

1989 No. 2195

**FAIR TRADING**

**The Pyramid Selling Schemes Regulations 1989**

*Made - - - - 24th November 1989*

*Laid before Parliament 30th November 1989*

*Coming into Operation 1st March 1990*

The Secretary of State in exercise of his powers under section 119 of the Fair Trading Act 1973(a) hereby makes the following Regulations:-

**Citation and commencement**

1. These Regulations may be cited as the Pyramid Selling Schemes Regulations 1989 and shall come into force on 1st March 1990.

**Revocation**

2. The Pyramid Selling Schemes Regulations 1973(b) are hereby revoked save that -

- (a) regulations 5 and 6 and paragraphs (1), (2) and (3) of Regulation 10 thereof shall continue to apply to things done on or after 1st March 1990 under or in connection with agreements made before that date; and
- (b) section 16 of the Interpretation Act 1978(c) shall apply in relation to such revocation.

**Interpretation**

3. In these Regulations "selling scheme" means a scheme to which Part XI of the Fair Trading Act 1973 applies other than a scheme under which -

- (a) the prospect of receiving payments or other benefits in respect of all or any of the matters specified in section 118(2) of that Act is held out to only one participant in the United Kingdom; or
- (b) the only prospect held out to any participant of receiving payments or other benefits in respect of matters so specified is the prospect of receiving a sum not exceeding £30 in respect of the introduction by him of another person who becomes a participant.

### Contents of advertisements etc

4.—(1) Subject to paragraph (2) of this regulation, a person shall not issue, circulate or distribute any document, being an advertisement, prospectus, circular or notice, containing –

- (a) any invitation to persons to become participants in a selling scheme; or
  - (b) any information likely to lead directly or indirectly to persons becoming participants in such a scheme, UNLESS –
    - (i) it states the date from which the scheme first operated in the United Kingdom or, in the case of a proposed scheme, the date from which it is proposed to operate it;
    - (ii) it states the name and address of the promoter, or in the case of a scheme promoted by more than one person, the names and addresses of all the promoters;
    - (iii) it describes the goods or services which form the subject of the scheme;
    - (iv) it states whether the transactions to be effected under the scheme by any persons who may participate are to be effected in the capacity of a servant or agent of the promoter or promoters or one of the promoters or as a principal; and
    - (v) it contains a warning which complies with the following:
      - (aa) it includes the words set out in Part I of the Schedule hereto;
      - (bb) those words are inserted in an area outlined in the manner indicated in Part I of the Schedule hereto;
      - (cc) the width of the outlined area is not less than 80 mm, its height is not less than 30 mm and the thickness of the outline is not less than 1 mm;
      - (dd) the heading "STATUTORY WARNING" is in capital letters not less than 3 mm high;
      - (ee) the words are easily legible and the lettering of the document is of a colour which is readily distinguishable from the colour of the paper on which it is printed; and
      - (ff) the words are afforded no less prominence than that given to any other information in the document apart from the heading to the document.
- (2) This regulation does not apply to any document –
- (a) which does not indicate the financial benefits which will or may be obtained from participation in a selling scheme; or
  - (b) which forms part of a newspaper or magazine; or
  - (c) which is handed to a person in a public place.

5.—(1) A promoter of a selling scheme shall not issue, circulate or distribute a document to which regulation 4 applies which contains any statement which indicates or suggests that a participant will as a result of participation derive during any period a specified financial benefit or a financial benefit which will be greater than or not less than a specified sum unless the promoter at the time when he issues, circulates or distributes the document has evidence that the financial benefits indicated or suggested represent the financial benefits or sums actually obtained by one or more of the participants during the same period as a result of participating in the scheme.

(2) Any statement to which paragraph (1) of this regulation refers shall be accompanied by the following statement published with equal prominence and immediately underneath the first mentioned statement:– "The figures shown do not represent any automatic earnings. Actual earnings will depend on time and effort spent on the business and the total number of participants in the scheme."

### **Written contracts and rights of participants**

6.—(1) Subject to paragraph (2) of this regulation a promoter of, or a participant in, a selling scheme shall not –

- (a) supply goods or services to a participant in the scheme; or
- (b) provide any goods or services under a transaction effected by such a participant; or
- (c) be a party to any arrangement under which goods or services are supplied or provided as aforesaid; or
- (d) accept from any such participant any payment or undertaking to make a payment in respect of any goods or services supplied or provided as mentioned in any of the preceding paragraphs or in respect of any goods or services to be so supplied or provided, UNLESS –
  - (i) the parties have signed a written agreement which contains all the terms of the agreement under which the relevant participant is participating in the scheme and which complies with regulation 7; and
  - (ii) a copy of that agreement has been furnished to the participant joining the scheme.

(2) This regulation (and regulations 7 and 8) shall not apply to anything done under or in connection with agreements entered into before 1st March 1990.

### **Contents of written contracts**

7. The written agreement referred to in regulation 6 shall contain:–

- (a) the date from which the scheme first operated in the United Kingdom or, in the case of a proposed scheme, the date from which it is proposed to operate it;
- (b) the name and address of the promoter or, in the case of a scheme promoted by more than one person, the names and addresses of all the promoters;
- (c) a description of the goods or services which form the subject of the scheme;
- (d) an indication whether the transactions to be effected under the scheme by any persons who may participate are to be effected in the capacity of servant or agent of the promoter or promoters or one of the promoters or as a principal;
- (e) a warning which complies with the following –
  - (i) it includes the words set out in Part II of the Schedule hereto;
  - (ii) those words are inserted in an area outlined in the manner indicated in Part II of the Schedule hereto;
  - (iii) the width of the outlined area is not less than 90 mm, its height is not less than 30 mm and the thickness of the outline is not less than 1 mm;
  - (iv) the heading “STATUTORY WARNING” is in capital letters not less than 3 mm high;
  - (v) the words are easily legible and the lettering of the document is of a colour which is readily distinguishable from the colour of the paper on which it is printed;
  - (vi) the words are afforded no less prominence than that given to any other information in the document apart from the heading to the document and any information inserted in handwriting; and
  - (vii) the words are printed immediately above the space for the participant’s signature; and
- (f) the rights of participants in connection with termination set out in Regulation 8.

### **Participants' rights in connection with termination**

**8.—(1)** The rights referred to in regulation 7 are –

- (a) a right to terminate participation at any time without penalty by giving 14 days written notice of termination to the promoter or any of the promoters at an address in the United Kingdom which has been furnished to the participant in writing;
- (b) where notice is so given not more than 14 days after the participant first agreed to participate in the scheme, a right to require the promoter or any of the promoters to repay the participant within 14 days any monies which he had paid to or for the benefit of the promoter or any of the promoters in connection with his participation in the scheme or paid to any other participant in accordance with the provisions of the scheme less –
  - (i) any amount due from or paid by him in respect of goods which he has sold;
  - (ii) an amount equal to the value of any other goods which have been delivered to him under the scheme and which he has not re-delivered or despatched to the promoter or promoters or to a person nominated by the promoter or promoters to receive them;
  - (iii) where any goods so re-delivered or despatched have deteriorated and their deterioration was occasioned by an act or default on his part, an amount equal to the diminution in their value resulting from such deterioration;
- (c) where notice to terminate participation is given by the participant in any other circumstances, a right to require the promoter or any of the promoters to buy –
  - (i) at a price which is not less than 90 per cent of the price which the participant paid for them less, in the case of any goods the condition of which has deteriorated due to an act or default on his part, an amount equal to the diminution in their value resulting from such deterioration;
  - (ii) on terms whereby the price is payable upon delivery of the goods or, if the goods are already held by the promoter or any of the promoters, forthwith, and
  - (iii) for delivery within 21 days of the giving of the notice at any place which the participant may reasonably nominate, any goods which he has purchased under the scheme;
- (d) a right to be discharged upon the termination of his participation from all contractual liabilities towards the promoter or any of the promoters in connection with the scheme except –
  - (i) liabilities relating to payments made to him under contracts which he has made as agent for the promoter or any of the promoters;
  - (ii) in a case where termination of participation does not give rise to the right described in sub-paragraph (b) of paragraph (1) of this regulation, any liability to pay the price of goods already sold to him by the promoter or any of the promoters;
- (e) if the promoter or any of the promoters terminates his participation in the scheme in accordance with its provisions, a right to require the promoter or any of the promoters to buy –
  - (i) at the price which the participant paid for them less, in the case of any goods the condition of which has deteriorated due to an act or default on his part, an amount equal to the diminution in their value resulting from such deterioration,
  - (ii) on terms whereby the purchase price is payable upon delivery of the goods or, if the goods are already held by the promoter or any of the promoters, forthwith, and
  - (iii) for delivery within 21 days of such termination at the promoter's expense at any place which the promoter may reasonably nominate, any goods which the participant has purchased under the scheme.

(2) When the written notice referred to in sub-paragraphs (a) and (b) of paragraph (1) of this regulation is given by post, the period of notice shall start to run from the day when such notice is posted by first class post to an address furnished by the promoter.

#### **£75 liability limit**

9. A promoter of, or a participant in, a selling scheme shall not accept from a new participant any payment or an undertaking to make a payment of any sum exceeding £75 until the expiry of seven days from the making of the contract relating to goods and/or services supplied or to be supplied to the participant by the promoter or other participant under the selling scheme.

#### **Deposits**

10. A promoter of, or a participant in, a selling scheme shall not accept from a participant any payment by way of security for goods or the payment of the price for goods supplied or to be supplied or an undertaking to make such a payment.

#### **Training facilities**

11. A promoter of, or a participant in, a selling scheme shall not accept from any participant any payment or undertaking to make any payment for any training facilities unless before accepting the payment or undertaking to make a payment he clearly explains to the participant that he has a free choice whether or not to make use of such training facilities and the amount of the payment was clearly stated.

#### **Civil consequences of contraventions**

12.—(1) When a participant makes any payment to or for the benefit of a promoter of, or to another participant in, a selling scheme and the acceptance of that payment involves a contravention of regulations 6, 9, 10 or 11, the participant shall be entitled to recover that payment from the promoter or any of the promoters or where the payment is made to another participant from that participant.

(2) No undertaking to make any payment given by a participant in a selling scheme involving a contravention of sub-paragraph (d) of paragraph (1) of regulation 6 or regulations 9, 10 or 11 shall be enforceable against him in any civil proceedings.

(3) A participant in a selling scheme shall be under no liability to pay for goods supplied to him in circumstances involving a contravention of regulations 6, 7 or 8.

(4) A participant in a selling scheme shall be under no liability to pay for any training facilities unless it was clearly explained to him by a promoter or a participant supplying or seeking to supply goods or services under the selling scheme, before he used the facilities, that he had a free choice whether or not to make use of those facilities and the amount of the charge for those training facilities was clearly stated.

24th November 1989

*Eric Forth*  
Parliamentary Under-Secretary of State,  
Department of Trade and Industry

## SCHEDULE

### PART I

Warning for use in pre-contractual documents (Regulation 4(1)(v))

#### **STATUTORY WARNING**

1. Make sure that you understand what is being offered to you.
2. Do not be misled by claims that high earnings are easily achieved.
3. It is advisable to take independent legal advice before signing a contract.

### PART II

Warning for use in contracts (Regulation 7(e))

#### **STATUTORY WARNING**

Before you sign the contract:

- (a) Make sure that you have read it carefully and that you have seen a document which explains the scheme in detail
- (b) Consider the following:
  1. It is advisable to take independent legal advice before signing a contract.
  2. Do not be misled by claims that high earnings are easily achieved.
  3. All businesses carry some risk. Do not purchase more stock than you believe you can sell in a reasonable period.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations revoke the Pyramid Selling Schemes Regulations 1973 (except for regulations 5 and 6 and 10(1), (2) and (3) which continue to apply to contracts made before 1st March 1990) and replace them with new provisions.

The Regulations follow the framework of the 1973 Regulations but require warning notices in relation to pyramid selling to be included with the degree of prominence laid down in these Regulations in specified promotional material (regulation 4(1)(v) and Part I of the Schedule) and in contracts (regulation 7(e) and Part II of the Schedule).

Regulation 3 follows Regulation 1(2) of the 1973 Regulations save that the sum referred to in regulation 3(b) is now £30, having been £10 in the 1973 Regulations.

Regulation 4 regulates the contents of advertisements, notices, prospectuses and circulars relating to pyramid selling except those which do not state the financial benefits which will or may be obtained from the scheme or which form part of a newspaper or magazine or which are handed to persons in a public place.

Regulation 5 requires a warning statement to appear immediately underneath any claim in promotional material that specified financial benefits can be obtained under the scheme.

Regulation 6 prohibits the supply of goods or services under a scheme or the acceptance of payment for goods or services unless the parties have signed a written agreement complying with the provisions of regulation 7 and a copy of that agreement has been supplied to the participant joining the scheme.

Regulation 7 requires specific matters to be included in written contracts.

Regulation 8 deals with the right to terminate the contract. This largely repeats regulation 6 of the 1973 Regulations but the period of time within which termination is permitted without penalty and with the right to require repayment of monies as specified in regulation 8(1)(b) is increased from 7 to 14 days.

Regulation 9 prohibits a promoter or a participant from accepting any sum exceeding £75 from a new participant until seven days have expired from the making of the contract.

Regulation 10 prohibits the taking of security.

Regulation 11 prohibits the acceptance of payments for training facilities unless it is made clear that the participant has a free choice whether or not to use the facilities and the charge is clearly stated.

Regulation 12 largely repeats regulation 10 of the 1973 Regulations and sets out the civil consequences of a breach of the Regulations.