



Consumer Protection Act 1987

1987 CHAPTER 43

PART III

MISLEADING PRICE INDICATIONS

20 Offence of giving misleading indication.

- (1) Subject to the following provisions of this Part, a person shall be guilty of an offence if, in the course of any business of his, he gives (by any means whatever) to any consumers an indication which is misleading as to the price at which any goods, services, accommodation or facilities are available (whether generally or from particular persons).
- (2) Subject as aforesaid, a person shall be guilty of an offence if—
 - (a) in the course of any business of his, he has given an indication to any consumers which, after it was given, has become misleading as mentioned in subsection (1) above; and
 - (b) some or all of those consumers might reasonably be expected to rely on the indication at a time after it has become misleading; and
 - (c) he fails to take all such steps as are reasonable to prevent those consumers from relying on the indication.
- (3) For the purposes of this section it shall be immaterial—
 - (a) whether the person who gives or gave the indication is or was acting on his own behalf or on behalf of another;
 - (b) whether or not that person is the person, or included among the persons, from whom the goods, services, accommodation or facilities are available; and
 - (c) whether the indication is or has become misleading in relation to all the consumers to whom it is or was given or only in relation to some of them.
- (4) A person guilty of an offence under subsection (1) or (2) above shall be liable—
 - (a) on conviction on indictment, to a fine;
 - (b) on summary conviction, to a fine not exceeding the statutory maximum.

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- (5) No prosecution for an offence under subsection (1) or (2) above shall be brought after whichever is the earlier of the following, that is to say—
- (a) the end of the period of three years beginning with the day on which the offence was committed; and
 - (b) the end of the period of one year beginning with the day on which the person bringing the prosecution discovered that the offence had been committed.
- [^{F1}(5A) A person is not guilty of an offence under subsection (1) or (2) above if, in giving the misleading indication which would otherwise constitute an offence under either of those subsections, he is guilty of an offence under section 397 of the Financial Services and Markets Act 2000 (misleading statements and practices).]
- (6) In this Part—
- “consumer”—
- (a) in relation to any goods, means any person who might wish to be supplied with the goods for his own private use or consumption;
 - (b) in relation to any services or facilities, means any person who might wish to be provided with the services or facilities otherwise than for the purposes of any business of his; and
 - (c) in relation to any accommodation, means any person who might wish to occupy the accommodation otherwise than for the purposes of any business of his;
- “price”, in relation to any goods, services, accommodation or facilities, means—
- (a) the aggregate of the sums required to be paid by a consumer for or otherwise in respect of the supply of the goods or the provision of the services, accommodation or facilities; or
 - (b) except in section 21 below, any method which will be or has been applied for the purpose of determining that aggregate.

Textual Amendments

F1 S. 20(5A) inserted (1.12.2001) by S.I. 2001/3649, arts. 1, 309

21 Meaning of “misleading”.

- (1) For the purposes of section 20 above an indication given to any consumers is misleading as to a price if what is conveyed by the indication, or what those consumers might reasonably be expected to infer from the indication or any omission from it, includes any of the following, that is to say—
- (a) that the price is less than in fact it is;
 - (b) that the applicability of the price does not depend on facts or circumstances on which its applicability does in fact depend;
 - (c) that the price covers matters in respect of which an additional charge is in fact made;
 - (d) that a person who in fact has no such expectation—
 - (i) expects the price to be increased or reduced (whether or not at a particular time or by a particular amount); or

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- (ii) expects the price, or the price as increased or reduced, to be maintained (whether or not for a particular period); or
 - (e) that the facts or circumstances by reference to which the consumers might reasonably be expected to judge the validity of any relevant comparison made or implied by the indication are not what in fact they are.
- (2) For the purposes of section 20 above, an indication given to any consumers is misleading as to a method of determining a price if what is conveyed by the indication, or what those consumers might reasonably be expected to infer from the indication or any omission from it, includes any of the following, that is to say—
 - (a) that the method is not what in fact it is;
 - (b) that the applicability of the method does not depend on facts or circumstances on which its applicability does in fact depend;
 - (c) that the method takes into account matters in respect of which an additional charge will in fact be made;
 - (d) that a person who in fact has no such expectation—
 - (i) expects the method to be altered (whether or not at a particular time or in a particular respect); or
 - (ii) expects the method, or that method as altered, to remain unaltered (whether or not for a particular period); or
 - (e) that the facts or circumstances by reference to which the consumers might reasonably be expected to judge the validity of any relevant comparison made or implied by the indication are not what in fact they are.
- (3) For the purposes of subsections (1)(e) and (2)(e) above a comparison is a relevant comparison in relation to a price or method of determining a price if it is made between that price or that method, or any price which has been or may be determined by that method, and—
 - (a) any price or value which is stated or implied to be, to have been or to be likely to be attributed or attributable to the goods, services, accommodation or facilities in question or to any other goods, services, accommodation or facilities; or
 - (b) any method, or other method, which is stated or implied to be, to have been or to be likely to be applied or applicable for the determination of the price or value of the goods, services, accommodation or facilities in question or of the price or value of any other goods, services, accommodation or facilities.

22 Application to provision of services and facilities.

- (1) Subject to the following provisions of this section, references in this Part to services or facilities are references to any services or facilities whatever including, in particular—
 - (a) the provision of credit or of banking or insurance services and the provision of facilities incidental to the provision of such services;
 - (b) the purchase or sale of foreign currency;
 - (c) the supply of electricity;
 - (d) the provision of a place, other than on a highway, for the parking of a motor vehicle;
 - (e) the making of arrangements for a person to put or keep a caravan on any land other than arrangements by virtue of which that person may occupy the caravan as his only or main residence.

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(2) References in this Part to services shall not include references to services provided to an employer under a contract of employment.

^{F2}(3)

(4) In relation to a service consisting in the purchase or sale of foreign currency, references in this Part to the method by which the price of the service is determined shall include references to the rate of exchange.

(5) In this section—

^{F3} . . .

“caravan” has the same meaning as in the ^{M1}Caravan Sites and Control of Development Act 1960;

“contract of employment” and “employer” have the same meanings as in [^{F4}the Employment Rights Act 1996];

“credit” has the same meaning as in the ^{M2}Consumer Credit Act 1974.

Textual Amendments

F2 S. 22(3) repealed (1.12.2001) by S.I. 2001/3649, arts. 1, 310(2)

F3 Definitions of
“appointed representative”

,
“authorised person”
and
“investment business”

in s. 22(5) repealed (1.12.2001) by S.I. 2001/3649, arts. 1, 310(3)

F4 Words in s. 22(5) substituted (22.8.1996) by 1996 c. 18, ss. 240, 243, Sch. 1 para. 34

Modifications etc. (not altering text)

C1 S. 22 amended (1.1.1993) by S.I. 1992/3218, reg. 82(1), Sch. 10 Pt. I para. 27.

S. 22 extended (1.1.1996) by S.I. 1995/3275, reg. 57, Sch. 10 Pt. I para. 11

Marginal Citations

M1 1960 c.62.

M2 1974 c.39.

23 Application to provision of accommodation etc.

(1) Subject to subsection (2) below, references in this Part to accommodation or facilities being available shall not include references to accommodation or facilities being available to be provided by means of the creation or disposal of an interest in land except where—

- (a) the person who is to create or dispose of the interest will do so in the course of any business of his; and
- (b) the interest to be created or disposed of is a relevant interest in a new dwelling and is to be created or disposed of for the purpose of enabling that dwelling to be occupied as a residence, or one of the residences, of the person acquiring the interest.

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- (2) Subsection (1) above shall not prevent the application of any provision of this Part in relation to—
- (a) the supply of any goods as part of the same transaction as any creation or disposal of an interest in land; or
 - (b) the provision of any services or facilities for the purposes of, or in connection with, any transaction for the creation or disposal of such an interest.
- (3) In this section—
- “new dwelling” means any building or part of a building in Great Britain which—
- (a) has been constructed or adapted to be occupied as a residence; and
 - (b) has not previously been so occupied or has been so occupied only with other premises or as more than one residence,
- and includes any yard, garden, out-houses or appurtenances which belong to that building or part or are to be enjoyed with it;
- “relevant interest”—
- (a) in relation to a new dwelling in England and Wales, means the freehold estate in the dwelling or a leasehold interest in the dwelling for a term of years absolute of more than twenty-one years, not being a term of which twenty-one years or less remains unexpired;
 - (b) in relation to a new dwelling in Scotland, means the [^{F5}ownership]of the land comprising the dwelling, or a leasehold interest in the dwelling where twenty-one years or more remains unexpired.

Textual Amendments

- F5** S. 23(3): words in para. (b) in definition of relevant interest substituted (S.) (28.11.2004) by 2000 asp 5, ss. 76(1), 77, Sch. 12 Pt. 1 para. 49 (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

24 Defences.

- (1) In any proceedings against a person for an offence under subsection (1) or (2) of section 20 above in respect of any indication it shall be a defence for that person to show that his acts or omissions were authorised for the purposes of this subsection by regulations made under section 26 below.
- (2) In proceedings against a person for an offence under subsection (1) or (2) of section 20 above in respect of an indication published in a book, newspaper, magazine [^{F6}or film or in a programme included in a programme service (within the meaning of the Broadcasting Act 1990),] it shall be a defence for that person to show that the indication was not contained in an advertisement.
- (3) In proceedings against a person for an offence under subsection (1) or (2) of section 20 above in respect of an indication published in an advertisement it shall be a defence for that person to show that—
- (a) he is a person who carries on a business of publishing or arranging for the publication of advertisements;
 - (b) he received the advertisement for publication in the ordinary course of that business; and

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- (c) at the time of publication he did not know and had no grounds for suspecting that the publication would involve the commission of the offence.
- (4) In any proceedings against a person for an offence under subsection (1) of section 20 above in respect of any indication, it shall be a defence for that person to show that—
- (a) the indication did not relate to the availability from him of any goods, services, accommodation or facilities;
 - (b) a price had been recommended to every person from whom the goods, services, accommodation or facilities were indicated as being available;
 - (c) the indication related to that price and was misleading as to that price only by reason of a failure by any person to follow the recommendation; and
 - (d) it was reasonable for the person who gave the indication to assume that the recommendation was for the most part being followed.
- (5) The provisions of this section are without prejudice to the provisions of section 39 below.
- (6) In this section—
- “advertisement” includes a catalogue, a circular and a price list;

F7

Textual Amendments

- F6** Words substituted by [Broadcasting Act 1990 \(c. 42, SIF 96\)](#), s. 203(1), [Sch. 20 para. 48\(a\)](#)
- F7** Words repealed by [Broadcasting Act 1990 \(c. 42, SIF 96\)](#), [s. 203\(1\)](#), (3), [Sch. 20 para 48\(b\)](#), [Sch. 21](#)

Modifications etc. (not altering text)

- C2** [S. 24\(2\)](#) applied (18.5.1992) by [S.I. 1992/737](#), [reg. 9\(3\)\(a\)](#).
[S. 24\(2\)](#) applied (20.2.1995) by [S.I. 1994/3248](#), [reg. 8\(2\)\(a\)](#)
- C3** [S. 24\(3\)](#) applied by [S.I. 1991/199](#), [reg. 8\(2\)\(a\)](#).

25 Code of practice.

- (1) The Secretary of State may, after consulting [^{F8}the Office of Fair Trading] and such other persons as the Secretary of State considers it appropriate to consult, by order approve any code of practice issued (whether by the Secretary of State or another person) for the purpose of—
- (a) giving practical guidance with respect to any of the requirements of section 20 above; and
 - (b) promoting what appear to the Secretary of State to be desirable practices as to the circumstances and manner in which any person gives an indication as to the price at which any goods, services, accommodation or facilities are available or indicates any other matter in respect of which any such indication may be misleading.
- (2) A contravention of a code of practice approved under this section shall not of itself give rise to any criminal or civil liability, but in any proceedings against any person for an offence under section 20(1) or (2) above—
- (a) any contravention by that person of such a code may be relied on in relation to any matter for the purpose of establishing that that person committed the offence or of negating any defence; and

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- (b) compliance by that person with such a code may be relied on in relation to any matter for the purpose of showing that the commission of the offence by that person has not been established or that that person has a defence.
- (3) Where the Secretary of State approves a code of practice under this section he may, after such consultation as is mentioned in subsection (1) above, at any time by order—
 - (a) approve any modification of the code; or
 - (b) withdraw his approval;and references in subsection (2) above to a code of practice approved under this section shall be construed accordingly.
- (4) The power to make an order under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

Textual Amendments

F8 Words in s. 25(1) substituted (1.4.2003) by 2002 c. 40, ss. 278(1), 279, Sch. 25 para. 16(2); S.I. 2003/766, art. 2, Sch. (with transitional provisions in art. 3)

26 Power to make regulations.

- (1) The Secretary of State may, after consulting [^{F9}the Office of Fair Trading] and such other persons as the Secretary of State considers it appropriate to consult, by regulations make provision—
 - (a) for the purpose of regulating the circumstances and manner in which any person—
 - (i) gives any indication as to the price at which any goods, services, accommodation or facilities will be or are available or have been supplied or provided; or
 - (ii) indicates any other matter in respect of which any such indication may be misleading;
 - (b) for the purpose of facilitating the enforcement of the provisions of section 20 above or of any regulations made under this section.
- (2) The Secretary of State shall not make regulations by virtue of subsection (1)(a) above except in relation to—
 - (a) indications given by persons in the course of business; and
 - (b) such indications given otherwise than in the course of business as—
 - (i) are given by or on behalf of persons by whom accommodation is provided to others by means of leases or licences; and
 - (ii) relate to goods, services or facilities supplied or provided to those others in connection with the provision of the accommodation.
- (3) Without prejudice to the generality of subsection (1) above, regulations under this section may—
 - (a) prohibit an indication as to a price from referring to such matters as may be prescribed by the regulations;
 - (b) require an indication as to a price or other matter to be accompanied or supplemented by such explanation or such additional information as may be prescribed by the regulations;

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- (c) require information or explanations with respect to a price or other matter to be given to an officer of an enforcement authority and to authorise such an officer to require such information or explanations to be given;
 - (d) require any information or explanation provided for the purposes of any regulations made by virtue of paragraph (b) or (c) above to be accurate;
 - (e) prohibit the inclusion in indications as to a price or other matter of statements that the indications are not to be relied upon;
 - (f) provide that expressions used in any indication as to a price or other matter shall be construed in a particular way for the purposes of this Part;
 - (g) provide that a contravention of any provision of the regulations shall constitute a criminal offence punishable—
 - (i) on conviction on indictment, by a fine;
 - (ii) on summary conviction, by a fine not exceeding the statutory maximum;
 - (h) apply any provision of this Act which relates to a criminal offence to an offence created by virtue of paragraph (g) above.
- (4) The power to make regulations under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament and shall include power—
- (a) to make different provision for different cases; and
 - (b) to make such supplemental, consequential and transitional provision as the Secretary of State considers appropriate.
- (5) In this section “lease” includes a sub-lease and an agreement for a lease and a statutory tenancy (within the meaning of the ^{M3}Landlord and Tenant Act 1985 or the ^{M4}Rent (Scotland) Act 1984).

Subordinate Legislation Made

P1 S. 26 power exercised by S.I. 1991/199.

Textual Amendments

F9 Words in s. 26(1) substituted (1.4.2003) by 2002 c. 40, ss. 278(1), 279, Sch. 25 para. 16(2); S.I. 2003/766, art. 2, Sch. (with transitional provisions in art. 3)

Marginal Citations

M3 1985 c. 70.

M4 1984 c. 58.

Status:

Point in time view as at 28/11/2004.

Changes to legislation:

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