



PROVISION OF INFORMATION REQUIREMENTS FOR BUSINESSES

GENERAL INFORMATION REQUIREMENTS FOR COMPANIES

UK companies and LLPs must include on their websites, electronic and other business letters (including emails) and order forms the following details:

- their full registered name;
- their registered number;
- their registered office address;
- the part of the UK in which they are registered;
- if share capital is disclosed, the reference must be to paid up share capital; and
- if the name of a director (in the case of a company) or an LLP member is included in a business letter other than in the text or as a signatory, then the business letter must disclose the names of every director or LLP member (although a limited exception applies in certain circumstances for LLPs with more than 20 members).

Where a website relates primarily to overseas entities, those parts of the website relating to the UK business must comply.

The above requirements apply whether the documents are in hard copy, electronic or any other form. Non-compliance is a criminal offence and could lead to a fine for the business and for any officer (or LLP member) responsible for a non-compliant document or website.

INFORMATION REQUIREMENTS WHEN PROVIDING SERVICES

Businesses providing services in the UK must comply with the Provision of Services Regulations 2009 (Regulations). These apply to most businesses although there are some exceptions, including certain financial, electronic communications, transport and healthcare services. These Regulations do not apply to the manufacture or sale of goods, but do apply if any maintenance or similar after-sales services are offered. The information which the supplier of services subject to the Regulations is required to provide includes the following:

- name, legal status and business address;
- contact details for rapid and direct communication e.g.: email or phone;
- contact details for making complaints and information requests;
- price of services, if pre-determined;
- main features of service, if not apparent from the context;
- VAT number, if applicable;

Provision of Services
Regulations 2009
(Regulations)

- if applicable, trade registration scheme details, UK or EEA authorisation scheme details, and professional body details;
- general terms and conditions, if any;
- contract terms on governing law and jurisdiction applicable to the business's service contracts, if any;
- any after-sales guarantee which provides greater protection than required by law;
- details of any professional liability insurance which the business is required to have.

This information must be made available to customers in one of four ways:

- by providing it to the customer on the business's own initiative;
- by making it easily available to the customer at the place where the service is provided, or where the service contract is concluded;
- by making it easily accessible electronically, e.g.: on a website;
- by it appearing in any information document supplied to the customer in which a detailed description of the service is given.

If a breach of these Regulations harms the collective interests of consumers, enforcement bodies such as Trading Standards have the right to take action under the Enterprise Act 2002.

INFORMATION REQUIREMENTS WHEN SUPPLYING GOODS AND/OR SERVICES

If a business advertises or supplies goods or services through a website or email, regardless of whether they are paid for via the website, the Electronic Commerce (EC Directive) Regulations 2002 require the provision of certain information, although these requirements largely overlap with those under the Provision of Services Regulations (above). The information required includes:

- contact details, in addition to an email address, for direct, rapid and effective communication. This could be a telephone number or an electronic enquiry template;
- a geographical address (not a PO box number) where the business is established;
- if the business is a member of a trade body or a commercial register available to the public, membership details, including any registration number;
- if the service provider is a member of a regulated profession, details of any professional body with which the company is registered, the service provider's professional title and the country where it was granted and the means to access professional rules;
- VAT number; and
- where the website is used to conclude online contracts, additional information including a description of the different technical steps the customer must follow to conclude the contract.

The penalties for non-compliance are similar to those for non-compliance with the Provision of Services Regulations.

Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013

When selling goods or services to consumers, businesses must also comply with information requirements of the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013. Certain information (and a model cancellation form, where applicable) must be provided pre-contract and confirmed post-contract. Businesses must provide:

- a list of information to consumers before goods or services are purchased. The information requirements differ depending on whether the sale is made on-premises, off premises or at a distance (e.g. online). The trader must, for example, provide:
 - details about the main characteristics of the goods, services or digital content being supplied;
 - the trader's details (including contact details);
 - price and any delivery charges inclusive of tax;
 - payment, delivery and performance arrangements; and
 - details of after-sales service and commercial guarantees.
- particularly detailed information in the context of online sales including:
 - identifying where the trader is acting on behalf of another trader (and contact details for both);
 - ensuring that the payment function (e.g. a button to be clicked) is clearly labelled so the consumer is aware that placing the order implies an obligation to pay; and
 - information about the consumer's right to cancel during the 14 day "cooling off" period and the trader must provide a model cancellation form.

Finally, again where dealing with consumers, the Consumer Protection from Unfair Trading Regulations 2008 contain information provision requirements in relation to "invitations to purchase" (namely, a communication which is intended to give a consumer sufficient relevant information to enable the consumer to decide whether to make a purchase; for example, an advertisement on a website from where consumers can place an order). This information includes the main characteristics of the product, the identity of the trader and his geographical address, the price (including taxes), any additional delivery charges, any arrangements for payment, delivery, performance or complaints handling that differ from the requirement of professional diligence; any cancellation rights as well as any other information which the average consumer needs, in the circumstances, to make an informed decision.

Alternative Dispute Resolution (ADR)

ALTERNATIVE DISPUTE RESOLUTION AND ONLINE DISPUTE RESOLUTION

Online businesses dealing with consumers are required to give specified information about Alternative Dispute Resolution (ADR) and the EU Commission's Online Dispute Resolution Platform (ODR Platform). Every trader must, when it has exhausted its own internal complaints handling procedure when considering a consumer complaint, give the consumer on a durable medium (which can include email) the following required information:

- that it cannot settle the complaint with the consumer;
- the name and website address of an approved ADR entity which would be competent to deal with the complaint, should the trader and the consumer wish to use ADR; and
- whether the trader agrees to use that ADR approved entity (if the trader is obliged to use that particular ADR entity then it will of course have to agree, but otherwise it does not have to).

EU Commission's Online Dispute Resolution Platform (ODR Platform)

If a trader is obliged to use an ADR entity then, in addition to the above requirements, the trader must also provide the name and website address of that ADR entity both on its website (if it has one), and in the general terms and conditions of sales contracts or service contracts it uses with consumers.

In addition, online traders have to ensure its website states the trader's email address and contains a link to the EU Commission's new ODR Platform. The ODR platform is an EU-wide interactive and multilingual website which will be a single point of entry to consumers and

traders seeking to resolve out-of-court disputes concerning contractual obligations stemming from online sales and services contracts.

If an online trader is obliged to use an ADR entity then it must, in addition to the above, provide information about the existence of the ODR Platform in its general terms and conditions applicable to its online sales contracts and online services contracts.

If a trader fails to comply with the information requirements above, trading standards services can apply for a court order requiring them to comply. If the order is not complied with, the maximum penalty is an unlimited fine and two years' imprisonment.

SLAVERY AND HUMAN TRAFFICKING STATEMENT

The Modern Slavery Act 2015 requires any commercial organisation with a global turnover of £36 million or more to publish a slavery and human trafficking statement each financial year. The statement should essentially set out the steps the organisation has taken during the financial year to ensure that slavery and human trafficking is not taking place in any of its supply chains and in any part of its own business. If the business has a website then it must publish the statement on its website and include a prominent link to it on its home page.

PERSONS WITH SIGNIFICANT CONTROL

All UK incorporated companies and LLPs are required to keep a register of 'people with significant control' (PSCs), except where they are exempt from doing so. Companies are required to identify if there are any PSCs who satisfy the conditions for being a PSC of a company or a relevant legal entity. Those companies are also required to provide and update this information publicly by filing it at Companies House.

For further information about the PSC regime, and how it applies to your company, LLP or Scottish Limited Partnership please see our briefing note – [The UK PSC Register Requirements: A Practical Guide](#).

The Modern Slavery Act 2015

All UK incorporated companies and LLPs are required to keep a register of 'people with significant control' (PSCs).

KEY CONTACTS

For further information about any of the issues raised in this guide, please contact:



Beverley Flynn

Partner

T: +44 (0)1483 734264

M: +44 (0)7769 708486

E: beverley.flynn@stevens-bolton.com



Nicola Broadhurst

Partner

T: +44 (0)1483 734228

M: +44 (0)7887 713502

E: nicola.broadhurst@stevens-bolton.com

STEVENS&BOLTON

Wey House, Farnham Road
Guildford, Surrey, GU1 4YD
Tel: +44 (0)1483 302264
Fax: +44 (0)1483 302254
DX 2423 Guildford 1
www.stevens-bolton.com

The information contained in this guide is intended to be a general introductory summary of the subject matters covered only. It does not purport to be exhaustive, or to provide legal advice, and should not be used as a substitute for such advice.

© Stevens & Bolton LLP 2019.

Stevens & Bolton LLP is a limited liability partnership registered in England with registered number OC306955 and is authorised and regulated by the Solicitors Regulation Authority with SRA number 401245. A list of members' names is open to inspection at the above address.

DEPARTMENTAL\13169055v2