



Consumer Rights Act 2015

2015 CHAPTER 15

PART 2

UNFAIR TERMS

What are the general rules about fairness of contract terms and notices?

63 Contract terms which may or must be regarded as unfair

- (1) Part 1 of Schedule 2 contains an indicative and non-exhaustive list of terms of consumer contracts that may be regarded as unfair for the purposes of this Part.
- (2) Part 1 of Schedule 2 is subject to Part 2 of that Schedule; but a term listed in Part 2 of that Schedule may nevertheless be assessed for fairness under section 62 unless section 64 or 73 applies to it.
- (3) The Secretary of State may by order made by statutory instrument amend Schedule 2 so as to add, modify or remove an entry in Part 1 or Part 2 of that Schedule.
- (4) An order under subsection (3) may contain transitional or transitory provision or savings.
- (5) No order may be made under subsection (3) unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, each House of Parliament.
- (6) A term of a consumer contract must be regarded as unfair if it has the effect that the consumer bears the burden of proof with respect to compliance by a distance supplier or an intermediary with an obligation under any enactment or rule implementing the Distance Marketing Directive.
- (7) In subsection (6)—
“the Distance Marketing Directive” means Directive [2002/65/EC](#) of the European Parliament and of the Council of 23 September 2002 concerning

Status: Point in time view as at 11/01/2017.

Changes to legislation: Consumer Rights Act 2015, Section 63 is up to date with all changes known to be in force on or before 02 October 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

the distance marketing of consumer financial services and amending Council Directive [90/619/EEC](#) and Directives [97/7/EC](#) and [98/27/EC](#);

“distance supplier” means—

- (a) a supplier under a distance contract within the meaning of the Financial Services (Distance Marketing) Regulations 2004 (SI 2004/2095), or
- (b) a supplier of unsolicited financial services within the meaning of regulation 15 of those regulations;

“enactment” includes an enactment contained in subordinate legislation within the meaning of the Interpretation Act 1978;

“intermediary” has the same meaning as in the Financial Services (Distance Marketing) Regulations 2004;

“rule” means a rule made by the Financial Conduct Authority or the Prudential Regulation Authority under the Financial Services and Markets Act 2000 or by a designated professional body within the meaning of section 326(2) of that Act.

Commencement Information

II [S. 63](#) in force at 1.10.2015 by [S.I. 2015/1630](#), [art. 3\(c\)](#) (with [art. 6\(1\)](#))

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