

Are you prepared for the Consumer Contract Regulations?

We have recently had a number of clients with online businesses enquiring as to what considerations they need to be giving to the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 (“**Regulations**”).

On 13 June 2014 the Regulations came in to force with regards to all distance, off-premises and on-premises sales contracts made between businesses and consumers. These changes, although applicable to all businesses which deal with consumers, will largely have implications for online businesses. There are certain exempt industries including gambling, construction and sale of immovable property and package travel contracts.

Two of the changes which online businesses should consider are:

- the list of pre-contract information which must be provided including a template cancellation form; and
- that it must be explicitly clear to a consumer where an online action will result in an obligation for the consumer to make a payment. The express consent of the consumer must be given before taking additional payments which are not pre-agreed.

It would be sensible for online business clients to review their practices to ensure that, not only do they provide the necessary information prior to the consumer entering into a contract, but also that the consumer understands the obligations they are agreeing to. There is more opportunity for the consumer to misunderstand the consequences of their actions when signing up to online contracts. Any online business must ensure that it does not mislead its customers to avoid potential liability under the Regulations. Where pre-contract information is not provided, there may be an extension of the cancellation period for the contract of up to one year. In addition, the changes under the Regulations are now regarded as implied terms of the contract. This means any failure to comply with the new obligations will not only be a breach of contract, but may also be deemed an offence giving rise to a fine of not more than £5,000.

The Regulations include many new changes which business owners need to consider and these changes will have an impact on all business to consumer contracts.

For further information or advice, contact Ruth Murday on 01384 216840 or rmurday@hawkinshatton.co.uk