the consumer of his right to cancel the contract under these Regulations and that it contained the information specified in the First Schedule, in accordance with regulation 4(6);
- (c) the product information notice has been provided to the consumer in accordance with regulation 3B(1); or
- (d) the product information notice complied with the requirements of regulation 3B(2),

section 18A of the Act shall apply so that the supplier shall bear the burden of proving that the requirement referred to in paragraph (a), (b), (c) or (d), as the case may be, has been complied with.

Revocation

10. The Consumer Protection (Fair Trading) (Cancellation of Contracts) Regulations (Rg 1) are revoked.

Transitional provision

11.—(1) These Regulations shall not apply to any regulated contract entered into before the coming into operation of these Regulations.

(2) In respect of the cancellation of direct sales contracts and time share contracts entered into before 15th April 2009, the revoked Consumer Protection (Cancellation of Contracts) Regulations shall continue to apply as if these Regulations had not been enacted.

FIRST SCHEDULE

Regulations 4(6), (9) and 9(b)

INFORMATION REQUIRED IN CONSUMER INFORMATION NOTICE

Part A

Supplier's Contact Information

1. Name of supplier.
2. Supplier's reference number, code or other details to enable the transaction to be identified.
3. Designated person(s) to whom notice of cancellation to be given, including at least one name and at least one address or facsimile number.

Part B

Consumer's Right to Cancel Contract under Consumer Protection (Fair Trading) (Cancellation of Contracts) Regulations

1. The consumer has a right to cancel a regulated contract within 5 days (excluding Saturdays, Sundays and public holidays) after —

- (a) the day on which the consumer entered into the contract;
- (b) the day on which the consumer information notice was subsequently brought to his attention, if the consumer information notice was not brought to the attention of the consumer before or at the time he entered the contract; or
- (c) if the regulated contract is a long-term holiday product contract, the day on which the information relating to the discounts or other benefits in respect of accommodation, or the technical means of accessing such information (e.g. password), is provided to the consumer.

1A. The supplier must not request or accept payment of any sum in contemplation of or under a long-term holiday product contract, a time share contract or a time share related contract from a proposed consumer or consumer before the expiration of the cancellation period referred to in paragraph 1.

1B. The supplier must prior to entering into a time share contract or long-term holiday product contract with the consumer, provide the consumer with a product information notice containing the information listed in the Third Schedule to the Consumer Protection (Fair Trading) (Cancellation of Contracts) Regulations (the Regulations), and the information must be clear, comprehensible and accurate, and sufficient to enable the consumer to make an informed decision about whether or not to enter into the contract:

1C. If the supplier requests or accepts payment in breach of the prohibition referred to in paragraph 1A, or enters into a contract in breach of the requirements referred to in paragraph 1B, the cancellation period of 5 days referred to in paragraph 1 is extended by a further 3 months (extended cancellation period).

2. If the consumer affirms the regulated contract at any time after the expiry of 5 days (excluding Saturdays, Sundays and public holidays) after either the day on which the regulated contract was entered into or the day on which the consumer information notice was brought to the attention of the consumer, whichever is the later, the consumer will lose his right to cancel the contract under the Regulations.

3. If, having cancelled the regulated contract, the consumer enters 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 or extended cancellation period (as the case may be) of the cancelled contract, the cancellation period for the subsequent contract will expire when the cancellation period or extended cancellation period (as the case may be) of the cancelled contract would have expired. If, however, the subsequent contract is itself a regulated contract, the consumer can also rely on the cancellation period explained in paragraph 1 above or extended cancellation period explained in paragraph 1C above if it is longer.

4. To cancel the contract under the Regulations, the consumer should give the supplier a notice of cancellation expressed in the form set out in the Second Schedule to the Regulations or in any other notice in writing of the consumer's intention to cancel the contract under the Regulations.

5. A notice of cancellation must be delivered personally to the person designated in the consumer information notice, or left at or sent by pre-paid post to the address designated in the consumer information notice, or sent by facsimile transmission to the facsimile number designated in the consumer information notice.

6. If the supplier did not designate the necessary person, address or facsimile number in the consumer information notice, the consumer can give notice of cancellation 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 by pre-paid post to its registered office or principal office.

7. If the supplier agrees to accept a notice of cancellation by any additional means, the consumer can do so by the means so agreed.

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

9. The consumer may have other rights to cancel the contract apart from the Regulations. Cancellation under the Regulations does not prejudice those other rights.

SECOND SCHEDULE

Regulation 4(7)

NOTICE OF CANCELLATION

under the Consumer Protection
(Fair Trading) (Cancellation of Contracts)
Regulations

Supplier: (Insert name of supplier)

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

I hereby give notice that I wish to cancel my contract referred to above under the Consumer Protection (Fair Trading) (Cancellation of Contracts) Regulations.

Signature:

Date:

Name:

Address:

Telephone No.(optional):

Fax (optional):

E-mail (optional):

THIRD SCHEDULE

Regulation 3B(2)

MINIMUM LIST OF ITEMS TO BE INCLUDED IN A PRODUCT INFORMATION NOTICE FOR A TIME SHARE CONTRACT OR LONG- TERM HOLIDAY PRODUCT CONTRACT

Part A

Time Share Contract

1. The identity, place of residence and legal status of the supplier(s) which will be party to the contract.
2. The exact nature of the right which is the subject of the contract and, if the accommodation concerned, or any of the accommodation in the pool of accommodation concerned, is situated in a territory outside Singapore, a paragraph setting out the conditions governing the exercise of that right within the territory of that State and if those conditions have been fulfilled or, if they have not, what conditions remain to be fulfilled.

3. When the time share accommodation has been determined, an accurate description of that accommodation and its location.
4. Where the time share accommodation is under construction—
 - a. the state of completion;
 - b. a reasonable estimate of the deadline for completion of the time share accommodation;
 - c. where it concerns specific timeshare accommodation, the number of the building permit and the name and full address of the competent authority or authorities;
 - d. the state of completion of the services rendering the time share accommodation fully operational (gas, electricity, water and telephone connections); and
 - e. where applicable, a guarantee regarding completion of the timeshare accommodation or a guarantee regarding reimbursement of any payment made if the accommodation is not completed and, where appropriate, the conditions governing the operation of those guarantees.
5. The services (lighting, water, maintenance, refuse collection) to which the consumer has or will have access and on what conditions.
6. The common facilities, such as swimming pool, sauna, etc., to which the consumer has or may have access, and where appropriate, on what conditions.
7. The principles on the basis of which the maintenance of and repairs to the time share accommodation and its administration and management will be arranged.
8. The exact period within which the right which is the subject of the contract may be exercised and, if necessary, its duration; and the date on which the consumer may start to exercise that right.
9. The price to be paid by the consumer to acquire the right under the contract.
10. An estimate of the amount to be paid by the consumer for the use of common facilities and services, and the basis for the calculation of the amount of charges relating to occupation of the time share accommodation, the mandatory statutory charges (for example, taxes and fees) and the administrative overheads (for example, management, maintenance and repairs).
11. A statement that the acquisitions will not result in costs, charges or obligations other than those specified in the contract.
12. Whether the consumer has a right to cancel, withdraw from or terminate the contract, that is in addition to any right under the Consumer Protection (Fair Trading) (Cancellation of Contracts) Regulations.
13. Whether or not it is possible to join a scheme for the exchange or resale of the rights under the contract, and any costs involved should an exchange or resale scheme be organised by the supplier or by a third party designated by him in the contract.
14. Whether any promise for future repayment by the supplier to the consumer of the whole or part of amounts paid, with or without interest, is backed by

an insurance bond or banker's guarantee, and if not, information on how such future repayments will be funded.

Part B

Long-term Holiday Product Contract

1. Identity, place of residence and legal status of the supplier(s) which will be party to the contract.
2. Short description of the product.
3. The exact nature and content of the right (s).
4. Exact period within which the right which is the subject of the contract may be exercised and, if necessary, its duration.
5. The date on which the consumer may start to exercise the contractual right.
6. Price to be paid by the consumer for acquiring the rights(s), including any recurring costs the consumer can expect to incur resulting from the right to obtain access to the accommodation, travel and any related products or services as specified.
7. Outline of any additional obligatory costs imposed under the contract, type of costs and indication of amounts (e.g. annual membership fees).
8. A summary of key services available to the consumer (e.g. discounted hotel stays and flights).
9. Whether these key services are included in the costs indicated above, and if not, specify what is included and what has to be paid for (e.g. three-night stay included in annual membership fee, all other accommodation must be paid for separately).
10. Whether the consumer has a right to cancel, withdraw from or terminate the contract, that is in addition to any right under the Consumer Protection (Fair Trading) (Cancellation of Contracts) Regulations.
11. An appropriate and correct description of discounts available for future bookings, illustrated by a set of examples of recent offers;
12. Information on the restrictions on the consumer's ability to use the rights, such as limited availability or offers provided on a first-come-first-served basis, time limits on particular promotions and special discounts;
13. Where appropriate, information on the arrangements for the termination of ancillary contracts and the consequences of such termination;
14. Conditions for terminating the contract, the consequences of termination, and information on any liability of the consumer for any costs which might result from such termination;
15. Indication of the language(s) available for communication with the supplier in relation to the contact, for instance in relation to the handling of queries and complaints;
16. Where applicable, the possibility for out-of-court dispute resolution.

Made this 13th day of February 2009.

PETER ONG
*Permanent Secretary,
Ministry of Trade and Industry,
Singapore.*

[MTI/121/14-1-5 PT2 V2; AG/LRRD/15/2001/14]

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