

CONSUMER RIGHTS ACT 2015

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3 Miscellaneous and General

Chapter 5: Secondary Ticketing

Summary and Background

486. This Chapter concerns the online secondary ticketing market. That is, the market where tickets for sporting, recreational and cultural events are re-sold having been first bought or otherwise acquired on the primary market from an event organiser. It concerns:
- Information which must be provided in respect of a ticket to its buyer, when that ticket is resold online;
 - The original terms and conditions of a ticket;
 - Reporting of criminal activity on online ticket marketplaces; and
 - A review of the online secondary ticketing market.
487. Currently, there are no provisions in statute specifically regulating the online secondary ticketing market. There is, however, other legislation which applies generally and in so doing covers the market, including:
- The [Consumer Contracts \(Information, Cancellation and Additional Charges\) Regulations 2013 \(SI 2013/3134\)](#) which provide that certain information must be provided when goods, a service or digital content are sold by a trader to a consumer, including sales concluded at a distance (e.g. online);
 - Section 166 of the Criminal Justice and Public Order Act 1994 which regulates the re-selling of tickets for certain football matches;
 - The Fraud Act 2006 and the [Consumer Protection from Unfair Trading Regulations 2008 \(SI 2008/1277\)](#) which aim to protect buyers from misleading or fraudulent sales; and
 - The [Unfair Terms in Consumer Contracts Regulations 1999 \(SI 1999/2083\)](#) (which are to be replaced by Part 2 of the Act once Part 2 comes into force) which provide that terms in a consumer contract must be fair.
488. This Chapter applies to tickets for all recreational, sporting and cultural events taking place in the UK¹.

¹ This Chapter is, however, without prejudice to any existing restrictions on the resale of tickets, such as that set out in section 166 Criminal Justice and Public Order Act 1994.

Duty to provide information about tickets

Section 90: Duty to provide information about tickets

489. **Section 90** sets out the information which is to be provided when a ticket is re-sold online by virtue of these provisions. As noted above, additional statutory information requirements may also apply. This section applies when a ticket is re-sold through an online secondary ticketing facility. This might be a website but could equally be a web based application (or other type of online facility). This section applies to tickets first offered for re-sale after the entry into force of the section.
490. The duty to provide information rests on both the seller of the ticket and the person operating the online facility through which it is being sold. In practice, it will be for the seller to give the information when they go to list their tickets online, and for the operator then to ensure that this information is given to the buyer.
491. There are four pieces of information which must be given. *Firstly, subsection (3)(a)* requires information to enable the buyer to identify the particular seat or standing area of the venue to which the ticket applies. This includes, where applicable, the name of the relevant area of the venue, the block in which the seat or relevant area is located, and the row and number of the seat. Where the seat and row are identified by something other than a number, this identifier must also be given.
492. Secondly, under *subsection (3)(b)* the buyer must be given information about any restrictions that apply to the ticket and concern who can use it. For example, the ticket might be for a specific area reserved for disabled persons, or it might only be able to be used by those under 12 years old.
493. Thirdly, *subsection (3)(c)* requires the face value of the ticket to be given. This is the price printed on the ticket itself. This will likely be the price at which the seller originally bought the ticket for.
494. Fourthly, where the seller has a connection with the online facility on which they are selling, or the organiser of the event for which the ticket is being sold, under *subsection (6)* they must state that this is the case, and what that connection is. For example, if the seller is an employee of the facility which they are using to sell the tickets, they must give the buyer that information. Where the seller is the operator of the facility itself, this information must be given.
495. In each case, the seller only has to provide this information where it is applicable to them or the ticket they are selling. For example, where a ticket is for a standing section of a venue, the seller does not have to give a seat number. The seller must make reasonable attempts to obtain and then provide this information to the buyer, however it is acknowledged that there are circumstances where this might not be possible, such as where the ticket is resold before the event organiser has allocated seat numbers.
496. *Subsection (8)* requires the information to be provided in a clear and comprehensible manner, and before the buyer purchases the ticket. For example, the information would be clearly displayed in a legible font before the buyer clicks on a button marked “confirm purchase”.

Section 91: Prohibition on cancellation or blacklisting

497. **Section 91** sits alongside section 90 and provides for consumer protections when the information required by section 90 is given. Information provided under section 90 could be used by an event organiser to cancel a ticket or blacklist a seller. An event organiser may also seek to cancel a ticket or blacklist a seller for other reasons or based on other information.

498. **Section 91** provides that an event organiser cannot cancel a ticket (*subsection (2)*) or blacklist a seller (*subsection (3)*) merely because that ticket is resold or offered for resale unless two conditions are met:
499. Firstly, it must be a term of the contract under which the original buyer purchased the ticket from the event organiser that cancellation of the ticket and/or blacklisting of the seller may occur as a consequence of that ticket being resold or offered for resale.
500. Secondly, that term of the contract under which the original buyer purchased the ticket from the event organiser must not be unfair. The fairness of terms in consumer contracts is assessable under Part 2 of this Act (see paragraphs 287 to 348 of these notes) and, before the coming into force of those provisions, under the Unfair Terms in Consumer Contracts Regulations 1999. Unfair terms are not enforceable against consumers.
501. Blacklisting of a seller includes not just the placing of the seller on a list of those sellers who cannot, or cannot without restriction, purchase further tickets. Blacklisting covers any steps taken by an event organiser to prevent or restrict that seller buying tickets, in any form.
502. *Subsection (9)* applies this prohibition to actions taken by event organisers after this section comes into force. The ticket in question may have, however, been resold or offered for resale before that time.

Section 92: Duty to report criminal activity

503. This section provides that, where the operator of a secondary ticketing facility is aware of criminal activity on that facility, a relevant report must be made to the police and to the event organiser. This section applies to criminal activity related to the resale of tickets (though there may be other reporting requirements which apply where this is not the case).
504. Criminal activity means where an offence is committed, under the law of any part of the UK. There are several pieces of legislation breach of which could lead to an offence being committed. However this provision is intended to cover legislation for which the authorities listed here (that is, the police) are one of the principal enforcers. This includes offences under the Fraud Act 2006 and the Theft Act 1968.
505. *Subsection (3)* specifies that the information to be reported is—where this is known to the operator—the identity of the person committing the offence (for example their company name or an individual’s name) and the fact that the operator knows that a criminal offence is or has been committed.
506. The report must be made to a police force within the United Kingdom. Where, for example, the facility is aware that the person is based in England the report could be made to a police constable in England. Where there is a lead police force for a particular crime (for example fraud) that force might be the appropriate police force to which the report can be made. A report must also be made to the organiser of the relevant event(s), that is, where the criminal activity involves tickets for a particular event, the organiser of that event must be informed. However, under *subsection (5)* such a report is not required if it would prejudice the investigation of an offence (not just the one being reported). In practice, this might mean that—where the facility has some doubt—the report is first made to the police who can advise whether a report to an event organiser would prejudice an investigation.
507. The criminal activity can be either ongoing or have already occurred, however the operator of the facility need only report offences which it became aware of after this provision comes into force.

Section 93: Enforcement of this Chapter

508. This section provides for enforcement of sections 90, 91 and 92. Enforcement is by local weights and measures authorities in Great Britain (known as Trading Standards) and by the Department of Enterprise, Trade and Investment in Northern Ireland.
509. *Subsection (4)* allows these enforcers to levy a fine of up to £5000 for a breach of the requirements in those sections. That fine can be levied on a private individual or a business, depending on the nature of the breach.
510. This sanction is, however, limited by *subsection (5)* which states that an enforcer may not impose a fine for a breach of the duty in section 90 or the prohibition in section 91 if it is satisfied that the breach was the result of circumstances beyond a person's control, for example a mistake or accident, and the person had taken reasonable precautions and undertaken due diligence. For example, where an online ticket marketplace had been supplied with false information by a seller, and had taken reasonable steps to ensure that that information was correct, they would not be liable for a fine.
511. This section also gives effect to Schedule 10 (secondary ticketing: financial penalties) which provides for the procedure to be followed when enforcing the provisions in this Chapter:
- a) Before a fine is levied, paragraph 1 of this Schedule requires a relevant enforcer to give a notice of intent. This must be given within 6 months of the enforcer having evidence of a breach. Within 28 days of receiving that notice, the person on whom it is served can make representations. Once the 28 day period has expired, the enforcer can issue a final notice giving details of the level of the fine and how it is to be paid. The notice can be withdrawn at any time.
 - b) Once a final notice has been issued, the person on whom it is served can appeal on the grounds given in paragraph 5 of this Schedule.
 - c) Should the final notice not be appealed, or be upheld on appeal, and the fine not be paid, the enforcer can ask the county court (or in Scotland, a sheriff court) for an order to recover that fine under paragraph 6 of this Schedule.

Section 94: Duty to review measures relating to secondary ticketing

512. This section provides for a review of the online secondary ticketing market. The review must either be carried out by the Secretary of State or arranged by the Secretary of State to be carried out, *e.g.* by an external reviewer.
513. The review:
- a) must cover the online secondary ticketing market for recreational, sporting and cultural events in the UK;
 - b) must cover consumer protection measures in the secondary market, defined as such legislation, rules of law, codes of practice and guidance which the Secretary of State deems relevant;
 - c) must prepare and publish a report within 12 months of this section coming into force; and
 - d) must be presented to Parliament.

Section 95: Interpretation of this Chapter

514. This section gives the definitions that apply to terms used in this Chapter. It includes a power for the Secretary of State to change by regulations who this Chapter applies to through changing the definition of the operator of a secondary ticketing facility.