



Isle of Man

Ellan Vannin

AT 11 of 1991

CONSUMER PROTECTION ACT 1991



Isle of Man

Ellan Vannin

CONSUMER PROTECTION ACT 1991

Index

Section	Page
PART I – PRODUCT LIABILITY	
1	7
2	8
3	9
4	10
5	11
6	12
7	12
PART II – CONSUMER SAFETY	
8	12
9	15
10	17
11	18
12	18
13	20
14	20
15	21
16	22
PART III – [REPEALED]	
17	23
18	23
19	23
20	23
21	23
22	23
23	23
PART IV – ENFORCEMENT OF PARTS II AND III	
24	23

25	Test purchases.....	23
26	Powers of search etc.....	24
27	Provisions supplemental to s 26.....	26
28	Power of customs officer to detain goods.....	27
29	Obstruction of officer of OFT.....	28
30	Appeals against detention of goods	28
31	Compensation for seizure and detention.....	29
32	Recovery of expenses of enforcement	29
33	Power of Treasury to disclose information.....	30
34	Restrictions on disclosure of information.....	30
35	Defence of due diligence	32
36	Liability of persons other than principal offender.....	32
37	Civil proceedings.....	33

PART V – UNFAIR CONTRACT TERMS IN CONSUMER CONTRACTS

34

38	Contracts to which this Part applies.....	34
39	Unfair terms	34
40	Assessment of unfair terms.....	35
40A	Effect of unfair term	35
40B	Complaints - consideration by Board.....	35
40C	Injunctions to prevent continued use of unfair terms.....	36
40D	Powers to obtain documents and information.....	36
40E	Publication, information and advice	37
40F	Interpretation etc.	37

PART VI – [REPEALED]

39

41	[Repealed].....	39
42	[Repealed].....	39
43	[Repealed].....	39
44	[Repealed].....	39
44A	[Repealed].....	39
45	[Repealed].....	39

PART VII – CANCELLATION OF CERTAIN CONTRACTS

39

46	Contracts to which Part VII applies.....	39
46A	Offence to enter into certain contracts.....	40
47	Cancellation of contract.....	40
47A	Failure to provide notice of cancellation rights	41
47B	Defence of due diligence	41
47C	Liability of persons other than the principal offender	42
47CA	Test purchases	42
47D	Enforcement powers	42
47E	Obstruction of OFT’s officers.....	43
47F	Restrictions on disclosure of information.....	43
48	Recovery of money paid by consumer.....	44

49	Repayment of credit	44
50	Return of goods by consumer after cancellation	45
51	Goods given in part-exchange	46
52	No contracting-out.....	47
53	Interpretation of Part VII	47
PART VIII - TITLE TO MOTOR VEHICLES		49
54	Protection of purchaser of motor vehicle	49
55	Presumptions relating to dealings with motor vehicles.....	50
56	Interpretation of Part VIII.....	51
PART VIIIA - DISTANCE SELLING		52
57A	Contracts to which this Part applies	52
57B	Prior information	53
57C	Written and additional information.....	54
57D	Right to cancel	55
57E	Cancellation period: contracts for the supply of goods	56
57F	Cancellation period: contracts for the supply of services	57
57G	Exceptions to the right to cancel	57
57H	Recovery of sums and return of security.....	58
57I	Cancellation of related credit agreement	58
57J	Restoration of goods after cancellation.....	60
57K	Goods given in part-exchange	61
57L	Performance.....	62
57M	No contracting-out.....	63
57N	Supplemental.....	63
PART IX – MISCELLANEOUS AND SUPPLEMENTAL		64
57	Functions of OFT	64
58	Enforcement of trade mark provisions.....	65
59	Financial provisions	65
60	Interpretation: general	65
61	Meaning of “supply”.....	67
62	Self-incrimination and legal professional privilege	69
62A	Power to amend Act and apply certain subordinate legislation of the United Kingdom	69
63	Orders and regulations	70
64	Transitional provisions, amendments and repeals	70
65	Short title and commencement	70
SCHEDULE 1		71
AMENDMENTS OF LIMITATION ACT 1984		71
SCHEDULE 2		71
PROHIBITION NOTICES AND NOTICES TO WARN		71

SCHEDULE 2A	76
LIST OF TERMS WHICH MAY BE REGARDED AS UNFAIR	76
SCHEDULE 2B	78
MEANING OF “EXCEPTED CONTRACT” FOR THE PURPOSES OF SECTION 46	78
SCHEDULE 3	79
TRANSITIONAL PROVISIONS	79
SCHEDULE 4	81
MISCELLANEOUS AMENDMENTS	81
SCHEDULE 5	81
ENACTMENTS REPEALED	81
ENDNOTES	83
TABLE OF ENDNOTE REFERENCES	83

**Isle of Man***Ellan Vannin*

CONSUMER PROTECTION ACT 1991

Received Royal Assent: 9 July 1991
Passed: 9 July 1991
Commenced: See legislative history

AN ACT to make provision with respect to the liability of persons for damage caused by defective products; to make further provision with respect to the safety of consumers and others; to make provision as to the disposition of motor vehicles let on hire-purchase; to enable certain consumer contracts concluded away from business premises to be cancelled; to provide for the control of misleading advertisements; to provide for the enforcement of certain provisions as to trade marks; and for connected purposes.

GENERAL NOTE: The maximum fines in this Act are as increased by the *Criminal Justice (Penalties, Etc.) Act 1993 s 1*.

PART I – PRODUCT LIABILITY

1 Liability for defective products

[P1987/43/2]

- (1) Subject to the following provisions of this Part, where any damage is caused wholly or partly by a defect in a product, each of the following persons is liable for the damage —
 - (a) the producer of the product;
 - (b) any person who, by putting his name on the product or using a trade mark or other distinguishing mark in relation to the product, has held himself out to be the producer of the product;
 - (c) any person who has imported the product into a member State from a place outside the member States in order, in the course of any business of his, to supply it to another.
- (2) Subject as aforesaid, where any damage is caused wholly or partly by a defect in a product, any person who supplied the product (whether to the person who suffered the damage, to the producer of any product in which

the product in question is comprised or to any other person) is liable for the damage if —

- (a) the person who suffered the damage requests the supplier to identify one or more of the persons referred to in subsection (1) (whether still in existence or not) in relation to the product;
 - (b) that request is made within a reasonable period after the damage occurs and at a time when it is not reasonably practicable for the person making the request to identify all those persons; and
 - (c) the supplier fails, within a reasonable period after receiving the request, either to comply with the request or to identify the person who supplied the product to him.
- (3) A person does not fall within subsection (1), and subsection (2) does not apply to him, in respect of any defect in any game or agricultural produce if the only supply of the game or produce by that person to another was at a time when it had not undergone an industrial process.
- (4) Where two or more persons are liable by virtue of this Part for the same damage, their liability is joint and several.
- (5) This section is without prejudice to any liability arising otherwise than by virtue of this Part.
- (6) For the purposes of section 1(1)(c) the Island shall be treated as if it were part of a member State.¹

2 Meaning of “defect”

[P1987/43/3]

- (1) Subject to the following provisions of this section, there is a defect in a product for the purposes of this Part if the safety of the product is not such as persons generally are entitled to expect; and for those purposes “safety”, in relation to a product, includes safety with respect to products comprised in that product and safety in the context of risks of damage to property, as well as in the context of risks of death or personal injury.
- (2) In determining for the purposes of subsection (1) what persons generally are entitled to expect in relation to a product, all the circumstances shall be taken into account, including —
 - (a) the manner in which, and purposes for which, the product has been marketed, its get-up, the use of any mark in relation to the product and any instructions for, or warnings with respect to, doing or refraining from doing anything with or in relation to the product;
 - (b) what might reasonably be expected to be done with or in relation to the product; and
 - (c) the time when the product was supplied by its producer to another;

and nothing in this section requires a defect to be inferred from the fact alone that the safety of a product which is supplied after that time is greater than the safety of the product in question.

3 Defences

[P1987/43/4]

- (1) In any civil proceedings by virtue of this Part against any person (“the defendant”) in respect of a defect in a product it shall be a defence for him to show —
 - (a) that the defect is attributable to compliance with any requirement imposed by or under any enactment or with any retained EU obligation; or²
 - (b) that the defendant did not at any time supply the product to another; or
 - (c) that the following conditions are satisfied —
 - (i) that the only supply of the product to another by the defendant was otherwise than in the course of a business of his; and
 - (ii) that the defendant does not fall within section 1(1)(a), (b) or (c), or does so by virtue only of things done otherwise than with a view to profit; or
 - (d) that the defect did not exist in the product at the relevant time; or
 - (e) that the state of scientific and technical knowledge at the relevant time was not such that a producer of products of the same description as the product in question might be expected to have discovered the defect if it had existed in his products while they were under his control; or
 - (f) that the defect —
 - (i) constituted a defect in a product (“the subsequent product”) in which the product in question had been comprised; and
 - (ii) was wholly attributable to the design of the subsequent product or to compliance by the producer of the product in question with instructions given by the producer of the subsequent product.
- (2) In this section “the relevant time”, in relation to electricity, means the time at which it was generated, being a time before it was transmitted or distributed, and in relation to any other product, means —
 - (a) if the defendant is a person falling within section 1(1) in relation to the product, the time when he supplied the product to another;
 - (b) if the defendant does not fall within section 1(1) in relation to the product, the time when the product was last supplied by a person falling within section 1(1) in relation to the product.

4 Damage giving rise to liability

[P1987/43/5]

- (1) Subject to the following provisions of this section, in this Part “**damage**” means death or personal injury or any loss of or damage to any property (including land).
- (2) A person shall not be liable under section 1 in respect of any defect in a product for the loss of or any damage to the product itself or for the loss of or any damage to the whole or any part of any product which has been supplied with the product in question comprised in it.
- (3) A person shall not be liable under section 1 for any loss of or damage to any property which, at the time it is lost or damaged, is not —
 - (a) of a description of property ordinarily intended for private use, occupation or consumption; and
 - (b) intended by the person suffering the loss or damage mainly for his own private use, occupation or consumption.
- (4) No damages shall be awarded to any person by virtue of this Part in respect of any loss of or damage to any property if the amount which would fall to be so awarded to that person, apart from this subsection and any liability for interest, does not exceed such sum as may be prescribed.
- (5) In determining for the purposes of this Part who has suffered any loss of or damage to property and when any such loss or damage occurred, the loss or damage shall be regarded as having occurred at the earliest time at which a person with an interest in the property had knowledge of the material facts about the loss or damage.
- (6) For the purposes of subsection (5) the material facts about any loss of or damage to any property are such facts about the loss or damage as would lead a reasonable person with an interest in the property to consider the loss or damage sufficiently serious to justify his instituting proceedings for damages against a defendant who did not dispute liability and was able to satisfy a judgment.
- (7) For the purposes of subsection (5) a person’s knowledge includes knowledge which he might reasonably have been expected to acquire —
 - (a) from facts observable or ascertainable by him; or
 - (b) from facts ascertainable by him with the help of appropriate expert advice which it is reasonable for him to seek;

but a person shall not be taken by virtue of this subsection to have knowledge of a fact ascertainable by him only with the help of expert advice unless he has failed to take all reasonable steps to obtain (and, where appropriate, to act on) that advice.

5 Application of certain enactments

[P1987/43/6]

- (1) Any damage for which a person is liable under section 1 shall be deemed to have been caused for the purposes of the *Fatal Accidents Act 1981* by that person's wrongful act, neglect or default.
- (2) Where —
 - (a) a person's death is caused wholly or partly by a defect in a product, or a person dies after suffering damage which has been so caused;
 - (b) a request such as mentioned in section 1(2)(a) is made to a supplier of the product by that person's personal representatives or, in the case of a person whose death is caused wholly or partly by the defect, by any dependant or relative of that person; and
 - (c) the conditions specified in section 1(2)(b) and (c) are satisfied in relation to that request,

this Part shall have effect for the purposes of the *Law Reform (Miscellaneous Provisions) Act 1938* and the *Fatal Accidents Act 1981* as if liability of the supplier to that person under section 1(2) did not depend on that person having been satisfied in relation to a request made by that person.

- (3) Section 1 of the *Congenital Disabilities (Civil Liability) Act 1986* shall have effect for the purposes of this Part as if —
 - (a) a person were answerable to a child in respect of an occurrence caused wholly or partly by a defect in a product if he is or has been liable under section 1 in respect of any effect of the occurrence on a parent of the child, or would be so liable if the occurrence caused a parent of the child to suffer damage;
 - (b) the provisions of this Part relating to liability under section 1 applied in relation to liability by virtue of paragraph (a) under section 1 of that Act; and
 - (c) subsection (6) of the said section 1 (exclusion of liability) were omitted.
- (4) Where any damage is caused partly by a defect in a product and partly by the fault of the person suffering the damage, the *Law Reform (Contributory Negligence) Act 1946* and section 5 of the *Fatal Accidents Act 1981* (contributory negligence) shall have effect as if the defect were the fault of every person liable by virtue of this Part for the damage caused by the defect.
- (5) In subsection (4) above "fault" has the same meaning as in the said Act of 1946.
- (6) Schedule 1 shall have effect for the purpose of amending the *Limitation Act 1984* in its application in relation to the bringing of actions by virtue of this Part.

- (7) Nothing in this Part prejudices the operation of section 12 of the Nuclear Installations Act 1965 (an Act of Parliament), as it has effect in the Island (rights to compensation for certain breaches of duties confined to rights under that Act).

6 Prohibition of exclusions from liability

[P1987/43/7]

The liability of a person by virtue of this Part to a person who has suffered damage caused wholly or partly by a defect in a product, or to a dependant of such a person, shall not be limited or excluded by any contract term, by any notice or by any other provision.

7 Interpretation of Part I

- (1) In this Part —

“**agricultural produce**” means any produce of the soil, of stock-farming or of fisheries;

“**dependant**” has the same meaning as it has in the *Fatal Accidents Act 1981*;

“**producer**”, in relation to a product, means —

- (a) the person who manufactured it;
- (b) in the case of a substance which has not been manufactured but has been won or abstracted, the person who won or abstracted it;
- (c) in the case of a product which has not been manufactured, won or abstracted but essential characteristics of which are attributable to an industrial or other process having been carried out (for example, in relation to agricultural produce), the person who carried out that process;

“**product**” means any goods or electricity and (subject to subsection (2)) includes a product which is comprised in another product, whether by virtue of being a component part or raw material or otherwise.

- (2) For the purposes of this Part a person who supplies any product in which products are comprised, whether by virtue of being component parts or raw materials or otherwise, shall not be treated by reason only of his supply of that product as supplying any of the products so comprised.

PART II – CONSUMER SAFETY

8 The general safety requirement

[P1987/43/10]

- (1) A person shall be guilty of an offence if he —

- (a) supplies any consumer goods which fail to comply with the general safety requirement;
 - (b) offers or agrees to supply any such goods; or
 - (c) exposes or possesses any such goods for supply.
- (2) For the purposes of this section consumer goods fail to comply with the general safety requirement if they are not reasonably safe having regard to all the circumstances, including —
- (a) the manner in which, and purposes for which, the goods are being or would be marketed, the get-up of the goods, the use of any mark in relation to the goods and any instructions or warnings which are given or would be given with respect to the keeping, use or consumption of the goods;
 - (b) any standards of safety published by any person either for goods of a description which applies to the goods in question or for matters relating to goods of that description; and
 - (c) the existence of any means by which it would have been reasonable (taking into account the cost, likelihood and extent of any improvement) for the goods to have been made safer.
- (3) For the purposes of this section consumer goods shall not be regarded as failing to comply with the general safety requirement in respect of —
- (a) anything which is shown to be attributable to compliance with any requirement imposed by or under any enactment or with any retained EU obligation;³
 - (b) any failure to do more in relation to any matter than is required by —
 - (i) any safety regulations imposing requirements with respect to that matter;
 - (ii) any standards of safety approved for the purposes of this subsection by or under any such regulations and imposing requirements with respect to that matter;
 - (iii) any provision of any enactment or subordinate legislation imposing such requirements with respect to that matter as are designated for the purposes of this subsection by any such regulations.
- (4) In any proceedings against any person for an offence under this section in respect of any goods it shall be a defence for that person to show —
- (a) that he reasonably believed that the goods would not be used or consumed in the Island, or
 - (b) that the following conditions are satisfied —

- (i) that he supplied the goods, offered or agreed to supply them or, as the case may be, exposed or possessed them for supply in the course of carrying on a retail business; and
 - (ii) that, at the time he supplied the goods or offered or agreed to supply them or exposed or possessed them for supply, he neither knew nor had reasonable grounds for believing that the goods failed to comply with the general safety requirement; or
 - (c) that the terms on which he supplied the goods or agreed or offered to supply them or, in the case of goods which he exposed or possessed for supply, the terms on which he intended to supply them —
 - (i) indicated that the goods were not supplied or to be supplied as new goods; and
 - (ii) provided for, or contemplated, the acquisition of an interest in the goods by the persons supplied or to be supplied.
- (5) For the purposes of subsection (4)(b) goods are supplied in the course of carrying on a retail business if —
- (a) whether or not they are themselves acquired for a person's private use or consumption, they are supplied in the course of carrying on a business of making a supply of consumer goods available to persons who generally acquire them for private use or consumption; and
 - (b) the descriptions of goods the supply of which is made available in the course of that business do not, to a significant extent, include manufactured or imported goods which have not previously been supplied in the Island.
- (6) A person guilty of an offence under this section shall be liable on summary conviction to imprisonment for a term not exceeding 6 months or to a fine not exceeding £5,000 or to both.
- (7) In this section "consumer goods" means any goods which are ordinarily intended for private use or consumption, not being —
- (a) growing crops or things comprised in land by virtue of being attached to it;
 - (b) water, food, feeding stuff or fertiliser;
 - (c) gas which is, is to be or has been supplied by a person authorised to supply it by or under an Act of Tynwald;
 - (d) aircraft (other than hang-gliders) or motor vehicles;
 - (e) controlled drugs or licensed medicinal products;
 - (f) tobacco.

9 Safety regulations

[P1987/43/11]

- (1) The Isle of Man Office of Fair Trading may by regulations under this section (“safety regulations”) make such provision as it considers appropriate for the purposes of section 8(3) and for the purpose of securing —
 - (a) that goods to which this section applies are safe;
 - (b) that goods to which this section applies which are unsafe, or would be unsafe in the hands of persons of a particular description, are not made available to persons generally or, as the case may be, to persons of that description; and
 - (c) that appropriate information is, and inappropriate information is not, provided in relation to goods to which this section applies.⁴
- (2) Without prejudice to the generality of subsection (1) safety regulations may contain provision —
 - (a) with respect to the composition or contents, design, construction, finish or packing of goods to which this section applies, with respect to standards for such goods and with respect to other matters relating to such goods;
 - (b) with respect to the giving, refusal, alteration or cancellation of approvals of such goods, of descriptions of such goods or of standards for such goods;
 - (c) with respect to the conditions that may be attached to any approval given under the regulations;
 - (d) for requiring such fees as may be determined by or under the regulations to be paid on the giving or alteration of any approval under the regulations and on the making of an application for such an approval or alteration;
 - (e) with respect to appeals against refusals, alterations and cancellations of approvals given under the regulations and against the conditions contained in such approvals;
 - (f) for requiring goods to which this section applies to be approved under the regulations or to conform to the requirements of the regulations or to descriptions or standards specified in or approved by or under the regulations;
 - (g) with respect to the testing or inspection of goods to which this section applies (including provision for determining the standards to be applied in carrying out any test or inspection);
 - (h) with respect to the ways of dealing with goods of which some or all do not satisfy a test required by or under the regulations or a standard connected with a procedure so required;

- (i) for requiring a mark, warning or instruction or any other information relating to goods to be put on or to accompany the goods or to be used or provided in some other manner in relation to the goods, and for securing that inappropriate information is not given in relation to goods either by means of misleading marks or otherwise;
 - (j) for prohibiting persons from supplying, or from offering to supply, agreeing to supply, exposing for supply or possessing for supply, goods to which this section applies and component parts and raw materials for such goods;
 - (k) for requiring information to be given to any such person as may be determined by or under the regulations for the purpose of enabling that person to exercise any function conferred on him by the regulations.
- (3) Without prejudice as aforesaid, safety regulations may contain provision –
- (a) for securing that a person shall not be guilty of an offence under section 10 unless it is shown that the goods in question do not conform to a particular standard;
 - (b) for securing that proceedings for such an offence are not brought except by or with the consent of OFT or of the Attorney General;⁵
 - (c) for enabling a court of summary jurisdiction to try a complaint in respect of such an offence if the complaint was made within 12 months from the time when the offence was committed;
 - (d) for determining the persons by whom, and the manner in which, anything required to be done by or under the regulations is to be done.
- (4) Safety regulations shall not provide for any contravention of the regulations to be an offence.
- (5) Where OFT proposes to make safety regulations it shall before it makes them –
- (a) consult such organisations as appear to it to be representative of interests substantially affected by the proposal;
 - (b) consult such other persons as it considers appropriate; and
 - (c) in the case of proposed regulations relating to goods suitable for use at work, consult the Department of Infrastructure.^{6 7}
- (6) Subsection (5) does not apply in the case of regulations which provide for the regulations to cease to have effect at the end of a period of not more than 12 months beginning with the day on which they come into force and which contain a statement that it appears to OFT that the need to protect the public requires that the regulations should be made without delay.⁸

- (7) Subsection (5)(a) does not apply in the case of regulations to the extent that they contain provision substantially corresponding to that contained in regulations made under section 11 of the Consumer Protection Act 1987 (an Act of Parliament).
- (8) This section applies to any goods other than —
- (a) growing crops and things comprised in land by virtue of being attached to it;
 - (b) water, food, feeding stuff or fertiliser;
 - (c) gas which is, is to be or has been supplied by a person authorised to supply it by or under an Act of Tynwald;
 - (d) controlled drugs and licensed medicinal products.

10 Offences against safety regulations

[P1987/43/12]

- (1) Where safety regulations prohibit a person from supplying or offering or agreeing to supply any goods or from exposing or possessing any goods for supply, that person shall be guilty of an offence if he contravenes the prohibition.
- (2) Where safety regulations require a person who makes or processes any goods in the course of carrying on a business —
- (a) to carry out a particular test or use a particular procedure in connection with the making or processing of the goods with a view to ascertaining whether the goods satisfy any requirements of such regulations; or
 - (b) to deal or not to deal in a particular way with a quantity of the goods of which the whole or part does not satisfy such a test or does not satisfy standards connected with such a procedure,
- that person shall be guilty of an offence if he does not comply with the requirement.
- (3) If a person contravenes a provision of safety regulations which prohibits or requires the provision, by means of a mark or otherwise, of information of a particular kind in relation to goods, he shall be guilty of an offence.
- (4) Where safety regulations require any person to give information to another for the purpose of enabling that other to exercise any function, that person shall be guilty of an offence if —
- (a) he fails without reasonable cause to comply with the requirement; or
 - (b) in giving the information which is required of him —
 - (i) he makes any statement which he knows is false in a material particular; or

- (ii) he recklessly makes any statement which is false in a material particular.
- (5) A person guilty of an offence under this section shall be liable on summary conviction to imprisonment for a term not exceeding 6 months or to a fine not exceeding £5,000 or to both.

11 Prohibition notices and notices to warn

[P1987/43/13]

- (1) OFT may –
- (a) serve on any person a notice (a “prohibition notice”) prohibiting that person, except with the consent of OFT, from supplying, or from offering to supply, agreeing to supply, exposing for supply or possessing for supply, any relevant goods which OFT considers are unsafe and which are described in the notice;⁹
 - (b) serve on any person a notice (a “notice to warn”) requiring that person at his own expense to publish, in a form and manner and on occasions specified in the notice, a warning about any relevant goods which OFT considers are unsafe, which that person supplies or has supplied and which are described in the notice.^{10 11}
- (2) Schedule 2 shall have effect with respect to prohibition notices and notices to warn; and OFT may by regulations make provision specifying the manner in which information is to be given to any person under that Schedule.¹²
- (3) A consent given by OFT for the purposes of a prohibition notice may impose such conditions on the doing of anything for which the consent is required as OFT considers appropriate.¹³
- (4) A person who contravenes a prohibition notice or a notice to warn shall be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding 6 months or to a fine not exceeding £5,000 or to both.
- (5) In this section “relevant goods” means –
- (a) in relation to a prohibition notice, any goods to which section 9 applies; and
 - (b) in relation to a notice to warn, any goods to which that section applies or any growing crops or things comprised in land by virtue of being attached to it.

12 Suspension notices

[P1987/43/14]

- (1) Where OFT has reasonable grounds for suspecting that any safety provision has been contravened in relation to any goods it may serve a notice (a “suspension notice”) prohibiting the person on whom it is served,

for such period ending not more than 6 months after the date of the notice as is specified therein, from doing any or the following things without the consent of OFT, that is to say, supplying the goods, offering to supply them, agreeing to supply them or exposing them for supply.¹⁴

- (2) A suspension notice served by OFT in respect of any goods shall —
 - (a) describe the goods in a manner sufficient to identify them;
 - (b) set out the grounds on which OFT suspects that a safety provision has been contravened in relation to the goods; and¹⁵
 - (c) state that, and the manner in which, the person on whom the notice is served may appeal against the notice under section 13.¹⁶
- (3) A suspension notice served by OFT for the purpose of prohibiting a person for any period from doing the things mentioned in subsection (1) in relation to any goods may also require that person to keep OFT informed of the whereabouts throughout that period of any of those goods in which he has an interest.¹⁷
- (4) Where a suspension notice has been served on any person in respect of any goods, no further such notice shall be served on that person in respect of the same goods unless —
 - (a) proceedings against that person for an offence in respect of a contravention in relation to the goods of a safety provision (not being an offence under this section); or
 - (b) proceedings for the forfeiture of the goods under section 14,are pending at the end of the period specified in the first-mentioned notice.
- (5) A consent given by OFT for the purposes of subsection (1) may impose such conditions on the doing of anything for which the consent is required as OFT considers appropriate.¹⁸
- (6) Any person who contravenes a suspension notice shall be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding 6 months or to a fine not exceeding £5,000 or to both.
- (7) Where OFT serves a suspension notice in respect of any goods, OFT shall be liable to pay compensation to any person having an interest in the goods in respect of any loss or damage caused by reason of the service of the notice if —
 - (a) there has been no contravention in relation to the goods of any safety provision; and
 - (b) the exercise of the power is not attributable to any neglect or default by that person.¹⁹
- (8) Any disputed question as to the right to or the amount of any compensation payable under this section shall be determined by arbitration.

13 Appeals against suspension notices

[P1987/43/15]

- (1) Any person having an interest in any goods in respect of which a suspension notice is for the time being in force may apply to a court of summary jurisdiction for an order setting aside the notice.
- (2) On application under this section the court shall make an order setting aside the suspension notice only if the court is satisfied that there has been no contravention in relation to the goods of any safety provision.
- (3) Any person aggrieved by an order made under this section by a court of summary jurisdiction, or by a decision of such a court not to make such an order, may appeal against that order or decision to the High Court.
- (4) An order so made may contain such provision as appears to the court to be appropriate for delaying the coming into force of the order pending the making and determination of any appeal (including any application under section 109 of the *Summary Jurisdiction Act 1989* (statement of case)).

14 Forfeiture

[P1987/43/16]

- (1) OFT may apply to a court of summary jurisdiction for an order for the forfeiture of any goods on the grounds that there has been a contravention in relation to the goods of a safety provision.²⁰
- (2) On an application under this section the court shall make an order for the forfeiture of any goods only if it is satisfied that there has been a contravention in relation to the goods of a safety provision.
- (3) For the avoidance of doubt it is declared that a court may infer for the purposes of this section that there has been a contravention in relation to any goods of a safety provision if it is satisfied that any such provision has been contravened in relation to goods which are representative of those goods (whether by reason of being of the same design or part of the same consignment or batch or otherwise).
- (4) Any person aggrieved by an order made under this section by a court of summary jurisdiction or by a decision of such a court not to make such an order, may appeal against that order or decision to the High Court; and section 13(4) applies to such an order as it applies to an order under section 13.
- (5) Subject to subsection (6), where any goods are forfeited under this section they shall be destroyed in accordance with such directions as the court may give.
- (6) On making an order under this section a court of summary jurisdiction may, if it considers it appropriate to do so, direct that the goods to which the order relates shall (instead of being destroyed) be released, to such person as the court may specify, on condition that that person —

- (a) does not supply those goods to any person otherwise than as mentioned in section 61(7)(a) or (b); and
- (b) complies with any order to pay costs or expenses (including any order under section 32) which has been made against that person in the proceedings for the order for forfeiture.

15 Power to obtain information

[P1987/43/18]

- (1) If OFT considers that, for the purpose of deciding whether —
 - (a) to make, vary or revoke any safety regulations; or
 - (b) to serve, vary or revoke a prohibition notice; or
 - (c) to serve or revoke a notice to warn,it requires information which another person is likely to be able to furnish, OFT may serve on the other person a notice under this section.²¹
- (2) A notice served on any person under this section may require that person —
 - (a) to furnish to OFT, within a period specified in the notice, such information as is so specified;²²
 - (b) to produce such records as are specified in the notice at a time and place so specified and to permit a person appointed by OFT for the purpose to take copies of the records at that time and place.²³
- (3) A person shall be guilty of an offence if he —
 - (a) fails, without reasonable cause, to comply with a notice served on him under this section; or
 - (b) in purporting to comply with a requirement which by virtue of subsection (2)(a) is contained in such a notice —
 - (i) furnishes information which he knows is false in a material particular; or
 - (ii) recklessly furnishes information which is false in a material particular.
- (4) A person guilty of an offence under subsection (3) shall be liable —
 - (a) in the case of an offence under subsection (3)(a), on summary conviction to a fine not exceeding £5,000; and
 - (b) in the case of an offence under subsection (3)(b) —
 - (i) on conviction on indictment, to a fine;
 - (ii) on summary conviction, to a fine not exceeding £5,000.

16 Interpretation of Part II

[P1987/43/19]

(1) In this Part —

“**controlled drug**” means a controlled drug within the meaning of the *Misuse of Drugs Act 1976*;

“**feeding stuff**” and “**fertiliser**” have the same meanings as in the *Fertilisers and Feeding Stuffs Act 1975*;

“**food**” does not include anything containing tobacco but, subject to that, has the same meaning as in the *Food Act 1996*;²⁴

“**licensed medicinal product**” means —

- (a) any medicinal product or veterinary medicinal product within the meaning of the *Medicines Act 2003* in respect of which a Community authorisation or UK authorisation within the meaning of that Act is for the time being in force; or
- (b) any other article or substance in respect of which any such authorisation is for the time being in force in pursuance of an order under section 50 of that Act (application of Act to other articles and substances);²⁵

“**safe**”, in relation to any goods, means such that there is no risk, or no risk apart from one reduced to a minimum, that any of the following will (whether immediately or after a definite or indefinite period) cause the death of, or any personal injury to, any person whatsoever —

- (a) the goods;
- (b) the keeping, use or consumption of the goods;
- (c) the assembly of any of the goods which are, or are to be, supplied unassembled;
- (d) any emission or leakage from the goods or, as a result of the keeping, use or consumption of the goods, from anything else; or
- (e) reliance on the accuracy of any measurement, calculation or other reading made by or by means of the goods,

and “**safer**” and “**unsafe**” shall be construed accordingly;

“**tobacco**” includes any tobacco product within the meaning of the *Tobacco Products Duty Act 1986* and any article or substance containing tobacco and intended for oral or nasal use.

(2) In the definition of “safe” in subsection (1), references to the keeping, use or consumption of any goods are references to —

- (a) the keeping, use or consumption of the goods by the persons by whom, and in all or any of the ways or circumstances in which, they might reasonably be expected to be kept, used or consumed; and

- (b) the keeping, use or consumption of the goods either alone or in conjunction with other goods in conjunction with which they might reasonably be expected to be kept, used or consumed.

PART III – [REPEALED]²⁶

17 [Repealed]²⁷

18 [Repealed]²⁸

19 [Repealed]²⁹

20 [Repealed]³⁰

21 [Repealed]³¹

22 [Repealed]³²

23 [Repealed]³³

PART IV – ENFORCEMENT OF PARTS II AND III

24 [Repealed]³⁴

25 **Test purchases**

[P1987/43/28]

- (1) OFT may, for the purpose of ascertaining whether any safety provision or any provision of the Consumer Protection from Unfair Trading Regulations 2019¹ has been contravened in relation to any goods, services, accommodation or facilities –
- (a) make, or authorise an officer of OFT to make, any purchase of any goods; or³⁵
 - (b) secure, or authorise an officer of OFT to secure, the provision of any services, accommodation or facilities.^{36 37}
- (2) Where –
- (a) any goods purchased under this section by or on behalf of OFT are submitted to a test; and³⁸
 - (b) the test leads to –

¹ SD 2019/0359

- (i) the bringing of proceedings for an offence in respect of a contravention in relation to the goods of any safety provision or of any provision of the Consumer Protection from Unfair Trading Regulations 2019² or for the forfeiture of the goods under section 14; or³⁹
- (ii) the serving of a suspension notice in respect of any goods; and
- (c) OFT is requested to do so and it is practicable for OFT to comply with the request,⁴⁰

OFT shall allow the person from whom the goods were purchased or any person who is a party to the proceedings or has an interest in any goods to which the notice relates to have the goods tested.⁴¹

- (3) OFT may by regulations provide that any test of goods purchased under this section by or on behalf of OFT shall —
 - (a) be carried out at the expense of OFT in a manner and by a person prescribed by or determined under the regulations; or⁴²
 - (b) be carried out either as mentioned in paragraph (a) or by OFT in a manner prescribed by the regulations.^{43 44}
- (4) Nothing in this section authorises the acquisition by or on behalf of OFT of any interest in land.⁴⁵
- (5) OFT may by regulations prescribe the person, or the manner of determining the person, from whom any goods were purchased where they were purchased from a vending machine.⁴⁶

26 Powers of search etc

[P1987/43/29]

- (1) Subject to the following provisions of this Part, an officer of OFT may at any reasonable hour and on production, if required, of his credentials exercise any of the powers conferred by the following provisions of this section.⁴⁷
- (2) The officer may, for the purpose of ascertaining whether there has been any contravention of any safety provision or of any provision of the Consumer Protection from Unfair Trading Regulations 2019³, inspect any goods and enter any premises other than premises occupied only as a person's residence.⁴⁸
- (3) The officer may, for the purpose of ascertaining whether there has been any contravention of any safety provision, examine any procedure (including any arrangements for carrying out a test) connected with the production of any goods.

² SD 2019/0359

³ SD 2019/0359

- (4) If the officer has reasonable grounds for suspecting that any goods are manufactured or imported goods which have not been supplied in the Island since they were manufactured or imported he may —
- (a) for the purpose of ascertaining whether there has been any contravention of any safety provision in relation to the goods, require any person carrying on a business, or employed in connection with a business, to produce any records relating to the business;
 - (b) for the purpose of ascertaining (by testing or otherwise) whether there has been any such contravention, seize and detain the goods;
 - (c) take copies of, or of any entry in, any records produced by virtue of paragraph (a).
- (5) If the officer has reasonable grounds for suspecting that there has been a contravention in relation to any goods of any safety provision or of any provision of the Consumer Protection from Unfair Trading Regulations 2019⁴, he may —
- (a) for the purpose of ascertaining whether there has been any such contravention, require any person carrying on a business, or employed in connection with a business, to produce any records relating to the business;
 - (b) for the purpose of ascertaining (by testing or otherwise) whether there has been any such contravention, seize and detain the goods;
 - (c) take copies of, or of any entry in, any records produced by virtue of paragraph (a).⁴⁹
- (6) The officer may seize and detain —
- (a) any goods or records which he has reasonable grounds for believing may be required as evidence in proceedings for an offence in respect of a contravention of any safety provision or of any provision of the Consumer Protection from Unfair Trading Regulations 2019^{5,50}
 - (b) any goods which he has reasonable grounds for suspecting may be liable to be forfeited under section 14.
- (7) If and to the extent that it is reasonably necessary to do so to prevent a contravention of any safety provision or of any provision of the Consumer Protection from Unfair Trading Regulations 2019⁶, the officer may, for the purpose of exercising his power under subsection (4), (5) or (6) to seize any goods or records —
- (a) require any person having authority to do so to open any container or to open any vending machine; and

⁴ SD 2019/0359

⁵ SD 2019/0359

⁶ SD 2019/0359

- (b) himself open or break open any such container or machine where a requirement made under paragraph (a) in relation to the container or machine has not been complied with.⁵¹

27 Provisions supplemental to s 26

[P1987/43/30]

- (1) An officer seizing any goods or records under section 26 shall inform the following persons that the goods or records have been so seized —
 - (a) the person from whom they are seized; and
 - (b) in the case of imported goods seized on any premises under the control of the Treasury, the importer of those goods (within the meaning of the *Customs and Excise Management Act 1986*).
- (2) If a justice of the peace —
 - (a) is satisfied by any written information on oath that there are reasonable grounds for believing either —
 - (i) that any goods or records which any officer has power to inspect under section 26 are on any premises and that their inspection is likely to disclose evidence that there has been a contravention of any safety provision or of any provision of the Consumer Protection from Unfair Trading Regulations 2019⁷; or⁵²
 - (ii) that such a contravention has taken place, is taking place or is about to take place on any premises; and
 - (b) is also satisfied by any such information either —
 - (i) that admission to the premises has been or is likely to be refused and that notice of intention to apply for a warrant under this subsection has been given to the occupier; or
 - (ii) that an application for admission, or the giving of such a notice, would defeat the object of the entry or that the premises are unoccupied or that the occupier is temporarily absent and it might defeat the object of the entry to await his return,

the justice may by warrant under his hand, which shall continue in force for a period of one month, authorise any officer of OFT to enter the premises, if need be by force.⁵³
- (3) An officer entering any premises by virtue of section 26 or a warrant under subsection (2) may take with him such other persons and such equipment as may appear to him necessary.
- (4) On leaving any premises which a person is authorised to enter by a warrant under subsection (2), that person shall, if the premises are

⁷ SD 2019/0359

unoccupied or the occupier is temporarily absent, leave the premises as effectively secured against trespassers as he found them.

- (5) If any person who is not an officer of OFT purports to act as such under section 26 or this section, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £5,000.⁵⁴
- (6) Where any goods seized by an officer under section 26 are submitted to a test, the officer shall inform the persons mentioned in subsection (1) of the result of the test and, if —
 - (a) proceedings are brought for an offence in respect of a contravention in relation to the goods of any safety provision or of any provision of the Consumer Protection from Unfair Trading Regulations 2019⁸ or for the forfeiture of the goods under section 14, or a suspension notice is served in respect of any goods; and⁵⁵
 - (b) the officer is requested to do so and it is practicable to comply with the request,

the officer shall allow any person who is a party to the proceedings or, as the case may be, has an interest in the goods to which the notice relates to have the goods tested.

- (7) OFT may by regulations provide that any test of goods seized under section 26 by an officer of OFT shall —
 - (a) be carried out at the expense of OFT in a manner and by a person prescribed by or determined under the regulations; or⁵⁶
 - (b) be carried out either as mentioned in paragraph (a) or by OFT in a manner prescribed by the regulations.⁵⁷
- (8) OFT may by regulations prescribe the person, or the manner of determining the person, who is to be treated for the purposes of this section as the person from whom any goods were seized, where they were seized from a vending machine.⁵⁸

28 Power of customs officer to detain goods

[P1987/43/31]

- (1) A customs officer may, for the purpose of facilitating the exercise by OFT or an officer of OFT of any functions conferred on OFT or officer by or under Part II, or by or under this Part in its application for the purposes of the safety provisions, seize any imported goods and detain them for not more than 2 working days.⁵⁹
- (2) Anything seized and detained under this section shall be dealt with during the period of its detention in such manner as the Treasury may direct.

⁸ SD 2019/0359

- (3) In subsection (1) the reference to 2 working days is a reference to a period of 48 hours calculated from the time when the goods in question are seized but disregarding so much of any period as falls on a Saturday or Sunday or on Christmas Day, Good Friday or a bank holiday.
- (4) In this section and section 29 “**customs officer**” means any officer within the meaning of the *Customs and Excise Management Act 1986*.

29 Obstruction of officer of OFT⁶⁰

[P1987/43/32]

- (1) Any person who —
 - (a) intentionally obstructs any officer of OFT who is acting in pursuance of any provision of this Part or any customs officer who is so acting; or⁶¹
 - (b) intentionally fails to comply with any requirement made of him by any officer of OFT under any provision of this Part; or⁶²
 - (c) without reasonable cause fails to give any officer of OFT who is so acting any other assistance or information which the officer may reasonably require of him for the purposes of the exercise of the officer’s functions under any provision of this Part,⁶³

shall be guilty of an offence and liable on summary conviction to a fine not exceeding £5,000.

- (2) A person shall be guilty of an offence if, in giving any information which is required of him by virtue of subsection (1)(c) —
 - (a) he makes any statement which he knows is false in a material particular; or
 - (b) he recklessly makes a statement which is false in a material particular.
- (3) A person guilty of an offence under subsection (2) shall be liable —
 - (a) on conviction on indictment, to a fine;
 - (b) on summary conviction, to a fine not exceeding £5,000.

30 Appeals against detention of goods

[P1988/43/33]

- (1) Any person having an interest in any goods which are for the time being detained under any provision of this Part by OFT or by an officer of OFT may apply to a court of summary jurisdiction for an order requiring the goods to be released to him or to another person.⁶⁴
- (2) On an application under this section an order requiring goods to be released shall be made only if the court is satisfied —
 - (a) that proceedings —

- (i) for an offence in respect of a contravention in relation to the goods of any safety provision or of any provision of the Consumer Protection from Unfair Trading Regulations 2019⁹; or⁶⁵
 - (ii) for the forfeiture of the goods under section 14, have not been brought or, having been brought, have been concluded without the goods being forfeited; and
- (b) where no such proceedings have been brought, that more than 6 months have elapsed since the goods were seized.
- (3) Any person aggrieved by an order made under this section by a court of summary jurisdiction, or by a decision of such a court not to make such an order, may appeal against that order or decision to the High Court.
- (4) An order so made may contain such provision as appears to the court to be appropriate for delaying the coming into force of the order pending the making and determination of any appeal (including any application under section 109 of the *Summary Jurisdiction Act 1989* (statement of case)).

31 Compensation for seizure and detention

[P1987/43/34]

- (1) Where an officer of OFT exercises any power under section 26 to seize and detain goods, OFT shall be liable to pay compensation to any person having an interest in the goods in respect of any loss or damage caused by reason of the exercise of the power if —
 - (a) there has been no contravention in relation to the goods of any safety provision or of any provision of the Consumer Protection from Unfair Trading Regulations 2019¹⁰; and⁶⁶
 - (b) the exercise of the power is not attributable to any neglect or default by that person.⁶⁷
- (2) Any disputed question as to the right to or the amount of any compensation payable under this section shall be determined by arbitration.

32 Recovery of expenses of enforcement

[P1987/43/35]

- (1) This section shall apply where a court —
 - (a) convicts a person of an offence in respect of a contravention in relation to any goods of any safety provision or of any provision of

⁹ SD 2019/0359

¹⁰ SD 2019/0359

the Consumer Protection from Unfair Trading Regulations 2019¹¹; or⁶⁸

- (b) makes an order under section 14 for the forfeiture of any goods.
- (2) The court may (in addition to any other order it may make as to costs or expenses) order the person convicted or, as the case may be, any person having an interest in the goods to reimburse OFT for any expenditure which has been or may be incurred by OFT —
- (a) in connection with any seizure or detention of the goods by or on behalf of OFT; or⁶⁹
 - (b) in connection with any compliance by OFT with directions given by the court for the purposes of any order for the forfeiture of the goods.^{70 71}

33 Power of Treasury to disclose information

[P1987/43/37]

- (1) If it thinks it appropriate to do so for the purpose of facilitating the exercise by OFT or any officer of OFT of any functions conferred on it or him by or under Part II, or by or under Part IV in its application for the purposes of the safety provisions, the Treasury may authorise the disclosure to OFT or that officer, as the case may be, of any information obtained for the purposes of the exercise by the Treasury of its functions in relation to imported goods.⁷²
- (2) A disclosure of information made to any person under subsection (1) shall be made in such manner as may be directed by the Treasury and may be made through such persons acting on behalf of that person as may be so directed.
- (3) Information may be disclosed to a person under subsection (1) whether or not the disclosure of the information has been requested by or on behalf of that person.

34 Restrictions on disclosure of information

[P1987/43/38]

- (1) Subject to the following provisions of this section, a person shall be guilty of an offence if he discloses any information —
 - (a) which was obtained by him in consequence of its being given to any person in compliance with any requirement imposed by safety regulations [or] the Consumer Protection from Unfair Trading Regulations 2019¹²;⁷³

¹¹ SD 2019/0359

¹² SD 2019/0359

- (b) which consists in a secret manufacturing process or a trade secret and was obtained by him in consequence of the inclusion of the information —
 - (i) in written or oral representations made for the purposes of Part I or II of Schedule 2; or
 - (ii) in a statement of a witness in connection with any such oral representations;
 - (c) which was obtained by him in consequence of the exercise by OFT of the power conferred by section 15;⁷⁴
 - (d) which was obtained by OFT in consequence of the exercise by any person of any power conferred by this Part; or⁷⁵
 - (e) which was disclosed to or through him under section 33.
- (2) Subsection (1) shall not apply to a disclosure of information if the information is publicised information or the disclosure is made —
- (a) for the purpose of facilitating the exercise of a relevant person's functions under this Act or any enactment mentioned in subsection (3);
 - (b) for the purposes of compliance with a retained EU obligation;⁷⁶
 - (c) in connection with the investigation of any criminal offence or for the purposes of any civil or criminal proceedings.
- (3) The enactments referred to in subsection (2)(a) are —
- (a) the *Consumer Protection (Trade Descriptions) Act 1970*;
 - (b) the relevant statutory provisions within the meaning of Part I of the *Health and Safety at Work etc. Act 1974* (an Act of Parliament), as it has effect in the Island;
 - (c) the *Estate Agents Act 1975*;
 - (d) the *Telecommunications Act 1984*.
- (4) In subsection (2)(a) reference to a person's functions includes a reference to any function of making, amending or revoking any regulations or order.
- (5) A person guilty of an offence under this section shall be liable on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine not exceeding £5,000, or to both.
- (6) In this section —
- “publicised information” means any information which has been disclosed in any civil or criminal proceedings or is or has been required to be contained in a warning published in pursuance of a notice to warn; and
- “relevant person” means any of the following —
- (a) a Department or Statutory Board;

- (b) any person who is an enforcing authority for the purposes of Part I of the Health and Safety at Work etc. Act 1974 (an Act of Parliament), as it has effect in the Island.

35 Defence of due diligence

[P1987/43/39]

- (1) Subject to the following provisions of this section, in proceedings against any person for an offence to which this section applies it is a defence for that person to show that he took all reasonable steps and exercised all due diligence to avoid committing the offence.
- (2) Where in any proceedings against any person for such an offence the defence provided by subsection (1) involves an allegation that the commission of the offence was due —
 - (a) to the act or default of another; or
 - (b) to reliance on information given by another,that person shall not, without the leave of the court, be entitled to rely on the defence unless, not less than 7 clear days before the hearing of the proceedings, he has served a notice under subsection (3) on the person bringing the proceedings.
- (3) A notice under this subsection shall give such information identifying or assisting in the identification of the person who committed the act or default or gave the information as is in the possession of the person serving the notice at the time he serves it.
- (4) It is hereby declared that a person is not entitled to rely on the defence provided by subsection (1) by reason of his reliance on information supplied by another, unless he shows that it was reasonable in all the circumstances for him to have relied on the information, having regard in particular —
 - (a) to the steps which he took, and those which might reasonably have been taken, for the purpose of verifying the information; and
 - (b) to whether he had any reason to disbelieve the information.
- (5) This section applies to an offence under section 8, 10(1), (2) or (3), 11(4) or 12(6).⁷⁷

36 Liability of persons other than principal offender

[P1987/43/40]

- (1) Where the commission by any person of an offence to which section 35 applies is due to an act or default committed by some other person in the course of any business of his, the other person shall be guilty of the offence and may be proceeded against and punished by virtue of this subsection whether or not proceedings are taken against the first mentioned person.

- (2) Where a body corporate is guilty of an offence under this Act (including where it is so guilty by virtue of subsection (1)) in respect of any act or default which is shown to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
- (3) Where the affairs of a body corporate are managed by its members, subsection (2) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

37 Civil proceedings

[P1987/43/41]

- (1) An obligation imposed by safety regulations is a duty owed to any person who may be affected by a contravention of the obligation and, subject to any provision to the contrary in the regulations and to the defences and other incidents applying to actions for breach of statutory duty, a contravention of any such obligation is actionable accordingly.
- (2) This Act shall not be construed as conferring any other right of action in civil proceedings, apart from the right conferred by virtue of Part I, in respect of any loss or damage suffered in consequence of a contravention of a safety provision or of a provision of the Consumer Protection from Unfair Trading Regulations 2019¹³.⁷⁸
- (3) Subject to any provision to the contrary in the agreement itself, an agreement is not void or unenforceable by reason only of a contravention of a safety provision or of a provision of the Consumer Protection from Unfair Trading Regulations 2019¹⁴.⁷⁹
- (4) Liability by virtue of subsection (1) is not limited or excluded by any contract term, by any notice or (subject to the power contained in subsection (1) to limit or exclude it in safety regulations) by any other provision.
- (5) Nothing in subsection (1) prejudices the operation of section 12 of the Nuclear Installations Act 1965 (an Act of Parliament), as it has effect in the Island (rights to compensation for certain breaches of duties confined to rights under that Act).
- (6) In this section “damage” includes personal injury and death.

¹³ SD 2019/0359

¹⁴ SD 2019/0359

PART V – UNFAIR CONTRACT TERMS IN CONSUMER CONTRACTS⁸⁰

38 Contracts to which this Part applies

[SI 1999/2083/4, 9]

- (1) Subject to subsection (2), this Part applies to contracts concluded between a seller or supplier and a consumer.
- (2) OFT may by order exclude from the application of this Part contracts of a description specified in the order.⁸¹
- (3) This Part applies to a contract notwithstanding any contract term which applies or purports to apply the law of a country or territory outside the Island, unless the contract has a close connection with that country or territory.⁸²

39 Unfair terms

[SI999/2083/5, P1996/23/91]

- (1) A contract term which has not been individually negotiated shall be regarded as unfair if it causes a significant imbalance in the parties' rights and obligations arising under the contract, which is to the detriment of the consumer and cannot be justified.
- (2) A term shall always be regarded as not having been individually negotiated where it has been drafted in advance and the consumer has therefore not been able to influence the substance of the term.
- (3) Even though a specific term or certain aspects of it in a contract has been individually negotiated, this Part applies to the rest of the contract if, taken as a whole, it is a pre-formulated standard contract.
- (4) It shall be for any seller or supplier who claims that a term was individually negotiated to show that it was.
- (5) Schedule 2A contains an indicative and non-exhaustive list of the terms which may be regarded as unfair.
- (6) Without prejudice to subsections (1) to (5), a contract term which constitutes an arbitration agreement shall be regarded as unfair so far as it relates to a claim for a pecuniary remedy which does not exceed £5,000.
- (7) OFT may by order vary the amount specified in subsection (6) (or the amount substituted for it by a previous order under this subsection).^{83 84}

40 Assessment of unfair terms

[SI999/2083/6]

- (1) Without prejudice to section 40C, the unfairness of a contract term shall be assessed having regard to the following matters (as at the time the contract was concluded) —
 - (a) the nature of the goods or services to be supplied;
 - (b) all the circumstances attending the conclusion of the contract; and
 - (c) all the other terms of the contract and of any other contract on which it is dependent.
- (2) In so far as it is in plain intelligible language, the assessment of fairness of a term shall not have regard to —
 - (a) the definition of the main subject matter of the contract, or
 - (b) the adequacy of the price or remuneration, as against the goods or services supplied in exchange.
- (3) Except in proceedings under section 40C, if there is doubt about the meaning of a written term of a contract, it shall be interpreted in such a way as is most favourable to the consumer.⁸⁵

40A Effect of unfair term

[SI999/2083/8]

- (1) Subject to subsection (2), an unfair term in a contract to which this Part applies shall not be binding on the consumer.
- (2) Subsection (1) does not apply to contract terms which —
 - (a) are required by any statutory provision to be included in the contract; or
 - (b) reflect any provision or principle of an international convention which extends to the Island.
- (3) The contract shall continue to bind the parties if it is capable of continuing in existence without the unfair term.⁸⁶

40B Complaints - consideration by Board

[SI999/2083/10]

- (1) It shall be the duty of OFT to consider any complaint made to it that any contract term drawn up for general use is unfair, unless the complaint appears to OFT to be frivolous or vexatious.⁸⁷
- (2) OFT shall notify a person who makes a complaint to it under subsection (1) —
 - (a) what action (if any) it proposes to take under this Part with regard to the subject matter of the complaint; and
 - (b) if it proposes not to take any action, its reasons for not doing so.⁸⁸

- (3) In deciding whether or not to take action under this Part in respect of a term which OFT considers to be unfair, it may, if it considers it appropriate to do so, have regard to any undertakings given to it by or on behalf of any person as to the continued use of such a term in contracts concluded with consumers.^{89 90}

40C Injunctions to prevent continued use of unfair terms

[SI999/2083/12]

- (1) The Attorney General, at the request of OFT, may apply to the High Court for an injunction (including an interim injunction) against any person appearing to him to be using, or recommending use of, an unfair term drawn up for general use in contracts concluded with consumers.⁹¹
- (2) The High Court on an application under this section may grant an injunction on such terms as it thinks fit.
- (3) An injunction may relate not only to use of a particular contract term drawn up for general use but to any similar term, or a term having like effect, used or recommended for use by any person.⁹²

40D Powers to obtain documents and information

[SI999/2083/13]

- (1) OFT may exercise the power conferred by this section for the purpose of —
 - (a) facilitating its consideration of a complaint that a contract term drawn up for general use is unfair; or
 - (b) ascertaining whether a person has complied with an undertaking or court order as to the continued use, or recommendation for use, of a term in contracts concluded with consumers.⁹³
- (2) OFT may require any person to supply to it —
 - (a) a copy of any document which that person has used or recommended for use, at the time the notice referred to in subsection (3) is given, as a pre-formulated standard contract in dealings with consumers;
 - (b) information about the use, or recommendation for use, by that person of that document or any other such document in dealings with consumers.⁹⁴
- (3) The power conferred by this section is to be exercised by a notice in writing which may —
 - (a) specify the way in which and the time within which it is to be complied with; and
 - (b) be varied or revoked by a subsequent notice.

- (4) Nothing in this section compels a person to supply any document or information which he would be entitled to refuse to produce or give in civil proceedings before the High Court.
- (5) If a person makes default in complying with a notice under this section, the High Court may, on the application of the Attorney General, make such order as the court thinks fit for requiring the default to be made good, and any such order may provide that all the costs or expenses of and incidental to the application shall be borne by the person in default or by any officers of a company or other body who are responsible for its default.⁹⁵

40E Publication, information and advice

[SI999/2083/15]

- (1) OFT shall arrange for the publication, in such form and manner as it considers appropriate, of details of —
 - (a) any undertaking given to it by or on behalf of any person as to the continued use of a term which OFT considers to be unfair in contracts concluded with consumers;⁹⁶
 - (b) any application made under section 40C, and the terms of any undertaking given to, or order made by, the High Court;
 - (c) any application made by the Attorney General under section 40D(5) to enforce a previous order of the High Court.⁹⁷
- (2) OFT shall inform any person on request whether a particular term to which this Part applies has been —
 - (a) the subject of an undertaking given to OFT; or⁹⁸
 - (b) the subject of an order of the High Court under section 40C;and shall give that person details of the undertaking or a copy of the order, as the case may be, together with a copy of any amendments which the person giving the undertaking has agreed to make to the term in question.⁹⁹
- (3) OFT may arrange for the dissemination in such form and manner as it considers appropriate of such information and advice concerning the operation of this Part as may appear to it to be expedient to give to the public and to all persons likely to be affected by this Part.^{100 101}

40F Interpretation etc.

[SI999/2083/3]

- (1) In this Part —

“**arbitration agreement**” means an agreement to submit to arbitration present or future disputes or differences (whether or not contractual);

“**consumer**” means any person who, in contracts to which this Part applies, is acting for purposes which are outside his trade, business or profession;

“**notified**” means notified in writing;

“**seller or supplier**” means any person who, in contracts to which this Part applies, is acting for purposes relating to his trade, business or profession, whether publicly or privately owned;

“**unfair**”, in relation to contract terms, has the meaning given by section 39.

- (2) If it appears to the Department for Enterprise that, in relation to contracts of any description, the functions of OFT under sections 40B to 40E would more appropriately be exercised by another public authority, it may, after consulting OFT and with the consent of that authority, by order –
- (a) provide that those functions shall be exercised by that authority in relation to contracts of that description;
 - (b) provide that references to OFT in those sections shall, in relation to such contracts, be construed as references to that authority; and¹⁰²
 - (c) make such consequential, incidental, supplemental and transitional provisions as appear to that Department to be necessary or expedient for the purposes of the order.^{103 104}

PART VI – [REPEALED]

41 [Repealed]¹⁰⁵

42 [Repealed]¹⁰⁶

43 [Repealed]¹⁰⁷

44 [Repealed]¹⁰⁸

44A [Repealed]¹⁰⁹

45 [Repealed]¹¹⁰

PART VII – CANCELLATION OF CERTAIN CONTRACTS

46 Contracts to which Part VII applies

[SI88/2117/3; SI87/2117/3(3); SI98/3050/2]

- (1) This Part applies to a contract (a “**relevant contract**”) between a consumer and a trader which is for the supply of goods or services to the consumer by a trader and which is made —
- (a) during an unsolicited visit by the trader to the consumer’s home or place of work, or to the home of another individual;
 - (b) during an excursion organised by the trader away from the trader’s permanent or temporary business premises;
 - (c) as the result of a telephone call by or on behalf of the trader to the consumer which the consumer neither initiated nor requested; or
 - (d) after an offer made by the consumer during such a visit, excursion or telephone call.¹¹¹
- (1A) Subsection (1) is subject to the qualifications in subsections (1B) and (1C).¹¹²
- (1B) This Part does not apply to an excepted contract.¹¹³
- (1C) OFT may by order prescribe —
- (a) contracts to which this Part does not apply;
 - (b) persons or classes of persons to whose contracts this Part does not apply;
 - (c) other circumstances where this Part is not to apply.

An order under this subsection may amend or repeal any provision of this Part (including a provision contained in Schedule 2B) if it appears to OFT

to be necessary or expedient to do so in consequence of or in connection with the provision made by the order.¹¹⁴

- (2) Schedule 2B has effect to define “**excepted contract**”.¹¹⁵
- (3) [Repealed]¹¹⁶

46A Offence to enter into certain contracts

- (1) A person commits an offence if, as a trader, he or she enters into a relevant contract.
- (2) A person guilty of an offence under subsection (1) is liable—
 - (a) on conviction on indictment, to custody for not more than 2 years, a fine or both;
 - (b) on summary conviction, to custody for a term not exceeding 6 months, a fine not exceeding £10,000, or both.¹¹⁷

47 Cancellation of contract

[SI87/2117/4]

- (1) A relevant contract is not enforceable against the consumer unless the trader has delivered to the consumer notice in writing in the prescribed form, indicating the right of the consumer to cancel the contract within the period of 14 days mentioned in subsection (3).¹¹⁸
- (2) The notice must be dated and delivered to the consumer —
 - (a) if the consumer and the trader are in the same place when the contract is made, at the time the contract is made; and
 - (b) in any other case within 48 hours of the time at which the contract is made.¹¹⁹
- (3) If within the period of 14 days —
 - (a) following the making of the contract in a case falling within subsection (2)(a); or
 - (b) following the delivery of a notice under subsection (1) in a case falling within subsection (2)(b),

the consumer serves a notice in writing (a “notice of cancellation”) on the trader or any other person specified in a notice referred to in subsection (1) as a person to whom notice of cancellation may be given which, however expressed and whether or not conforming to any prescribed form, indicates the intention of the consumer to cancel the contract, the notice of cancellation shall operate to cancel the contract.¹²⁰

- (4) Except as otherwise provided under this Part, a contract cancelled under subsection (3) shall be treated as if it had never been entered into by the consumer.

- (5) Notwithstanding anything in Part 4, Division 5 of the *Interpretation Act 2015* (service of documents), a notice of cancellation sent by post by a consumer shall be deemed to have been served at the time of posting, whether or not it is actually received.¹²¹

47A Failure to provide notice of cancellation rights

[SI87/2117/4A, 4D; SI98/3050/2]

- (1) A trader is guilty of an offence if he enters into a relevant contract with a consumer but fails to deliver to the consumer the notice in writing referred to in section 47(1) in accordance with subsection (2).¹²²
- (2) A notice is delivered in accordance with this subsection if it —
- (a) contains what is required by section 47(1); and
 - (b) complies with the requirements of section 47(2).
 - (c) [Repealed]¹²³
- (3) A person guilty of an offence under subsection (1) is liable —
- (a) on conviction on information to custody for a term not exceeding 2 years, a fine or both;
 - (b) on summary conviction, to custody for a term not exceeding 6 months, a fine not exceeding £10,000 or both.¹²⁴
- (4) [Repealed]^{125 126}

47B Defence of due diligence

[SI87/2117/4B; SI98/3050/2]

- (1) In proceedings against any person for an offence under section 46A or 47A it shall be a defence for that person to show that he took all reasonable steps and exercised all due diligence to avoid committing the offence.¹²⁷
- (2) Where in proceedings against a person for such an offence the defence provided for by subsection (1) involves an allegation that the commission of the offence was due —
- (a) to the act or default of another, or
 - (b) to reliance on information given by another,
- that person shall not, without the leave of the court, be entitled to rely on the defence unless he has served a notice under subsection (3) on the person bringing the proceedings not less than 7 clear days before the hearing of the proceedings.
- (3) A notice under this subsection shall give such information identifying or assisting in the identification of the person who committed the act or default or gave the information as is in the possession of the person serving the notice at the time when he serves it.¹²⁸

47C Liability of persons other than the principal offender

[SI87/2117/4C; SI98/3050/2]

- (1) Where the commission by a person of an offence under section 46A or 47A is due to the act or default of some other person, that other person is guilty of the offence and may be proceeded against and punished by virtue of this section whether or not proceedings are taken against the first-mentioned person.¹²⁹
- (2) Where a body corporate is guilty of an offence under section 46A or 47A in respect of any act or default which is shown to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.¹³⁰
- (3) Where the affairs of a body corporate are managed by its members, subsection (2) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.¹³¹

47CA Test purchases

OFT may make such purchases of goods, and secure the provision of such services, as may appear expedient for the purpose of determining whether or not the provisions of this Part are being complied with.¹³²

47D Enforcement powers

[SI87/2117/4E, 4H; SI98/3050/2]

- (1) If an officer of OFT has reasonable grounds for suspecting that an offence has been committed under section 46A or 47A, he may
 - (a) require a person carrying on or employed in a business to produce any book, document or record in non-documentary form relating to the business, and take copies of it or any entry in it, or
 - (b) require such a person to produce in a visible and legible documentary form any information so relating which is contained in a computer, and take copies of it,for the purposes of ascertaining whether such an offence has been committed.¹³³
- (2) If such an officer has reasonable grounds for believing that any books, documents or records may be required as evidence in proceedings for such an offence, he may seize and detain them and shall, if he does so, inform the person from whom they are seized.

- (3) The powers of an officer under this section may be exercised by him only at a reasonable hour and on production (if required) of his credentials.
- (4) Nothing in this section requires a person to produce, or authorises the taking from a person of, a book, document or record which he could not be compelled to produce in civil proceedings before the High Court.
- (5) Nothing in this section or section 47E requires a person to answer any question or give any information if to do so might incriminate him.
- (6) In this section “document” includes information recorded in any form.¹³⁴
- (7) The reference in subsection (1) to production of documents is, in the case of a document which contains information recorded otherwise than in a legible form, a reference to the production of a copy of the information in a legible form.^{135 136}

47E Obstruction of OFT’s officers¹³⁷

[SI87/2117/4F; SI98/3050/2]

- (1) A person who —
 - (a) intentionally obstructs an officer of OFT acting in pursuance of his functions under this Part,¹³⁸
 - (b) without reasonable cause fails to comply with the requirement made of him by section 47D(1), or
 - (c) without reasonable excuse fails to give an officer of OFT acting in pursuance of his functions under this Part any other assistance or information which the officer has reasonably required of him for the purpose of the performance of the officer’s functions under this Part,¹³⁹is guilty of an offence.
- (2) If a person, in giving information to an officer of OFT who is acting in pursuance of his functions under this Part —
 - (a) makes a statement which he knows is false in a material particular, or
 - (b) recklessly makes a statement which is false in a material particular, he is guilty of an offence.¹⁴⁰
- (3) A person guilty of an offence under subsection (1) or (2) is liable on summary conviction to a fine not exceeding £1,000.¹⁴¹

47F Restrictions on disclosure of information

[SI87/2117/4G; SI98/3050/2]

- (1) If a person discloses to another any information obtained in the exercise of his functions under section 47D, he is guilty of an offence unless the

information has already been disclosed in any civil or criminal proceedings or the disclosure is made

- (a) in or for the purpose of the performance by him or any other person of any such function, or
 - (b) for a purpose specified in section 34(2)(a) or (b) or in the circumstances or for a purpose described in section 34(2)(c).
- (2) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding £1,000.¹⁴²

48 Recovery of money paid by consumer

[SI87/2117/5]

- (1) Subject to section 50(2), on the cancellation of a contract under section 47 any sum paid by or on behalf of the consumer under or in contemplation of the contract shall become repayable.
- (2) If under the terms of the cancelled contract the consumer or any person on his behalf is in possession of any goods, he shall have a lien on them for any sum repayable to him under subsection (1).
- (3) Where any security has been provided in relation to the cancelled contract, the security, so far as it is so provided, shall be treated as never having had effect and any property lodged with the trader solely for the purposes of the security as so provided shall be returned by him forthwith.

49 Repayment of credit

[SI87/2117/6; SI88/958/2]

- (1) Notwithstanding the cancellation of a contract under section 47 under which credit is provided, the contract shall continue in force so far as it relates to repayment of credit and payment of interest.
- (2) If, following the cancellation of the contract, the consumer repays the whole or a portion of the credit —
 - (a) before the expiry of one month following service of the notice of cancellation, or
 - (b) in the case of a credit repayable by instalments, before the date on which the first instalment is due,

no interest shall be payable on the amount repaid.

- (3) If the whole of a credit repayable by instalments is not repaid on or before the date specified in subsection (2)(b), the consumer shall not be liable to repay any of the credit except on receipt of a request in writing signed by the trader stating the amounts of the remaining instalments (recalculated by the trader as nearly as may be in accordance with the contract and without extending the repayment period), but excluding any sum other than principal and interest.

- (4) Repayment of a credit, or payment of interest, under a cancelled contract shall be treated as duly made if it is made to any person on whom, under section 47(3) a notice of cancellation could have been served.
- (5) Where any security has been provided in relation to the contract, the duty imposed on the consumer by this section shall not be enforceable before the trader has discharged any duty imposed on him by section 48(3).
- (6) In this section —
 - “cash” includes money in any form;
 - “credit” means a cash loan and any facility enabling the consumer to overdraw on a current account;
 - “current account” means an account under which the customer may, by means of cheques or similar orders payable to himself or to any other person, obtain or have the use of money held or made available by the person with whom the account is kept and which records alterations in the financial relationship between the said person and the customer; and
 - “repayment”, in relation to credit, means the repayment of money —
 - (a) paid to a consumer before the cancellation of the contract; or
 - (b) to the extent that he has overdrawn on his current account before the cancellation.

50 Return of goods by consumer after cancellation

[SI87/2117/7]

- (1) Subject to subsection (2), a consumer who has before cancelling a contract under section 47 acquired possession of any goods by virtue of the contract shall be under a duty, subject to any lien, on the cancellation to restore the goods to the trader in accordance with this section, and meanwhile to retain possession of the goods and take reasonable care of them.
- (2) The consumer shall not be under a duty to restore —
 - (i) perishable goods;
 - (ii) goods which by their nature are consumed by use and which before the cancellation, were so consumed;
 - (iii) goods supplied to meet an emergency; or
 - (iv) goods which, before the cancellation, had become incorporated in any land or thing not comprised in the cancelled contract,but he shall be under a duty to pay in accordance with the cancelled contract for the supply of the goods and for the provision of any services in connection with the supply of the goods before the cancellation.
- (3) The consumer shall not be under any duty to deliver the goods except at his own premises and in pursuance of a request in writing signed by the

trader and served on the consumer either before, or at the time when, the goods are collected from those premises.

- (4) If the consumer —
- (a) delivers the goods (whether at his own premises or elsewhere) to any person on whom, under section 47(3), a notice of cancellation could have been served; or
 - (b) sends the goods at his own expense to such a person,
- he shall be discharged from any duty to retain possession of the goods or restore them to the trader.
- (5) Where the consumer delivers the goods as mentioned in subsection (4)(a), his obligation to take care of the goods shall cease; and if he sends the goods as mentioned in subsection (4)(b), he shall be under a duty to take reasonable care to see that they are received by the trader and not damaged in transit, but in other respects his duty to take care of the goods shall cease.
- (6) Where, at any time during the period of 21 days following the cancellation, the consumer receives such a request as is mentioned in subsection (3) and unreasonably refuses or unreasonably fails to comply with it, his duty to retain possession and take reasonable care of the goods shall continue until he delivers or sends the goods as mentioned in subsection (4), but if within that period he does not receive such a request his duty to take reasonable care of the goods shall cease at the end of that period.
- (7) Where any security has been provided in relation to the cancelled contract, the duty imposed on the consumer to restore goods by this section shall not be enforceable before the trader has discharged any duty imposed on him by section 48(3).
- (8) Breach of a duty imposed by this section on a consumer is actionable as a breach of statutory duty.

51 Goods given in part-exchange

[SI87/2117/8]

- (1) This section applies on the cancellation of a contract under section 47 where the trader agreed to take goods in part-exchange (the “part-exchange goods”) and those goods have been delivered to him.
- (2) Unless, before the end of the period of 10 days beginning with the date of cancellation, the part-exchange goods are returned to the consumer in a condition substantially as good as when they were delivered to the trader, the consumer shall be entitled to recover from the trader a sum equal to the part-exchange allowance.
- (3) During the period of 10 days beginning with the date of cancellation, the consumer, if he is in possession of goods to which the cancelled contract relates, shall have a lien on them for —

- (a) delivery of the part-exchange goods in a condition substantially as good as when they were delivered to the trader; or
 - (b) a sum equal to the part-exchange allowance;
- and if the lien continues to the end of that period it shall thereafter subsist only as a lien for a sum equal to the part-exchange allowance.
- (4) In this section the “part-exchange allowance” means the sum agreed as such in the cancelled contract, or if no such sum was agreed, such sum as it would have been reasonable to allow in respect of the part-exchange goods if no notice of cancellation had been served.

52 No contracting-out

- (1) A term contained in a contract is void if, and to the extent that, it purports to disapply this Part (or any of its provisions) if this Part would otherwise apply.
- (2) A term contained in a relevant contract is void if, and to the extent that, it would —
 - (a) make the proper law of the contract the law of a place outside the Island; or
 - (b) require any matter to be determined otherwise than by arbitration or by the Manx courts.
- (3) For the purposes of subsection (2)(b) —

“arbitration” is to be construed in accordance with the *Arbitration Act 1976*; and

“the Manx courts” means —

 - (a) the High Court;
 - (b) the Judicial Committee of the Privy Council; and
 - (c) [Repealed]^{143 144}

53 Interpretation of Part VII

[SI87/2117/2]

- (1) In this Part —

“**arbitration**” means arbitration in accordance with the *Arbitration Act 1976*;¹⁴⁵

“**charge on land**” [Repealed]¹⁴⁶

“**consumer**” means an individual who in making a relevant contract is acting for purposes which can be regarded as outside his or her business;¹⁴⁷

“**notice of cancellation**” has the meaning given by section 47(3);

“**relevant contract**” has the meaning given in section 46(1);¹⁴⁸

“**security**” in relation to a contract means a mortgage, charge, pledge, bond, debenture, indemnity, guarantee, bill, note or other right provided by the

consumer, or at his request (express or implied), to secure the carrying out of his obligations under the contract;

“**solicited visit**” has the meaning given in subsection (1A) (and “**unsolicited visit**” shall be construed accordingly);¹⁴⁹

“**telephone call**” includes —

- (a) any form of voice communication by means of a telecommunication system;
- (b) any form of communication comprising or including the transmission of sound by means of the internet;¹⁵⁰

“**trader**” means a person who, in making a relevant contract, is acting in his or her business capacity and includes anyone acting in the name or on behalf of the trader;¹⁵¹

“**unsolicited visit**” see the definition of “**solicited visit**” above.¹⁵²

(1A) A “**solicited visit**” is a visit by a trader, whether or not he or she is the trader who supplies the goods or services, to a consumer’s home or place of work or to the home of another individual, which is made at the express request of the consumer.

But neither of the following is a solicited visit —

- (a) a visit by a trader which is made after he or she, or a person acting in his or her name or on his or her behalf —
 - (i) contacts the consumer (otherwise than at the consumer’s express request) and indicates during the course of the contact (either expressly or by implication) that he or she, or the trader in whose name or on whose behalf he or she is acting, is willing to visit the consumer; or
 - (ii) visits the consumer (otherwise than at the consumer’s express request) and indicates during the course of that visit (either expressly or by implication) that he or she, or the trader in whose name or on whose behalf he or she is acting, is willing to make a subsequent visit to the consumer;
- (b) a visit during which a contract is made which relates to goods or services which are materially different, either in nature or quantity, from those originally requested by the consumer.¹⁵³

(1B) For the purposes of subsection (1A)(a) a visit is not solicited by virtue of the contact or visit being preceded by advertising material which the trader has delivered, or has caused to be delivered to the —

- (a) consumer’s home;
- (b) consumer’s place of work; or
- (c) home of another individual.¹⁵⁴

(1C) For the purposes of this section —

“advertising” means any form of representation which is made in connection with a business in order to promote the supply or transfer of a product or service; and

“contact” includes (without limiting the breadth of that word) contacting by telephone or by means of an electronic communication within the meaning of section 12 of the *Electronic Transactions Act 2000*.¹⁵⁵

- (2) Any provision in this Part requiring a document to be signed shall be complied with by a body corporate if the document is properly executed under its common seal.

PART VIII - TITLE TO MOTOR VEHICLES

54 Protection of purchaser of motor vehicle

[P1964/53/27]

- (1) This section applies where a motor vehicle has been bailed under a hire-purchase agreement, or has been agreed to be sold under a conditional sale agreement, and before the property in the vehicle has become vested in the bailee or buyer, he disposes of the vehicle to another person.
- (2) Where the disposition referred to in subsection (1) is to a private purchaser, and he is a purchaser of the motor vehicle in good faith without notice of the hire-purchase agreement or conditional sale agreement, that disposition shall have effect as if the title of the owner or seller to the vehicle had been vested in the hirer or buyer immediately before that disposition.
- (3) Where the person to whom the disposition referred to in subsection (1) is made (“the original purchaser”) is a trade or finance purchaser, then if the person who is the first private purchaser of the motor vehicle after that disposition (“the first private purchaser”) is a purchaser of the vehicle in good faith without notice of the hire-purchase agreement or conditional sale agreement, the disposition of the vehicle to the first private purchaser shall have effect as if the title of the owner or seller to the vehicle had been vested in the hirer or buyer immediately before he disposed of it to the original purchaser.
- (4) Where, in a case within subsection (3) —
- (a) the disposition by which the first private purchaser becomes a purchaser of the motor vehicle in good faith without notice of the hire-purchase agreement or conditional sale agreement is itself a letting under a hire-purchase agreement, and
- (b) the person who is the owner in relation to that agreement disposes of the vehicle to the first private purchaser, or a person claiming under him, by way of transferring to him the property in the vehicle in pursuance of a provision in the agreement in that behalf,

the disposition referred to in paragraph (b) (whether the person to whom it is made is a purchaser in good faith without notice of the original hire-purchase agreement or conditional sale agreement or not) shall, as well as the disposition referred to in paragraph (a), have effect as mentioned in subsection (3).

- (5) This section applies —
- (a) notwithstanding anything in section 21 of the *Sale of Goods Act 1983* (sale of goods by person not the owner), but
 - (b) without prejudice to the *Mercantile Agents Act 1983* or any other enactment enabling the apparent owner of goods to dispose of them as if he were the true owner.
- (6) Nothing in this section exonerates the hirer or buyer from any liability (whether criminal or civil) to which he would be subject apart from this section; and in a case where the hirer or buyer disposes of the motor vehicle to a trade or finance purchaser, nothing in this section exonerates —
- (a) that trade or finance purchaser, or
 - (b) any other trade or finance purchaser who becomes a purchaser of the vehicle and is not a person claiming under the first private purchaser,
- from any liability (whether criminal or civil) to which he would be subject apart from this section.

55 Presumptions relating to dealings with motor vehicles

[P1964/53/28]

- (1) Where in any proceedings (whether criminal or civil) relating to a motor vehicle it is proved —
- (a) that the vehicle was let under a hire-purchase agreement or was agreed to be sold under a conditional sale agreement, and
 - (b) that a person (whether a party to the proceedings or not) became a private purchaser of the vehicle in good faith without notice of the hire-purchase agreement or conditional sale agreement,
- this section shall have effect for the purposes of the operation of section 54 in relation to those proceedings.
- (2) It shall be presumed for those purposes, unless the contrary is proved, that the disposition of the vehicle to the person referred to in subsection (1)(b) (“the relevant purchaser”) was made by the hirer or buyer.
- (3) If it is proved that that disposition was not made by the hirer or buyer, then it shall be presumed for those purposes, unless the contrary is proved —

- (a) that the hirer or buyer disposed of the vehicle to a private purchaser who was a purchaser of the vehicle in good faith and without notice of the hire-purchase agreement or conditional sale agreement, and
 - (b) that the relevant purchaser is or was a person claiming under the person to whom the hirer or buyer so disposed of the vehicle.
- (4) If it is proved that that disposition was not made by the hirer or buyer, and that the person to whom the hirer or buyer, disposed of the vehicle (“the original purchaser”) was a trade or finance purchaser, then it shall be presumed for those purposes, unless the contrary is proved —
- (a) that the person who, after the disposition of the vehicle to the original purchaser, first became a private purchaser of the vehicle was a purchaser in good faith without notice of the hire-purchase agreement or conditional sale agreement, and
 - (b) that the relevant purchaser is or was a person claiming under the original purchaser.
- (5) Without prejudice to any other method of proof, where in any proceedings a party thereto admits a fact, that fact shall, for the purposes of this section, be taken as against him to be proved in relation to those proceedings.

56 Interpretation of Part VIII

[P1964/53/29]

- (1) In this Part —

“**disposition**” means any sale or contract of sale (including a conditional sale agreement), any bailment under a hire-purchase agreement and any transfer of the property in goods in pursuance of a provision in that behalf contained in a hire-purchase agreement, and includes any transaction purporting to be a disposition (as so defined), and “**dispose of**” shall be construed accordingly;

“**the hirer or buyer**” —

- (a) in relation to a motor vehicle which has been let under a hire-purchase agreement, means the person who at the material time (whether the agreement has before that time been terminated or not) is the hirer in relation to that agreement for the purposes of the *Hire Purchase Act 1939*, including a person who at that time is, by virtue of section 14(1) of that Act, deemed to be a bailee of the vehicle as therein mentioned;
- (b) in relation to a motor vehicle which has been agreed to be sold under a conditional sale agreement, means the person who at the material time (whether the agreement has before that time been terminated or not) is the buyer in relation to that agreement for the purposes of paragraph 6(2) of Schedule 1 to the *Hire Purchase Act 1973*, including a person who at that time is, by virtue of section 14(1) of the *Hire Purchase Act 1939* as modified by paragraph 4 of

that Schedule, deemed to be in possession of the vehicle as therein mentioned;

“**private purchaser**” means a purchaser who, at the time of the disposition made to him, does not carry on a business referred to in the following definition;

“**trade or finance purchaser**” means a purchaser who, at the time of the disposition made to him, carries on a business which consists wholly or partly —

- (a) of purchasing motor vehicles for the purpose of offering or exposing them for sale, or
 - (b) of providing finance by purchasing motor vehicles for the purpose of bailing them under hire-purchase agreements or agreeing to sell them under conditional sale agreements.
- (2) For the purposes of this Part a person becomes a purchaser of a motor vehicle if, and at the time when, a disposition of the vehicle is made to him; and a person shall be taken to be a purchaser of a motor vehicle without notice of a hire-purchase agreement or conditional sale agreement if, at the time of the disposition made to him, he has no actual notice that the vehicle is or was the subject of any hire-purchase agreement or conditional sale agreement.
- (3) In this Part any reference to the title of the owner or seller to a motor vehicle which has been let under a hire-purchase agreement, or agreed to be sold under a conditional sale agreement, and is disposed of by the hirer or buyer, is a reference to such title (if any) to the vehicle as, immediately before that disposition, was vested in the person who was then the owner in relation to the hire-purchase agreement, or the seller in relation to the conditional sale agreement, as the case may be.

PART VIIIA - DISTANCE SELLING¹⁵⁶

57A Contracts to which this Part applies

- (1) In this Part “**distance contract**” means any contract concerning goods or services concluded between a supplier and a consumer under an organised distance sales or service provision scheme run by the supplier who, for the purpose of the contract, makes exclusive use of one or more means of distance communication up to and including the moment at which the contract is concluded.
- (2) This Part applies to any distance contract other than a contract —
 - (a) for the sale or other disposition of an interest in land, except a tenancy for a term greater than one year;
 - (b) for the construction of a building where the contract also provides for a sale or other disposition of an interest in land on which the

- building is constructed, except a tenancy for a term greater than one year;
- (c) relating to financial services;
 - (d) concluded by means of an automated vending machine or automated commercial premises;
 - (e) concluded with a telecommunications operator through the use of a public pay-phone;
 - (f) concluded at an auction.
- (3) Sections 57B to 57L do not apply to a contract which is a timeshare agreement within the meaning of the *Timeshare Act 1996* and to which Chapter I of Part 1 of that Act applies.
- (4) Sections 57B to 57K and 57L(1) do not apply to —
- (a) contracts for the supply of food, beverages or other goods intended for everyday consumption supplied to the consumer's residence or to his workplace by regular roundsmen; or
 - (b) contracts for the provision of accommodation, transport, catering or leisure services, where the supplier undertakes, when the contract is concluded, to provide these services on a specific date or within a specific period.
- (5) This Part does not apply to a relevant contract made in the circumstances set out in section 46(1)(c).^{157 158}

57B Prior information

- (1) Subject to subsection (4), in good time before the conclusion of a contract to which this Part applies the supplier shall —
- (a) provide to the consumer the following information —
 - (i) the identity of the supplier and, where the contract requires payment in advance, the supplier's address;
 - (ii) a description of the main characteristics of the goods or services;
 - (iii) the price of the goods or services including all taxes;
 - (iv) delivery costs where appropriate;
 - (v) the arrangements for payment, delivery or performance;
 - (vi) the existence of a right of cancellation except in the cases referred to in section 57G;
 - (vii) the cost of using the means of distance communication where it is calculated otherwise than at the basic rate;
 - (viii) the period for which the offer or the price remains valid; and

- (ix) where appropriate, the minimum duration of the contract, in the case of contracts for the supply of goods or services to be performed permanently or recurrently;
 - (b) inform the consumer if he proposes, in the event of the goods or services ordered by the consumer being unavailable, to provide substitute goods or services (as the case may be) of equivalent quality and price; and
 - (c) inform the consumer that the cost of returning any such substitute goods to the supplier in the event of cancellation by the consumer would be met by the supplier.
- (2) The supplier shall ensure that the information required by subsection (1) is provided in a clear and comprehensible manner appropriate to the means of distance communication used, with due regard in particular to the principles of good faith in commercial transactions and the principles governing the protection of those who are unable to give their consent such as minors.
- (3) Subject to subsection (4), the supplier shall ensure that his commercial purpose is made clear when providing the information required by subsection (1).
- (4) In the case of a telephone communication, the identity of the supplier and the commercial purpose of the call shall be made clear at the beginning of the conversation with the consumer.¹⁵⁹

57C Written and additional information

- (1) Subject to subsection (4), the supplier shall provide to the consumer in writing, or in another durable medium which is available and accessible to the consumer, the information referred to in subsection (2), either —
- (a) prior to the conclusion of the contract, or
 - (b) thereafter, in good time and in any event —
 - (i) during the performance of the contract, in the case of services; and
 - (ii) at the latest at the time of delivery where goods not for delivery to third parties are concerned.
- (2) The information required to be provided by subsection (1) is —
- (a) the information set out in sub-paragraphs (i) to (vi) of section 57B(1)(a);
 - (b) information about the conditions and procedures for exercising the right to cancel under section 57D, including —
 - (i) where a term of the contract requires (or the supplier intends that it will require) that the consumer shall return

- the goods to the supplier in the event of cancellation, notification of that requirement; and
- (ii) information as to whether the consumer or the supplier would be responsible under this Part for the cost of returning any goods to the supplier, or the cost of his recovering them, if the consumer cancels the contract under section 57D;
 - (c) the geographical address of the place of business of the supplier to which the consumer may address any complaints;
 - (d) information about any after-sales services and guarantees; and
 - (e) the conditions for exercising any contractual right to cancel the contract, where the contract is of an unspecified duration or a duration exceeding one year.
- (3) Subject to subsection (4), before the conclusion of a contract for the supply of services, the supplier shall inform the consumer in writing or in another durable medium which is available and accessible to the consumer that, unless the parties agree otherwise, he will not be able to cancel the contract under section 57D once the performance of the services has begun with his agreement.
- (4) In the case of a contract for the supply of services which are performed through the use of a means of distance communication, where those services are supplied on only one occasion and are invoiced by the operator of the means of distance communication —
- (a) subsections (1) to (3) do not apply, but
 - (b) the supplier shall take all necessary steps to ensure that a consumer who is a party to such a contract is able to obtain the supplier's geographical address and the place of business to which the consumer may address any complaints.
- (5) In subsection (4) "operator", in relation to a means of distance communication, means any person whose business involves making one or more means of distance communication available to suppliers.¹⁶⁰

57D Right to cancel

- (1) Subject to section 57G, if within the cancellation period set out in sections 57E and 57F, the consumer gives a notice of cancellation to the supplier, or any other person previously notified by the supplier to the consumer as a person to whom notice of cancellation may be given, the notice of cancellation shall operate to cancel the contract.
- (2) Except as otherwise provided by this Part, the effect of a notice of cancellation is that the contract shall be treated as if it had not been made.
- (3) For the purposes of this Part, a notice of cancellation is a notice in writing or in another durable medium available and accessible to the supplier (or

to the other person to whom it is given) which, however expressed, indicates the intention of the consumer to cancel the contract.

- (4) A notice of cancellation given under this section by a consumer to a supplier or other person is to be treated as having been properly given if the consumer —
- (a) leaves it at the address last known to the consumer and addressed to the supplier or other person by name (in which case it is to be taken to have been given on the day on which it was left);
 - (b) sends it by post to the address last known to the consumer and addressed to the supplier or other person by name (in which case, it is to be taken to have been given on the day on which it was posted);
 - (c) sends it by facsimile to the business facsimile number last known to the consumer (in which case it is to be taken to have been given on the day on which it is sent); or
 - (d) sends it by electronic mail, to the business electronic mail address last known to the consumer (in which case it is to be taken to have been given on the day on which it is sent).
- (5) Where a consumer gives a notice in accordance with subsection (4)(a) or (b) to a supplier who is a body corporate or a partnership, the notice is to be treated as having been properly given if —
- (a) in the case of a body corporate, it is left at the address of, or sent to, the secretary or clerk of that body; or
 - (b) in the case of a partnership, it is left with or sent to a partner or a person having control or management of the partnership business.¹⁶¹

57E Cancellation period: contracts for the supply of goods

- (1) For the purposes of section 57D, the cancellation period in the case of contracts for the supply of goods begins with the day on which the contract is concluded and ends as provided in subsections (2) to (5).
- (2) Where the supplier complies with section 57C(1) and (2), the cancellation period ends on the expiry of the period of 7 working days beginning with the day after the day on which the consumer receives the goods.
- (3) Where a supplier who has not complied with section 57C(1) and (2) provides to the consumer the information referred to in section 57C(2), and does so in writing or in another durable medium available and accessible to the consumer, within the period of 3 months beginning with the day after the day on which the consumer receives the goods, the cancellation period ends on the expiry of the period of 7 working days beginning with the day after the day on which the consumer receives the information.

- (4) Where neither subsection (2) nor subsection (3) applies, the cancellation period ends on the expiry of the period of 3 months and 7 working days beginning with the day after the day on which the consumer receives the goods.
- (5) In the case of contracts for goods for delivery to third parties, subsections (2) to (4) apply as if the consumer had received the goods on the day on which they were received by the third party.¹⁶²

57F Cancellation period: contracts for the supply of services

- (1) For the purposes of section 57D, the cancellation period in the case of contracts for the supply of services begins with the day on which the contract is concluded and ends as provided in paragraphs (2) to (4).
- (2) Where the supplier complies with section 57C(1) to (3) on or before the day on which the contract is concluded, the cancellation period ends on the expiry of the period of 7 working days beginning with the day after the day on which the contract is concluded.
- (3) Where a supplier who has not complied with section 57C(1) to (3) on or before the day on which the contract is concluded provides to the consumer the information referred to in section 57C(2) and (3), and does so in writing or in another durable medium available and accessible to the consumer, within the period of 3 months beginning with the day after the day on which the contract is concluded, the cancellation period ends on the expiry of the period of 7 working days beginning with the day after the day on which the consumer receives the information.
- (4) Where neither subsection (2) nor (3) applies, the cancellation period ends on the expiry of the period of 3 months and 7 working days beginning with the day after the day on which the contract is concluded.¹⁶³

57G Exceptions to the right to cancel

Unless the parties have agreed otherwise, the consumer will not have the right to cancel the contract by giving notice of cancellation pursuant to section 57D in respect of contracts —

- (a) for the supply of services if the supplier has complied with section 57C(3) and performance of the contract has begun with the consumer's agreement before the end of the cancellation period applicable under section 57F;
- (b) for the supply of goods or services the price of which is dependent on fluctuations in the financial market which cannot be controlled by the supplier;
- (c) for the supply of goods made to the consumer's specifications or clearly personalised or which by reason of their nature cannot be returned or are liable to deteriorate or expire rapidly;

- (d) for the supply of audio or video recordings or computer software if they are unsealed by the consumer;
- (e) for the supply of newspapers, periodicals or magazines; or
- (f) for gaming, betting or lottery services.¹⁶⁴

57H Recovery of sums and return of security

- (1) On the cancellation of a contract under section 57D, the supplier shall reimburse any sum paid by or on behalf of the consumer under or in relation to the contract to the person by whom it was made free of any charge, less any charge made in accordance with subsection (5).
- (2) The reference in subsection (1) to any sum paid on behalf of the consumer includes any sum paid by a creditor who is not the same person as the supplier under a personal credit agreement with the consumer.
- (3) The supplier shall make the reimbursement referred to in subsection (1) as soon as possible and in any case within a period not exceeding 30 days beginning with the day on which the notice of cancellation was given.
- (4) Where any security has been provided in relation to the contract, the security (so far as it is so provided) shall, on cancellation under section 57D, be treated as never having had effect and any property lodged with the supplier solely for the purposes of the security as so provided shall be returned by him forthwith.
- (5) Subject to paragraphs (6) and (7), the supplier may make a charge, not exceeding the direct costs of recovering any goods supplied under the contract, where a term of the contract provides that the consumer must return any goods supplied if he cancels the contract under section 57D but the consumer does not comply with this provision or returns the goods at the expense of the supplier.
- (6) Subsection (5) does not apply where —
 - (a) the consumer cancels in circumstances where he has the right to reject the goods under a term of the contract, including a term implied by virtue of any statutory provision, or
 - (b) the term requiring the consumer to return any goods supplied if he cancels the contract is an unfair term for the purposes of Part V.
- (7) Subsection (5) does not apply to the cost of recovering any goods which were supplied as substitutes for the goods ordered by the consumer.¹⁶⁵

57I Cancellation of related credit agreement

- (1) Where a notice of cancellation is given under section 57D which has the effect of cancelling the contract, the giving of the notice shall also have the effect of cancelling any related credit agreement.

- (2) Where a related credit agreement is cancelled by virtue of subsection (1), the supplier shall, if he is not the same person as the creditor under that agreement, forthwith on receipt of the notice of cancellation inform the creditor that the notice has been given.
- (3) Where a related credit agreement is cancelled by virtue of subsection (1) —
 - (a) any sum paid by or on behalf of the consumer under, or in relation to, the credit agreement which the supplier is not obliged to reimburse under section 57H(1) shall be reimbursed, except for any sum which, if it had not already been paid, would have to be paid under paragraph (b);
 - (b) the agreement shall continue in force so far as it relates to repayment of the credit and payment of interest, subject to subsections (5) to (7); and
 - (c) subject to paragraph (b), the agreement shall cease to be enforceable.
- (4) Where any security has been provided under a related credit agreement, the security, so far as it is so provided, shall be treated as never having had effect and any property lodged with the creditor solely for the purposes of the security as so provided shall be returned by him forthwith.
- (5) If, following the cancellation of a related credit agreement by virtue of subsection (1), the consumer repays the whole or a portion of the credit —
 - (a) before the expiry of one month following the cancellation of the credit agreement, or
 - (b) in the case of a credit repayable by instalments, before the date on which the first instalment is due,no interest shall be payable on the amount repaid.
- (6) If, following the cancellation of a related credit agreement by virtue of subsection (1), the whole of a credit repayable by instalments is not repaid on or before the date referred to in subsection (5)(b), the consumer shall not be liable to repay any of the credit except on receipt of a request in writing, signed by the creditor, stating the amounts of the remaining instalments (recalculated by the creditor as nearly as may be in accordance with the agreement and without extending the repayment period), but excluding any sum other than principal and interest.
- (7) Where any security has been provided under a related credit agreement the duty imposed on the consumer to repay credit and to pay interest shall not be enforceable before the creditor has discharged any duty imposed on him by subsection (4) to return any property lodged with him as security on cancellation.
- (8) For the purposes of this section —
 - (a) “creditor” is a person who grants credit under a related credit agreement;

- (b) "fixed sum credit" means credit available otherwise than on a current or running account;
- (c) a "related credit agreement" means an agreement under which fixed sum credit which fully or partly covers the price under a contract cancelled under section 57D is granted —
 - (i) by the supplier, or
 - (ii) by another person, under an arrangement between that person and the supplier;
- (d) "repayment", in relation to credit, means repayment of money received by the consumer, and cognate expressions shall be construed accordingly; and
- (e) "interest" means interest on money so received.¹⁶⁶

57J Restoration of goods after cancellation

- (1) This section applies where a contract is cancelled under section 57D after the consumer has acquired possession of any goods under the contract other than any goods mentioned in section 57G(b) to (e).
- (2) The consumer shall be treated as having been under a duty throughout the period before cancellation —
 - (a) to retain possession of the goods, and
 - (b) to take reasonable care of them.
- (3) On cancellation, the consumer shall be under a duty to restore the goods to the supplier in accordance with this section, and in the meanwhile to retain possession of the goods and take reasonable care of them.
- (4) The consumer shall not be under any duty to deliver the goods except at his own premises and in pursuance of a request in writing, or in another durable medium available and accessible to the consumer, from the supplier and given to the consumer either before, or at the time when, the goods are collected from those premises.
- (5) If the consumer —
 - (a) delivers the goods (whether at his own premises or elsewhere) to any person to whom, under section 57D(1), a notice of cancellation could have been given; or
 - (b) sends the goods at his own expense to such a person,
 he shall be discharged from any duty to retain possession of the goods or restore them to the supplier.
- (6) Where the consumer delivers the goods in accordance with subsection (5)(a), his obligation to take care of the goods shall cease; and if he sends the goods in accordance with subsection (5)(b), he shall be under a duty to take reasonable care to see that they are received by the supplier and not

damaged in transit, but in other respects his duty to take care of the goods shall cease when he sends them.

- (7) Where, at any time during the period of 21 days beginning with the day notice of cancellation was given, the consumer —
- (a) receives such a request as is mentioned in subsection (4), and
 - (b) unreasonably refuses or unreasonably fails to comply with it,
- his duty to retain possession and take reasonable care of the goods shall continue until he delivers or sends the goods as mentioned in subsection (5), but if within that period he does not receive such a request his duty to take reasonable care of the goods shall cease at the end of that period.
- (8) Where —
- (a) a term of the contract provides that if the consumer cancels the contract, he must return the goods to the supplier, and
 - (b) the consumer is not otherwise entitled to reject the goods under the terms of the contract or by virtue of any statutory provision,
- subsection (7) applies as if for the period of 21 days there were substituted the period of 6 months.
- (9) Where any security has been provided in relation to the cancelled contract, the duty to restore goods imposed on the consumer by this section shall not be enforceable before the supplier has discharged any duty imposed on him by section 57H(4) to return any property lodged with him as security on cancellation.
- (10) Breach of a duty imposed by this section on a consumer is actionable as a breach of statutory duty.¹⁶⁷

57K Goods given in part-exchange

- (1) This section applies on the cancellation of a contract under section 57D where the supplier agreed to take goods in part-exchange (the “part-exchange goods”) and those goods have been delivered to him.
- (2) Unless, before the end of the period of 10 days beginning with the date of cancellation, the part-exchange goods are returned to the consumer in a condition substantially as good as when they were delivered to the supplier, the consumer shall be entitled to recover from the supplier a sum equal to the part-exchange allowance.
- (3) In this section the part-exchange allowance means the sum agreed as such in the cancelled contract, or if no such sum was agreed, such sum as it would have been reasonable to allow in respect of the part-exchange goods if no notice of cancellation had been served.
- (4) Where the consumer recovers from the supplier a sum equal to the part-exchange allowance, the title of the consumer to the part-exchange goods

shall vest in the supplier (if it has not already done so) on recovery of that sum.¹⁶⁸

57L Performance

- (1) Unless the parties agree otherwise, the supplier shall perform the contract within a maximum of 30 days beginning with the day after the day the consumer sent his order to the supplier.
- (2) Subject to paragraphs (7) and (8), where the supplier is unable to perform the contract because the goods or services ordered are not available, within the period for performance referred to in subsection (1) or such other period as the parties agree (“the period for performance”), he shall —
 - (a) inform the consumer; and
 - (b) reimburse any sum paid by or on behalf of the consumer under or in relation to the contract to the person by whom it was made.
- (3) The reference in subsection (2)(b) to any sum paid on behalf of the consumer includes any sum paid by a creditor who is not the same person as the supplier under a personal credit agreement with the consumer.
- (4) The supplier shall make the reimbursement referred to in subsection (2)(b) as soon as possible and in any event within a period of 30 days beginning with the day after the day on which the period for performance expired.
- (5) A contract which has not been performed within the period for performance shall be treated as if it had not been made, save for any rights or remedies which the consumer has under it as a result of the non-performance.
- (6) Where any security has been provided in relation to the contract, the security (so far as it is so provided) shall, where the supplier is unable to perform the contract within the period for performance, be treated as never having had any effect and any property lodged with the supplier solely for the purposes of the security as so provided shall be returned by him forthwith.
- (7) Where the supplier is unable to supply the goods or services ordered by the consumer, the supplier may perform the contract for the purposes of this Part by providing substitute goods or services (as the case may be) of equivalent quality and price provided that —
 - (a) this possibility was provided for in the contract;
 - (b) before the conclusion of the contract the supplier gave the consumer the information required by section 57B(1)(b) and (c) in the manner required by section 57B(2).
- (8) In the case of outdoor leisure events which by their nature cannot be rescheduled, subsection 2(b) does not apply where the consumer and the supplier so agree.

- (9) Where a supplier is unable to perform the contract within the period for performance —
- (a) section 57I applies to any related credit agreement as if the consumer had given a valid notice of cancellation under section 57D on the expiry of the period for performance; and
 - (b) the reference in section 57I(3)(a) to section 57H(1) shall be read, for the purposes of this subsection, as a reference to subsection (2).¹⁶⁹

57M No contracting-out

- (1) A term contained in any contract to which this Part applies is void if, and to the extent that, it is inconsistent with a provision for the protection of the consumer contained in this Part.
- (2) Where a provision of this Part specifies a duty or liability of the consumer in certain circumstances, a term contained in a contract to which this Part applies, other than a term to which subsection (3) applies, is inconsistent with that provision if it purports to impose, directly or indirectly, an additional duty or liability on him in those circumstances.
- (3) A term which requires the consumer to return any goods supplied to him under the contract if he cancels it under section 57D has effect, in the event of cancellation by the consumer under section 57D, only for the purposes of sections 57H(5) and 57J(8).
- (4) This Part applies notwithstanding any contract term which applies or purports to apply the law of a country outside the Island if the contract has a close connection with the Island.¹⁷⁰

57N Supplemental

- (1) In this Part —
 - “**consumer**” means any natural person who, in contracts to which this Part applies, is acting for purposes which are outside his business;
 - “**credit**” includes a cash loan and any other form of financial accommodation, and for this purpose “**cash**” includes money in any form;
 - “**distance contract**” has the meaning given by section 57A(1);
 - “**financial services**” means services which consist of, include or relate to —
 - (a) a collective investment scheme;
 - (b) investment business under the *Financial Services Act 2008*;¹⁷¹
 - (c) deposit taking under the *Financial Services Act 2008*;¹⁷²
 - (d) insurance business within the meaning of the *Insurance Act 2008*;¹⁷³
 - (e) credit business within the meaning of Part II of the *Moneylenders Act 1991*;

- (f) a business which would be a credit business if the person carrying it on were not an exempt person (expressions in this paragraph having the same meaning as in Part II of the *Moneylenders Act 1991*);
- (g) a pension scheme within the meaning of section 1 of the *Pension Schemes Act 1995*.

“**means of distance communication**” means any means which, without the simultaneous physical presence of the supplier and the consumer, may be used for the conclusion of a contract between those parties;

“**personal credit agreement**” means an agreement between a consumer and any other person (“the creditor”) by which the creditor provides the consumer with credit of any amount;

“**related credit agreement**” has the meaning given by section 57I(8);

“**supplier**” means any person who, in contracts to which this Part applies, is acting in his commercial or professional capacity; and

“**working day**” means any day other than a Saturday, Sunday or bank holiday.

- (2) Sections 40B to 40E (complaints and injunctions) apply, with any necessary modifications, to any contravention by a supplier of a prohibition in, or failure to comply with a requirement of, this Part as they apply to the use of unfair contract terms drawn up for general use.¹⁷⁴

PART IX – MISCELLANEOUS AND SUPPLEMENTAL

57 Functions of OFT¹⁷⁵

- (1) Subject to subsection (2) and to any other enactment (including an enactment contained in this Act), the function of OFT is to protect, inform, advise, support and represent generally the interests of consumers as such, and to provide information and advice to persons on legislation for which it is responsible.¹⁷⁶
- (2) Where any Department, or any Statutory Board other than OFT, is empowered or obliged by any enactment to enforce any statutory requirement relating to goods or services, the function of OFT under subsection (1) does not extend to any matter to which that requirement relates.¹⁷⁷
- (3) In this section “consumer” means any individual –
 - (a) to whom goods or services are supplied in consideration of money or money’s worth, or
 - (b) by whom goods or services so supplied are consumed or used, otherwise than in the course of a business carried on by him.
- (4) Section 1(2) of, and Schedule 1 to, the *Board of Consumer Affairs Act 1981* shall cease to have effect.

58 Enforcement of trade mark provisions

[P1938/22/58D; P1988/48/300]

- (1) It shall be the duty of OFT to enforce section 92 (unauthorised use of trade mark etc. in relation to goods) of the Trade Marks Act 1994 (an Act of Parliament).¹⁷⁸
- (2) The following provisions of the *Consumer Protection (Trade Descriptions) Act 1970* apply in relation to the enforcement of that section as in relation to the enforcement of that Act —
 - section 27 (test purchases),
 - section 28 (powers of entry, inspection and seizure),
 - section 29 (obstruction) and
 - section 33 (compensation).
- (3) Any enactment which authorises the disclosure of information for the purpose of facilitating the enforcement of the said Act of 1970 shall apply as if the said section 92 were contained in that Act and as if the functions of any person in relation to the enforcement of that section were functions under that Act.¹⁷⁹

59 Financial provisions

[P1987/43/43]

- (1) There shall be paid out of money provided by Tynwald —
 - (a) any expenses incurred or compensation payable by a Department or a Statutory Board in consequence of any provision of this Act; and
 - (b) any increase attributable to this Act in the sums payable out of money so provided under any other Act.
- (2) Any sums received by a Department or a Statutory Board by virtue of this Act shall be paid into the general revenue of the Island.

60 Interpretation: general

[P1987/43/45]

- (1) In this Act —
 - “**aircraft**” includes gliders, balloons and hovercraft;
 - “**the Board**” [Repealed]¹⁸⁰
 - “**business**” includes a trade or profession and the activities of a professional or trade association or of a local authority or other public authority;
 - “**conditional sale agreement**” means an agreement for the sale of goods or land under which the purchase price or part of it is payable by instalments, and the property in the goods or land is to remain in the seller (notwithstanding that the buyer is to be in possession of the goods or land)

until such conditions as to the payment of instalments or otherwise as may be specified in the agreement are fulfilled;

“**contravention**” includes a failure to comply and cognate expressions shall be construed accordingly;

“**credit sale agreement**” means an agreement for the sale of goods, under which the purchase price or part of it is payable by instalments, but which is not a conditional sale agreement;

“**goods**” includes substances, growing crops and things comprised in land by virtue of being attached to it and any ship, aircraft or vehicle;

“**hire-purchase agreement**” means an agreement (other than a conditional sale agreement) under which goods are bailed in return for periodical payments by the person to whom they are bailed, and the property in the goods will pass to that person if the terms of the agreement are complied with and one or more of the following occurs —

- (a) the exercise of an option to purchase by that person;
- (b) the doing of any other specified act by any party to the agreement;
- (c) the happening of any other specified event;

“**information**” includes accounts, estimates and returns;

“**mark**” and “**trade mark**” have the same meanings as in the Trade Marks Act 1938 (an Act of Parliament);

“**modifications**” includes additions, alterations and omissions, and cognate expressions shall be construed accordingly;

“**motor vehicle**” has the same meaning as in the *Road Traffic Act 1985*;

“**notice**” means a notice in writing;

“**notice to warn**” means a notice under section 11(1)(b);

“**officer**” means a person authorised in writing to assist OFT in discharging its functions under this Act;¹⁸¹

“**OFT**” means the Isle of Man Office of Fair Trading;¹⁸²

“**personal injury**” includes any disease and any other impairment of a person’s physical or mental condition;

“**premises**” includes any place and any ship, aircraft or vehicle;

“**prescribed**” means prescribed by regulations made by OFT;¹⁸³

“**prohibition notice**” means a notice under section 11(1)(a);

“**records**” includes any books or documents and any records in non-documentary form;

“**safety provision**” means the general safety requirement in section 8 or any provision of safety regulations, a prohibition notice or a suspension notice;

“**safety regulations**” means regulations under section 9;

“**ship**” includes any boat and any other description of vessel used in navigation;

“**substance**” means any natural or artificial substance, whether in solid, liquid or gaseous form or in the form of a vapour, and includes substances that are comprised in or mixed with other goods;

“**supply**” and cognate expressions shall be construed in accordance with section 61;

“**suspension notice**” means a notice under section 12.

- (2) Except in so far as the context otherwise requires, references in this Act to a contravention of a safety provision shall, in relation to any goods, include references to anything which would constitute such a contravention if the goods were supplied to any person.
- (3) References in this Act to any goods in relation to which any safety provision has been or may have been contravened shall include references to any goods which it is not reasonably practicable to separate from any such goods.
- (4) Section 68(2) of the Trade Marks Act 1938 (an Act of Parliament) (construction of references to use of a mark) shall apply for the purposes of this Act as it applies for the purposes of that Act.

61 Meaning of “supply”

[P1987/43/46]

- (1) Subject to the following provisions of this section, references in this Act to supplying goods shall be construed as references to doing any of the following, whether as principal or agent —
 - (a) selling, hiring out or lending the goods;
 - (b) entering into a hire-purchase agreement to furnish the goods;
 - (c) the performance of any contract for work and materials to furnish the goods;
 - (d) providing the goods in exchange for any consideration (including trading stamps) other than money;
 - (e) providing the goods in or in connection with the performance of any statutory function; or
 - (f) giving the goods as a prize or otherwise making a gift of the goods;and, in relation to gas or water, those references shall be construed as including references to providing the service by which the gas or water is made available for use.
- (2) For the purposes of any reference in this Act to supplying goods, where a person (“the ostensible supplier”) supplies goods to another person (“the customer”) under a hire-purchase agreement, conditional sale agreement or credit-sale agreement or under an agreement for the hiring of goods (other than a hire-purchase agreement) and the ostensible supplier —

- (a) carries on the business of financing the provision of goods for others by means of such agreements; and
- (b) in the course of that business acquired his interest in the goods supplied to the customer as a means of financing the provision of them for the customer by a further person (“the effective supplier”), the effective supplier and not the ostensible supplier shall be treated as supplying the goods to the customer.
- (3) Subject to subsection (4), the performance of any contract by the erection of any building or structure on any land or by the carrying out of any other building works shall be treated for the purposes of this Act as a supply of goods in so far as, but only in so far as, it involves the provision of any goods to any person by means of their incorporation into the building, structure or works.
- (4) Except for the purposes of, and in relation to, notices to warn or any provision of the Consumer Protection from Unfair Trading Regulations 2019¹⁵, references in this Act to supplying goods shall not include references to supplying goods comprised in land where the supply is effected by the creation or disposal of an interest in the land.¹⁸⁴
- (5) Except in Part I references in this Act to a person’s supplying goods shall be confined to references to that person’s supplying goods in the course of a business of his, but for the purposes of this subsection it shall be immaterial whether the business is a business of dealing in the goods.
- (6) For the purposes of subsection (5) goods shall not be treated as supplied in the course of a business if they are supplied, in pursuance of an obligation arising under or in connection with the insurance of the goods, to the person with whom they were insured.
- (7) Except for the purposes of, and in relation to, prohibition notices or suspension notices, references in Parts II to IV to supplying goods shall not include —
- (a) references to supplying goods where the person supplied carries on a business of buying goods of the same description as those goods and repairing or reconditioning them;
- (b) references to supplying goods by a sale of articles as scrap (that is to say, for the value of materials included in the articles rather than for the value of the articles themselves).
- (8) Where any goods have at any time been supplied by being hired out or lent to any person, neither a continuation or renewal of the hire or loan (whether on the same or different terms) nor any transaction for the transfer after that time of any interest in the goods to the person to whom they were hired or lent shall be treated for the purposes of this Act as a further supply of the goods to that person.

¹⁵ SD 2019/0359

- (9) A ship, aircraft, or motor vehicle shall not be treated for the purposes of this Act as supplied to any person by reason only that services consisting in the carriage of goods or passengers in that ship, aircraft or vehicle, or in its use for any other purpose, are provided to that person in pursuance of an agreement relating to the use of the ship, aircraft or vehicle for a particular period or for particular voyages, flights or journeys.

62 Self-incrimination and legal professional privilege¹⁸⁵

[P1987/43/47]

- (1) Nothing in this Act shall be taken as requiring any person to produce any records if he would be entitled to refuse to produce those records in any proceedings in any court on the grounds that they are the subject of legal professional privilege or as authorising any person to take possession of any records which are in the possession of a person who would be so entitled.
- (2) Nothing in this Act shall be construed as requiring a person to answer any question or give any information if to do so would incriminate that person or that person's spouse or civil partner.¹⁸⁶

62A Power to amend Act and apply certain subordinate legislation of the United Kingdom

- (1) OFT may by order —
- (a) modify this Act in such manner as appears to it expedient for the purpose of making this Act correspond (subject to such modifications as it considers appropriate) with the corresponding legislation of the United Kingdom;
- (b) apply to the Island as part of the law of the Island, subject to such modifications as may be specified in the order, any subordinate legislation of the United Kingdom concerning matters relating to consumer protection.
- (2) An order under subsection (1) may include provision repealing or amending any provision of an enactment which is inconsistent with, or is unnecessary or requires modification in consequence of, the order or any subordinate legislation of the United Kingdom applied to the Island by the order.
- (3) An order under subsection (1)(b) may do all or any of the following —
- (a) specify the modifications subject to which the subordinate legislation of the United Kingdom applies to the Island;
- (b) set out the subordinate legislation of the United Kingdom applied by the order, incorporating the modifications subject to which it applies to the Island;

- (c) in the case of an order applying subordinate legislation of the United Kingdom which amends previous subordinate legislation of the United Kingdom applied to the Island, set out the previous legislation so applied as amended, incorporating the modifications subject to which that legislation applies to the Island.
- (4) In this section references to legislation of the United Kingdom includes references to legislation applying in any part of the United Kingdom.¹⁸⁷

63 Orders and regulations

- (1) Orders and regulations under this Act (except an order under section 65(2)) shall not have effect unless they are approved by Tynwald.
- (2) Orders and regulations under this Act may make such supplemental, consequential and transitional provision as OFT considers appropriate.¹⁸⁸

64 Transitional provisions, amendments and repeals

- (1) The transitional provisions in Schedule 3 shall have effect.
- (2) The enactments specified in Schedule 4 are amended in accordance with that Schedule.
- (3) The enactments specified in Schedule 5 are repealed to the extent specified in column 3 of that Schedule.

65 Short title and commencement

[P1987/43/Sch 1]

- (1) This Act may be cited as the Consumer Protection Act 1991.
- (2) Subject to subsection (3), this Act shall come into operation on such day or days as the Board may by order appoint.¹⁸⁹
- (3) An order under subsection (2) shall not be made so as to bring into operation the repeal of the *Consumer Protection (Trade Descriptions) Act 1974*, or of any provision of that Act, before the commencement of an order under section 8 of the *Consumer Protection (Trade Descriptions) Act 1970* requiring goods (other than goods of a description specified in the order) to be marked with or accompanied by a statement as to the place where they were manufactured or produced.

Schedule 1**AMENDMENTS OF LIMITATION ACT 1984**

Section 5 [P1987/43/Sch1]

[Sch 1 amends the following Act —

Limitation Act 1984 q.v.]

Schedule 2**PROHIBITION NOTICES AND NOTICES TO WARN**

Section 11[P1987/43/Sch 2]

PART I – PROHIBITION NOTICES

1. A prohibition notice in respect of any goods shall —
 - (a) state that OFT considers that the goods are unsafe;¹⁹⁰
 - (b) set out the reasons why OFT considers that the goods are unsafe;¹⁹¹
 - (c) specify the day on which the notice is to come into force; and
 - (d) state that the trader may at any time make representations in writing to OFT for the purpose of establishing that the goods are safe.¹⁹²

2. (1) If representations in writing about a prohibition notice are made by the trader to OFT, OFT shall consider whether to revoke the notice and —
 - (a) if it decides to revoke it OFT shall do so;¹⁹³
 - (b) in any other case OFT shall appoint a person to consider those representations, any further representations made (whether in writing or orally) by the trader about the notice and the statements of any witnesses examined under this Part.^{194 195}(2) Where OFT has appointed a person to consider representations about a prohibition notice it shall serve a notification on the trader which —
 - (a) states that the trader may make oral representations to the appointed person for the purpose of establishing that the goods to which the notice relates are safe; and
 - (b) specifies the place and time at which the oral representations may be made.¹⁹⁶(3) The time specified in a notification served under subparagraph (2) shall not be before the end of the period of 21 days beginning with the day on which the notification is served, unless the trader otherwise agrees.

(4) A person on whom a notification has been served under sub-paragraph (2) or his representative may, at the place and time specified in the notification —

- (a) make oral representations to the appointed person for the purpose of establishing that the goods in question are safe; and
- (b) call and examine witnesses in connection with the representations.

3. (1) Where representations in writing about a prohibition notice are made by the trader to OFT at any time after a person has been appointed to consider representations about that notice, then, whether or not the appointed person has made a report to OFT, the following provisions of this paragraph shall apply instead of paragraph 2.¹⁹⁷

(2) OFT shall, before the end of the period of one month beginning with the day on which it receives the representations, serve a notification on the trader which states —

- (a) that OFT has decided to revoke the notice, has decided to vary it or, as the case may be, has decided neither to revoke nor to vary it; or¹⁹⁸
- (b) that, a person having been appointed to consider representations about the notice, the trader may, at a place and time specified in the notification, make oral representations to the appointed person for the purpose of establishing that the goods to which the notice relates are safe.¹⁹⁹

(3) The time specified in a notification served for the purposes of sub-paragraph (2)(b) shall not be before the end of the period of 21 days beginning with the day on which the notification is served, unless the trader otherwise agrees or the time is the time already specified for the purposes of paragraph 2(2)(b).

(4) A person on whom a notification has been served for the purposes of sub-paragraph (2)(b) or his representative may, at the place and time specified in the notification —

- (a) make oral representations to the appointed person for the purpose of establishing that the goods in question are safe; and
- (b) call and examine witnesses in connection with the representations.

4. (1) Where a person is appointed to consider representations about a prohibition notice he shall consider —

- (a) any written representations made by the trader about the notice, other than those in respect of which a notification is served under paragraph 3(2)(a);
- (b) any oral representations made under paragraph 2(4) or 3(4); and
- (c) any statements made by witnesses in connection with the oral representations,

and, after considering any matters under this paragraph, make a report (including recommendations) to OFT about the matters considered by him and the notice.²⁰⁰

(2) OFT shall consider any report made to it under subparagraph (1) and, after considering the report, inform the trader of its decision with respect to the prohibition notice to which the report relates.²⁰¹

5. (1) OFT may revoke or vary a prohibition notice by serving on the trader a notification stating that the notice is revoked or, as the case may be, is varied as specified in the notification.²⁰²

(2) OFT shall not vary a prohibition notice so as to make the effect of the notice more restrictive for the trader.²⁰³

(3) Without prejudice to the power conferred by section 11(2), the service of a notification under sub-paragraph (1) shall be sufficient to satisfy the requirement of paragraph 4(2) that the trader shall be informed of OFT's decision.²⁰⁴

PART II – NOTICES TO WARN

6. (1) If OFT proposes to serve a notice to warn on any person in respect of any goods, OFT, before it serves the notice, shall serve on that person a notification which –

- (a) contains a draft of the proposed notice;
- (b) states that OFT proposes to serve a notice in the form of the draft on that person;²⁰⁵
- (c) states that OFT considers that the goods described in the draft are unsafe;²⁰⁶
- (d) sets out the reasons why OFT considers that those goods are unsafe; and²⁰⁷
- (e) states that that person may make representations to OFT for the purpose of establishing that the goods are safe if, before the end of the period of 14 days beginning with the day on which the notification is served, he informs OFT –
 - (i) of his intention to make representations; and
 - (ii) whether the representations will be made only in writing or both in writing and orally.²⁰⁸

(2) Where OFT has served a notification containing a draft of a proposed notice to warn on any person, it shall not serve a notice to warn on that person in respect of the goods to which the proposed notice relates unless –

- (a) the period of 14 days beginning with the day on which the notification was served expires without OFT being informed as mentioned in sub-paragraph (1)(e);²⁰⁹

- (b) the period of 28 days beginning with that day expires without any written representations being made by that person to OFT about the proposed notice; or²¹⁰
- (c) OFT has considered a report about the proposed notice by a person appointed under paragraph 7(1).^{211 212}

7. (1) Where a person on whom a notification containing a draft of a proposed notice to warn has been served —

- (a) informs OFT as mentioned in paragraph 6(1)(e) before the end of the period of 14 days beginning with the day on which the notification was served; and²¹³
- (b) makes written representations to OFT about the proposed notice before the end of the period of 28 days beginning with that day,²¹⁴

OFT shall appoint a person to consider those representations, any further representations made by that person about the draft notice and the statements of any witnesses examined under this Part.²¹⁵

(2) Where —

- (a) OFT has appointed a person to consider representations about a proposed notice to warn; and²¹⁶
- (b) the person whose representations are to be considered has informed OFT for the purposes of paragraph 6(1)(e) that the representations he intends to make will include oral representations,²¹⁷

OFT shall inform the person intending to make the representations of the place and time at which oral representations may be made to the appointed person.²¹⁸

(3) Where a person on whom a notification containing a draft of a proposed notice to warn has been served is informed of a time for the purposes of sub-paragraph (2) that time shall not be —

- (a) before the end of the period of 28 days beginning with the day on which the notification was served; or
- (b) before the end of the period of 7 days beginning with the day on which that person is informed of the time.

(4) A person who has been informed of a place and time for the purposes of sub-paragraph (2) or his representative may, at that place and time —

- (a) make oral representations to the appointed person for the purpose of establishing that the goods to which the proposed notice relates are safe; and
- (b) call and examine witnesses in connection with the representations.

8. (1) Where a person is appointed to consider representations about a proposed notice to warn, he shall consider —

- (a) any written representations made by the person on whom it is proposed to serve the notice; and
- (b) in a case where a place and time has been appointed under paragraph 7(2) for oral representations to be made by that person or his representative, any representations so made and any statements made by witnesses in connection with those representations,

and, after considering those matters, make a report (including recommendations) to OFT about the matters considered by him and the proposal to serve the notice.²¹⁹

(2) OFT shall consider any report made to it under subparagraph (1) and, after considering the report, inform the person on whom it was proposed that a notice to warn should be served of its decision with respect to the proposal.²²⁰

(3) If at any time after serving a notification on a person under paragraph 6 OFT decides not to serve on that person either the proposed notice to warn or that notice with modifications, OFT shall inform that person of the decision; and nothing done for the purposes of any of the preceding provisions of this Part before that person was so informed shall —

- (a) entitle OFT subsequently to serve the proposed notice or that notice with modifications; or²²¹
- (b) require OFT, or any person appointed to consider representations about the proposed notice, subsequently to do anything in respect of, or in consequence of, any such representations.^{222 223}

(4) Where a notification containing a draft of a proposed notice to warn is served on a person in respect of any goods, a notice to warn served on him in consequence of a decision made under subparagraph (2) shall either be in the form of the draft or shall be less onerous than the draft.

9. OFT may revoke a notice to warn by serving on the person on whom the notice was served a notification stating that the notice is revoked.²²⁴

PART III – GENERAL

10. (1) Where in a notification served on any person under this Schedule OFT has appointed a time for the making of oral representations or the examination of witnesses it may, by giving that person such notification as OFT considers appropriate, change that time to a later time or appoint further times at which further representations may be made or the examination of witnesses may be continued; and paragraphs 2(4), 3(4) and 7(4) shall have effect accordingly.²²⁵

(2) For the purposes of this Schedule OFT may appoint a person (instead of the appointed person) to consider any representations or statements, if the person originally appointed, or last appointed under this sub-paragraph, to consider those representations or statements has died or appears to OFT to be otherwise unable to act.²²⁶

11. In this Schedule —

“**the appointed person**” in relation to a prohibition notice or a proposal to serve a notice to warn, means the person for the time being appointed under this Schedule to consider representations about the notice or, as the case may be, about the proposed notice;

“**notification**” means a notification in writing;

“**trader**”, in relation to a prohibition notice, means the person on whom the notice is or was served.

Schedule 2A²²⁷

LIST OF TERMS WHICH MAY BE REGARDED AS UNFAIR

Section 39(5)

1. Terms which have the object or effect of —

- (a) excluding or limiting the legal liability of a seller or supplier in the event of the death of a consumer or personal injury to the latter resulting from an act or omission of that seller or supplier;
- (b) unreasonably excluding or limiting the legal rights of the consumer vis-à-vis the seller or supplier or another party in the event of total or partial non-performance or inadequate performance by the seller or supplier of any of the contractual obligations, including the option of offsetting a debt owed to the seller or supplier against any claim which the consumer may have against him;
- (c) making an agreement binding on the consumer whereas provision of services by the seller or supplier is subject to a condition whose realisation depends on his own will;
- (d) permitting the seller or supplier to retain sums paid by the consumer where the latter decides not to conclude or perform the contract, without providing for the consumer to receive compensation of an equivalent amount from the seller or supplier where the latter is the party cancelling the contract;
- (e) requiring any consumer who fails to fulfil his obligation to pay a disproportionately high sum in compensation;
- (f) authorising the seller or supplier to dissolve the contract on a discretionary basis where the same facility is not granted to the consumer, or permitting the seller or supplier to retain the sums paid for services not yet supplied by him where it is the seller or supplier himself who dissolves the contract;
- (g) enabling the seller or supplier to terminate a contract of indeterminate duration without reasonable notice except where there are serious grounds for doing so;

- (h) automatically extending a contract of fixed duration where the consumer does not indicate otherwise, where the deadline fixed for the consumer to express his desire not to extend the contract is unreasonably early;
 - (i) irrevocably binding the consumer to terms with which he had no real opportunity of becoming acquainted before the conclusion of the contract;
 - (j) enabling the seller or supplier to alter the terms of the contract unilaterally without a valid reason which is specified in the contract;
 - (k) enabling the seller or supplier to alter unilaterally without a valid reason any characteristics of the product or service to be provided;
 - (l) providing for the price of goods to be determined at the time of delivery or allowing a seller of goods or supplier of services to increase their price without in both cases giving the consumer the corresponding right to cancel the contract if the final price is too high in relation to the price agreed when the contract was concluded;
 - (m) giving the seller or supplier the right to determine whether the goods or services supplied are in conformity with the contract, or giving him the exclusive right to interpret any term of the contract;
 - (n) limiting the seller's or supplier's obligation to respect commitments undertaken by his agents or making his commitments subject to compliance with a particular formality;
 - (o) obliging the consumer to fulfil all his obligations where the seller or supplier does not perform his;
 - (p) giving the seller or supplier the possibility of transferring his rights and obligations under the contract, where this may serve to reduce the guarantees for the consumer, without the latter's agreement;
 - (q) excluding or hindering the consumer's right to take legal action or exercise any other legal remedy, particularly by requiring the consumer to take disputes exclusively to arbitration which is not legally binding, unduly restricting the evidence available to him or imposing on him a burden of proof which, according to the applicable law, should lie with another party to the contract.
2. (1) Paragraph 1(g) is without prejudice to terms by which a supplier of financial services reserves the right to terminate unilaterally a contract of indeterminate duration without notice where there is a valid reason, provided that the supplier is required to inform the other contracting party or parties thereof immediately.
- (2) Paragraph 1(j) is without prejudice to terms under which a supplier of financial services reserves the right to alter the rate of interest payable by the consumer or due to the latter, or the amount of other charges for financial services without notice where there is a valid reason, provided that the supplier is required to inform the other

contracting party or parties thereof at the earliest opportunity and that the latter are free to dissolve the contract immediately.

(3) Paragraph 1(j) is also without prejudice to terms under which a seller or supplier reserves the right to alter unilaterally the conditions of a contract of indeterminate duration, provided that he is required to inform the consumer with reasonable notice and that the consumer is free to dissolve the contract.

(4) Paragraphs 1(g), (j) and (i) do not apply to —

- (a) transactions in transferable securities, financial instruments and other products or services where the price is linked to fluctuations in a stock exchange quotation or index or a financial market rate that the seller or supplier does not control;
- (b) contracts for the purchase or sale of foreign currency, traveller's cheques or international money orders denominated in foreign currency.

(5) Paragraph 1(l) is without prejudice to price indexation clauses, where lawful, provided that the method by which prices vary is explicitly described.

Schedule 2B²²⁸

MEANING OF “EXCEPTED CONTRACT” FOR THE PURPOSES OF SECTION 46

[SECTION 46(2)]

1 Meaning of “excepted contract”

A contract is an excepted contract if it is within any of the following paragraphs.

2 Land transactions

- (1) A contract is within this paragraph if it is one —
- (a) for the sale or other disposition of land, or any estate or interest in land (including a charge on land);
 - (b) to finance the purchase of land;
 - (c) for a bridging loan in connection with the purchase of land; or
 - (d) for the construction or extension of a building or other erection on land.

In paragraph (a), “charge on land” includes any security charged on land.

(2) But a contract is not within this paragraph if it is a contract for the supply of goods and their incorporation in any land or a contract for the repair or improvement of a building or other erection on land, where the contract is not financed by a loan secured by a land mortgage.

3 Deliveries by roundsmen

A contract is within this paragraph if it is one for the supply of food, drink or other goods intended for current consumption by use in the consumer's household and supplied by regular roundsmen.

4 Routine catalogue sales

(1) A contract is within this paragraph if it is one for the supply of goods or services which satisfies all the conditions in subparagraphs (2) to (4).

(2) The condition is that the terms of the contract are contained in a trader's catalogue which is readily available to the consumer to read in the absence of the trader or his representative before the conclusion of the contract.

(3) The condition is that the parties to the contract intend that continuity of contact will be maintained between the trader or his representative and the consumer in relation to the transaction in question or any subsequent transaction.

(4) The condition is that both the catalogue and the contract contain or are accompanied by a prominent notice indicating that the consumer has a right —

- (a) to return to the trader or the trader's representative goods supplied to the consumer within the period of not less than 14 days from the day on which the goods are received by the consumer; and
- (b) otherwise to cancel the contract within that period without incurring any liability, other than any liability which may arise from the failure of the consumer to take reasonable care of the goods while they are in the consumer's possession.

5 Insurance contracts

A contract is within this paragraph if it is a contract of insurance.

6 Low value contracts

A contract is within this paragraph if it is one under which the total payments to be made by the consumer do not exceed such amount as may be prescribed.

Schedule 3

TRANSITIONAL PROVISIONS

Section 64(1)

Product liability

1. Nothing in this Act makes any person liable by virtue of Part I for any damage caused wholly or partly by a defect in a product which was supplied to any person by its producer before the commencement of that Part.

Consumer safety

2. In paragraphs 3 to 7 —
- “**the 1965 Act**” means the *Consumer Protection (Isle of Man) Act 1965*;
- “**component part**” includes an accessory;
- “**existing regulations**” means regulations made under section 1 of the 1965 Act and having effect by virtue of paragraph 3.
3. Regulations made under section 1 (safety requirements) of the 1965 Act shall have effect as if made under section 9, and may be amended or revoked accordingly.
4. (1) Subject to paragraph 5, no person shall supply, or have in his possession for the purpose of supplying, any goods as respects which, or a component part of which, any requirements of existing regulations are in force unless all the requirements of the regulations relating to the goods or component part are complied with.
- (2) Subject to paragraph 5, no person shall supply, or have in his possession for the purpose of supplying, a component part intended for but not embodied in goods as respects which, or a component part of which, any requirements of existing regulations are in force, being a component part such that, if it were embodied in the goods, any requirement of the regulations relating to the goods would be contravened or not complied with.
5. (1) As respects any requirement relating to the manufacture of goods or a component part of goods —
- (a) unless existing regulations otherwise provide, paragraph 4 does not apply in relation to goods or component parts manufactured before the imposition of the requirement; and
- (b) if it is so provided by existing regulations, paragraph 3 applies in relation to such goods or component parts only after a date specified in the regulations.
- (2) Paragraph 4 has effect subject to any other exemption from the operation of that paragraph contained in existing regulations, and references in existing regulations to section 2(1) or (2) of the 1965 Act shall be construed as references to paragraph 4(1) or (2).
6. Any person who contravenes paragraph 4 shall be guilty of an offence, and sections 10(5), 35 and 36 apply to an offence under this paragraph as they apply to an offence under section 10(1).
7. Section 37(1) (civil liability) applies to an obligation imposed by paragraph 4 as it applies to an obligation imposed by safety regulations.
- Title to motor vehicles
8. Part VIII has effect in relation to hire-purchase agreements and conditional sale agreements made before as well as after the commencement of that Part, but does not

apply where the disposition by the hirer or buyer referred to in section 54(1) was made before such commencement.

Schedule 4

MISCELLANEOUS AMENDMENTS

Section 64(2)

[Sch 4 amended by Agricultural (Miscellaneous Provisions) Act 2008 Sch, and amends the following Acts —

Consumer Protection (Trade Descriptions) Act 1970 q.v.

Price Marking Act 1976 q.v.

Torts (Interference with Goods) Act 1981 q.v.

Telecommunications Act 1984 q.v.

Road Traffic Act 1985 q.v.]

Schedule 5

ENACTMENTS REPEALED

Section 64(3)

[Sch 5 amended by Trade Marks Act 1994 (P) as applied by SI1996/729.]

Sch 5 repeals the following Acts wholly —

Consumer Protection (Trade Descriptions) Act 1974

Consumer Safety Act 1983

and the following Acts in part —

Agricultural Produce (Grading and Marking) Act 1931

Consumer Protection (Trade Descriptions) Act 1970

Misrepresentation and Unfair Contract Terms Act 1980

Board of Consumer Affairs Act 1981

Fines Act 1986

Statute Law Revision Act 1989.]

ENDNOTES

Table of Endnote References

- ¹ Subs (6) added by Statute Law Revision Act 1997 Sch 1.
- ² Para (a) amended by SD0606/12 and by SD2019/0038 with effect from 31/12/2020 at 23:00.
- ³ Para (a) amended by SD0606/12 and by SD2019/0038 with effect from 31/12/2020 at 23:00.
- ⁴ Subs (1) amended by SD579/98.
- ⁵ Para (b) amended by Consumer Protection (Amendment) Act 2016 s 20.
- ⁶ Para (c) amended by SD155/10 Sch 5.
- ⁷ Subs (5) amended by Consumer Protection (Amendment) Act 2016 s 20.
- ⁸ Subs (6) amended by Consumer Protection (Amendment) Act 2016 s 20.
- ⁹ Para (a) amended by Consumer Protection (Amendment) Act 2016 s 20.
- ¹⁰ Para (b) amended by Consumer Protection (Amendment) Act 2016 s 20.
- ¹¹ Subs (1) amended by Consumer Protection (Amendment) Act 2016 s 20.
- ¹² Subs (2) amended by Consumer Protection (Amendment) Act 2016 s 20.
- ¹³ Subs (3) amended by Consumer Protection (Amendment) Act 2016 s 20.
- ¹⁴ Subs (1) amended by Consumer Protection (Amendment) Act 2016 s 20.
- ¹⁵ Para (b) amended by Consumer Protection (Amendment) Act 2016 s 20.
- ¹⁶ Subs (2) amended by Consumer Protection (Amendment) Act 2016 s 20.
- ¹⁷ Subs (3) amended by Consumer Protection (Amendment) Act 2016 s 20.
- ¹⁸ Subs (5) amended by Consumer Protection (Amendment) Act 2016 s 20.
- ¹⁹ Subs (7) amended by Consumer Protection (Amendment) Act 2016 s 20.
- ²⁰ Subs (1) amended by Consumer Protection (Amendment) Act 2016 s 20.
- ²¹ Subs (1) amended by Consumer Protection (Amendment) Act 2016 s 20.
- ²² Para (a) amended by Consumer Protection (Amendment) Act 2016 s 20.
- ²³ Para (b) amended by Consumer Protection (Amendment) Act 2016 s 20.
- ²⁴ Definition of “food” amended by Food Act 1996 Sch 4.
- ²⁵ Definition of “licensed medicinal product” substituted by Medicines Act 2003 Sch 3.
- ²⁶ Part III repealed by SD2019/0359.
- ²⁷ S 17 repealed by SD2019/0359.
- ²⁸ S 18 repealed by SD2019/0359.
- ²⁹ S 19 repealed by SD2019/0359.
- ³⁰ S 20 repealed by SD2019/0359.
- ³¹ S 21 repealed by SD2019/0359.
- ³² S 22 repealed by SD2019/0359.
- ³³ S 23 repealed by SD2019/0359.
- ³⁴ S 24 repealed by Consumer Protection (Amendment) Act 2016 s 5.
- ³⁵ Para (a) amended by Consumer Protection (Amendment) Act 2016 s 20.
- ³⁶ Para (b) amended by Consumer Protection (Amendment) Act 2016 s 20.

³⁷ Subs (1) amended by Consumer Protection (Amendment) Act 2016 s 20 and by SD2019/0359.

³⁸ Para (a) amended by Consumer Protection (Amendment) Act 2016 s 20.

³⁹ Subpara (i) amended by SD2019/0359.

⁴⁰ Para (c) amended by Consumer Protection (Amendment) Act 2016 s 20.

⁴¹ Subs (2) amended by Consumer Protection (Amendment) Act 2016 s 20.

⁴² Para (a) amended by Consumer Protection (Amendment) Act 2016 s 20.

⁴³ Para (b) amended by Consumer Protection (Amendment) Act 2016 s 20.

⁴⁴ Subs (3) amended by Consumer Protection (Amendment) Act 2016 s 20.

⁴⁵ Subs (4) amended by Consumer Protection (Amendment) Act 2016 s 20.

⁴⁶ Subs (5) amended by Consumer Protection (Amendment) Act 2016 s 20.

⁴⁷ Subs (1) amended by Consumer Protection (Amendment) Act 2016 s 6 and s 20.

⁴⁸ Subs (2) amended by SD2019/0359.

⁴⁹ Subs (5) amended by SD2019/0359.

⁵⁰ Para (a) amended by SD2019/0359.

⁵¹ Subs (7) amended by SD2019/0359.

⁵² Subpara (i) amended by SD2019/0359.

⁵³ Subs (2) amended by Consumer Protection (Amendment) Act 2016 s 20.

⁵⁴ Subs (5) amended by Consumer Protection (Amendment) Act 2016 s 20.

⁵⁵ Para (a) amended by SD2019/0359.

⁵⁶ Para (a) amended by Consumer Protection (Amendment) Act 2016 s 20.

⁵⁷ Para (b) amended by Consumer Protection (Amendment) Act 2016 s 20.

⁵⁸ Subs (8) amended by Consumer Protection (Amendment) Act 2016 s 20.

⁵⁹ Subs (1) amended by Consumer Protection (Amendment) Act 2016 s 20.

⁶⁰ S 29 heading substituted by Consumer Protection (Amendment) Act 2016 s 7.

⁶¹ Para (a) amended by Consumer Protection (Amendment) Act 2016 s 20.

⁶² Para (b) amended by Consumer Protection (Amendment) Act 2016 s 20.

⁶³ Para (c) amended by Consumer Protection (Amendment) Act 2016 s 20.

⁶⁴ Subs (1) amended by Consumer Protection (Amendment) Act 2016 s 20.

⁶⁵ Subpara (i) amended by SD2019/0359.

⁶⁶ Para (a) amended by SD2019/0359.

⁶⁷ Subs (1) amended by Consumer Protection (Amendment) Act 2016 s 20.

⁶⁸ Para (a) amended by SD2019/0359.

⁶⁹ Para (a) amended by Consumer Protection (Amendment) Act 2016 s 20.

⁷⁰ Para (b) amended by Consumer Protection (Amendment) Act 2016 s 20.

⁷¹ Subs (2) amended by Consumer Protection (Amendment) Act 2016 s 20.

⁷² Subs (1) amended by Consumer Protection (Amendment) Act 2016 s 20.

⁷³ Para (a) amended by SD2019/0359.

⁷⁴ Para (c) amended by Consumer Protection (Amendment) Act 2016 s 20.

⁷⁵ Para (d) amended by Consumer Protection (Amendment) Act 2016 s 20.

⁷⁶ Para (b) amended by SD0606/12 and by SD2019/0038 with effect from 31/12/2020 at 23:00.

⁷⁷ Subs (5) amended by SD2019/0359.

-
- ⁷⁸ Subs (2) amended by SD2019/0359.
- ⁷⁹ Subs (3) amended by SD2019/0359.
- ⁸⁰ Part heading substituted by Fair Trading (Amendment) Act 2001 s 4.
- ⁸¹ Subs (2) amended by Consumer Protection (Amendment) Act 2016 s 20.
- ⁸² S 38 substituted by Fair Trading (Amendment) Act 2001 s 4.
- ⁸³ Subs (7) amended by Consumer Protection (Amendment) Act 2016 s 20.
- ⁸⁴ S 39 substituted by Fair Trading (Amendment) Act 2001 s 4.
- ⁸⁵ S 40 substituted by Fair Trading (Amendment) Act 2001 s 4.
- ⁸⁶ S 40A inserted by Fair trading (Amendment) Act 2001 s 5.
- ⁸⁷ Subs (1) amended by Consumer Protection (Amendment) Act 2016 s 20.
- ⁸⁸ Subs (2) amended by Consumer Protection (Amendment) Act 2016 s 20.
- ⁸⁹ Subs (3) amended by Consumer Protection (Amendment) Act 2016 s 20.
- ⁹⁰ S 40B inserted by Fair trading (Amendment) Act 2001 s 6.
- ⁹¹ Subs (1) amended by Consumer Protection (Amendment) Act 2016 s 20.
- ⁹² S 40C inserted by Fair trading (Amendment) Act 2001 s 6.
- ⁹³ Subs (1) amended by Consumer Protection (Amendment) Act 2016 s 20.
- ⁹⁴ Subs (2) amended by Consumer Protection (Amendment) Act 2016 s 20.
- ⁹⁵ S 40D inserted by Fair trading (Amendment) Act 2001 s 6.
- ⁹⁶ Para (a) amended by Consumer Protection (Amendment) Act 2016 s 20.
- ⁹⁷ Subs (1) amended by Consumer Protection (Amendment) Act 2016 s 20.
- ⁹⁸ Para (a) amended by Consumer Protection (Amendment) Act 2016 s 20.
- ⁹⁹ Subs (2) amended by Consumer Protection (Amendment) Act 2016 s 20.
- ¹⁰⁰ Subs (3) amended by Consumer Protection (Amendment) Act 2016 s 20.
- ¹⁰¹ S 40E inserted by Fair trading (Amendment) Act 2001 s 7.
- ¹⁰² Para (b) amended by Consumer Protection (Amendment) Act 2016 s 20.
- ¹⁰³ Subs (2) amended by Consumer Protection (Amendment) Act 2016 s 20 and by SD2017/0325.
- ¹⁰⁴ S 40F inserted by Fair trading (Amendment) Act 2001 s 7 as amended by SD155/10 Sch 1 and by SD2014/07.
- ¹⁰⁵ S 41 repealed by SD2019/0359.
- ¹⁰⁶ S 42 repealed by SD2019/0359.
- ¹⁰⁷ S 43 repealed by SD2019/0359.
- ¹⁰⁸ S 44 repealed by SD2019/0359.
- ¹⁰⁹ S 44A inserted by Broadcasting Act 1993 Sch 4 and repealed by SD2019/0359.
- ¹¹⁰ S 45 repealed by SD2019/0359.
- ¹¹¹ Subs (1) substituted by Consumer Protection (Amendment) Act 2016 s 8.
- ¹¹² Subs (1A) inserted by Consumer Protection (Amendment) Act 2016 s 8.
- ¹¹³ Subs (1B) inserted by Consumer Protection (Amendment) Act 2016 s 8.
- ¹¹⁴ Subs (1C) inserted by Consumer Protection (Amendment) Act 2016 s 8.
- ¹¹⁵ Subs (2) substituted by Consumer Protection (Amendment) Act 2016 s 8.
- ¹¹⁶ Subs (3) repealed by Consumer Protection (Amendment) Act 2016 s 8.
- ¹¹⁷ S 46A inserted by Consumer Protection (Amendment) Act 2016 s 9.
- ¹¹⁸ Subs (1) amended by Consumer Protection (Amendment) Act 2016 s 10.

-
- ¹¹⁹ Subs (2) substituted by Consumer Protection (Amendment) Act 2016 s 10.
- ¹²⁰ Subs (3) amended by Consumer Protection (Amendment) Act 2016 s 10.
- ¹²¹ Subs (5) amended by Interpretation Act 2015 s 106.
- ¹²² Subs (1) amended by Consumer Protection (Amendment) Act 2016 s 11.
- ¹²³ Para (c) repealed by Consumer Protection (Amendment) Act 2016 s 11.
- ¹²⁴ Subs (3) substituted by Consumer Protection (Amendment) Act 2016 s 11.
- ¹²⁵ Subs (4) repealed by Consumer Protection (Amendment) Act 2016 s 11.
- ¹²⁶ S 47A inserted by Fair Trading (Amendment) Act 2001 s 9.
- ¹²⁷ Subs (1) amended by Consumer Protection (Amendment) Act 2016 s 12.
- ¹²⁸ S 47B inserted by Fair Trading (Amendment) Act 2001 s 9.
- ¹²⁹ Subs (1) amended by Consumer Protection (Amendment) Act 2016 s 13.
- ¹³⁰ Subs (2) amended by Consumer Protection (Amendment) Act 2016 s 13.
- ¹³¹ S 47C inserted by Fair Trading (Amendment) Act 2001 s 9.
- ¹³² S 47CA inserted by Consumer Protection (Amendment) Act 2016 s 14.
- ¹³³ Subs (1) amended by Consumer Protection (Amendment) Act 2016 s 15 and s 20.
- ¹³⁴ Subs (6) inserted by Consumer Protection (Amendment) Act 2016 s 15.
- ¹³⁵ Subs (7) inserted by Consumer Protection (Amendment) Act 2016 s 15.
- ¹³⁶ S 47D inserted by Fair Trading (Amendment) Act 2001 s 10.
- ¹³⁷ S 47E heading substituted by Consumer Protection (Amendment) Act 2016 s 16.
- ¹³⁸ Para (a) amended by Consumer Protection (Amendment) Act 2016 s 20.
- ¹³⁹ Para (c) amended by Consumer Protection (Amendment) Act 2016 s 16 and s 20.
- ¹⁴⁰ Subs (2) amended by Consumer Protection (Amendment) Act 2016 s 20.
- ¹⁴¹ S 47E inserted by Fair Trading (Amendment) Act 2001 s 10.
- ¹⁴² S 47F inserted by Fair Trading (Amendment) Act 2001 s 10.
- ¹⁴³ Para (c) repealed by SD2019/0038 with effect from 31/12/2020 at 23:00.
- ¹⁴⁴ S 52 substituted by Consumer Protection (Amendment) Act 2016 s 17.
- ¹⁴⁵ Definition of “arbitration” inserted by Consumer Protection (Amendment) Act 2016 s 18.
- ¹⁴⁶ Definition of “charge on land” repealed by Consumer Protection (Amendment) Act 2016 s 18.
- ¹⁴⁷ Definition of “consumer” substituted by Consumer Protection (Amendment) Act 2016 s 18.
- ¹⁴⁸ Definition of “relevant contract” inserted by Consumer Protection (Amendment) Act 2016 s 18.
- ¹⁴⁹ Definition of “solicited visit” inserted by Consumer Protection (Amendment) Act 2016 s 18.
- ¹⁵⁰ Definition of “telephone call” inserted by Consumer Protection (Amendment) Act 2016 s 18.
- ¹⁵¹ Definition of “trader” substituted by Consumer Protection (Amendment) Act 2016 s 18.
- ¹⁵² Definition of “unsolicited visit” inserted by Consumer Protection (Amendment) Act 2016 s 18.
- ¹⁵³ Subs (1A) inserted by Consumer Protection (Amendment) Act 2016 s 18.

- ¹⁵⁴ Subs (1B) inserted by Consumer Protection (Amendment) Act 2016 s 18.
- ¹⁵⁵ Subs (1C) inserted by Consumer Protection (Amendment) Act 2016 s 18.
- ¹⁵⁶ Heading inserted by Fair Trading (Amendment) Act 2001 s 11.
- ¹⁵⁷ Subs (5) inserted by Consumer Protection (Amendment) Act 2016 s 19.
- ¹⁵⁸ S 57A inserted by Fair Trading (Amendment) Act 2001 s 11.
- ¹⁵⁹ S 57B inserted by Fair Trading (Amendment) Act 2001 s 12.
- ¹⁶⁰ S 57C inserted by Fair Trading (Amendment) Act 2001 s 12.
- ¹⁶¹ S 57D inserted by Fair Trading (Amendment) Act 2001 s 13.
- ¹⁶² S 57E inserted by Fair Trading (Amendment) Act 2001 s 13.
- ¹⁶³ S 57F inserted by Fair Trading (Amendment) Act 2001 s 13.
- ¹⁶⁴ S 57G inserted by Fair Trading (Amendment) Act 2001 s 13.
- ¹⁶⁵ S 57H inserted by Fair Trading (Amendment) Act 2001 s 13.
- ¹⁶⁶ S 57I inserted by Fair Trading (Amendment) Act 2001 s 13.
- ¹⁶⁷ S 57J inserted by Fair Trading (Amendment) Act 2001 s 14.
- ¹⁶⁸ S 57K inserted by Fair Trading (Amendment) Act 2001 s 14.
- ¹⁶⁹ S 57L inserted by Fair Trading (Amendment) Act 2001 s 15.
- ¹⁷⁰ S 57M inserted by Fair Trading (Amendment) Act 2001 s 15.
- ¹⁷¹ Para (b) amended by Financial Services Act 2008 Sch 6.
- ¹⁷² Para (c) amended by Financial Services Act 2008 Sch 6.
- ¹⁷³ Para (d) amended by Insurance Act 2008 Sch 8.
- ¹⁷⁴ S 57N inserted by Fair Trading (Amendment) Act 2001 s 15.
- ¹⁷⁵ S 57 heading amended by Consumer Protection (Amendment) Act 2016 s 20.
- ¹⁷⁶ Subs (1) amended by Consumer Protection (Amendment) Act 2016 s 20.
- ¹⁷⁷ Subs (2) amended by Consumer Protection (Amendment) Act 2016 s 20.
- ¹⁷⁸ Subs (1) amended by Trade Marks Act 1994 (P) (as applied by SI1996/729) and by Consumer Protection (Amendment) Act 2016 s 20.
- ¹⁷⁹ Subs (3) amended by Trade Marks Act 1994 (P) (as applied by SI1996/729).
- ¹⁸⁰ Definition of “the Board” repealed by Consumer Protection (Amendment) Act 2016 s 20.
- ¹⁸¹ Definition of “officer” substituted by Consumer Protection (Amendment) Act 2016 s 20.
- ¹⁸² Definition of “OFT” inserted by Consumer Protection (Amendment) Act 2016 s 20.
- ¹⁸³ Definition of “prescribed” amended by Consumer Protection (Amendment) Act 2016 s 20.
- ¹⁸⁴ Subs (4) amended by SD2019/0359.
- ¹⁸⁵ S 62 heading substituted by Consumer Protection (Amendment) Act 2016 s 21.
- ¹⁸⁶ Subs (2) amended by Civil Partnership Act 2011 Sch 14.
- ¹⁸⁷ S 62A inserted by Consumer Protection (Amendment) Act 2016 s 22.
- ¹⁸⁸ Subs (2) amended by Consumer Protection (Amendment) Act 2016 s 20.
- ¹⁸⁹ ADO – see table

GC 413/91	Part I (including Schedule 1) Part II (including Schedule 2) Part IV (except so far as it relates to Part III)	In operation 1/01/1992
-----------	----------------------------------------------------------------------------------------------------------------------	------------------------

	Part V Part VII The following provisions of Part IX sections 58 to 63 section 64 so far as it relates to Schedule 3, paras 2, 3, 4, 5(1) and 6 of Schedule 4 and the entries relating to the Consumer Safety Act 1983 and the Fines Act 1986.	
GC 200/92	Part VI Part VII	In operation 1/07/1992
GC 447/92	Remaining provisions, with savings	In operation 1/01/1993

¹⁹⁰ Item (a) amended by Consumer Protection (Amendment) Act 2016 s 20.

¹⁹¹ Item (b) amended by Consumer Protection (Amendment) Act 2016 s 20.

¹⁹² Item (d) amended by Consumer Protection (Amendment) Act 2016 s 20.

¹⁹³ Item (a) amended by Consumer Protection (Amendment) Act 2016 s 20.

¹⁹⁴ Item (b) amended by Consumer Protection (Amendment) Act 2016 s 20.

¹⁹⁵ Subpara (1) amended by Consumer Protection (Amendment) Act 2016 s 20.

¹⁹⁶ Subpara (2) amended by Consumer Protection (Amendment) Act 2016 s 20.

¹⁹⁷ Subpara (1) amended by Consumer Protection (Amendment) Act 2016 s 20.

¹⁹⁸ Item (a) amended by Consumer Protection (Amendment) Act 2016 s 20.

¹⁹⁹ Subpara (2) amended by Consumer Protection (Amendment) Act 2016 s 20.

²⁰⁰ Subpara (1) amended by Consumer Protection (Amendment) Act 2016 s 20.

²⁰¹ Subpara (2) amended by Consumer Protection (Amendment) Act 2016 s 20.

²⁰² Subpara (1) amended by Consumer Protection (Amendment) Act 2016 s 20.

²⁰³ Subpara (2) amended by Consumer Protection (Amendment) Act 2016 s 20.

²⁰⁴ Subpara (3) amended by Consumer Protection (Amendment) Act 2016 s 20.

²⁰⁵ Item (b) amended by Consumer Protection (Amendment) Act 2016 s 20.

²⁰⁶ Item (c) amended by Consumer Protection (Amendment) Act 2016 s 20.

²⁰⁷ Item (d) amended by Consumer Protection (Amendment) Act 2016 s 20.

²⁰⁸ Item (e) amended by Consumer Protection (Amendment) Act 2016 s 20.

²⁰⁹ Item (a) amended by Consumer Protection (Amendment) Act 2016 s 20.

²¹⁰ Item (b) amended by Consumer Protection (Amendment) Act 2016 s 20.

²¹¹ Item (c) amended by Consumer Protection (Amendment) Act 2016 s 20.

²¹² Subpara (2) amended by Consumer Protection (Amendment) Act 2016 s 20.

²¹³ Item (a) amended by Consumer Protection (Amendment) Act 2016 s 20.

²¹⁴ Item (b) amended by Consumer Protection (Amendment) Act 2016 s 20.

²¹⁵ Subpara (1) amended by Consumer Protection (Amendment) Act 2016 s 20.

²¹⁶ Item (a) amended by Consumer Protection (Amendment) Act 2016 s 20.

²¹⁷ Item (b) amended by Consumer Protection (Amendment) Act 2016 s 20.

²¹⁸ Subpara (2) amended by Consumer Protection (Amendment) Act 2016 s 20.

²¹⁹ Subpara (1) amended by Consumer Protection (Amendment) Act 2016 s 20.

²²⁰ Subpara (2) amended by Consumer Protection (Amendment) Act 2016 s 20.

²²¹ Item (a) amended by Consumer Protection (Amendment) Act 2016 s 20.

²²² Item (b) amended by Consumer Protection (Amendment) Act 2016 s 20.

²²³ Subpara (3) amended by Consumer Protection (Amendment) Act 2016 s 20.

²²⁴ Para 9 amended by Consumer Protection (Amendment) Act 2016 s 20.

²²⁵ Subpara (1) amended by Consumer Protection (Amendment) Act 2016 s 20.

²²⁶ Subpara (2) amended by Consumer Protection (Amendment) Act 2016 s 20.

²²⁷ Sch 2A inserted by Fair Trading (Amendment) Act 2001 s 4.

²²⁸ Sch 2B inserted by Consumer Protection (Amendment) Act 2016 s 23.