

ELIZABETH II



ACTS OF PARLIAMENT  
CHAPTER 35

# Clearer Timeshare Act 1993

Royal Assent: 31 December 1993

**T**HIS ACT IS LAW by the authority of the House of Commons and the House of Lords, and by the assent of Her Majesty the Queen acting with their advice and consent.

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In the main text, *italic type* signifies the first use of a term defined in section 13, unless that first use occurs in the definition of the term itself.

The table of contents is not part of the law.

## **Introduction**

### **1 What this Act does; when and where it applies**

- 1.1 The main purposes of this Act are to give a *customer*:
- (a) the right to cancel a *timeshare agreement* or *timeshare credit agreement*; and
  - (b) the right to receive information about the terms of the agreement.
- The rest of this Act explains how and when these rights apply.
- 1.2 This Act applies to a timeshare agreement or timeshare credit agreement if, when the agreement is being entered into, the customer, *seller* or *lender* is in the United Kingdom or the agreement is to some extent governed by the law of the United Kingdom or a part of the United Kingdom.
- 1.3 No agreement or *notice* can prevent this Act from applying.
- 1.4 This Act comes into force on a day to be *prescribed*.
- 1.5 This Act extends to Northern Ireland.

## **Timeshare agreements**

### **2 Seller's duty to give information about a timeshare agreement**

- 2.1 Before a seller enters into a timeshare agreement, he must give the customer a right-to-cancel notice and a document setting out the terms of the agreement or the substance of its terms.
- 2.2 The right-to-cancel notice must show that:
- (a) the customer may cancel the agreement by giving the seller a notice of cancellation on or before the date specified in the right-to-cancel notice, which must be at least 14 days after the agreement is entered into; and
  - (b) a customer who cancels has no further rights or duties under the agreement, except to get back any money paid to the seller under the agreement or while considering entering into it.
- 2.3 A seller who contravenes this section is guilty of an offence and liable:
- (a) on summary conviction, to a fine of the statutory maximum or less; or
  - (b) on conviction on indictment, to a fine.
- 2.4 Contravening this section does not make the agreement void.

### **3 Customer's right to cancel a timeshare agreement**

- 3.1 If a customer receives a right-to-cancel notice before entering into a timeshare agreement, then:
- (a) the customer may give the seller notice of cancellation of the agreement on or before the date for cancellation specified in the right-to-cancel notice; and
  - (b) the seller may not enforce the agreement against the customer before that date.

- 3.2 If a customer who enters into an agreement does not receive a right-to-cancel notice beforehand, then, subject to section 3.3:
- (a) the customer may give the seller notice of cancellation of the agreement at any time; and
  - (b) the seller may not enforce the agreement against the customer.
- 3.3 If, in the circumstances of section 3.2 and after the expiry of a 14-day period starting on the date the agreement was entered into, the customer shows by taking some significant action that he considers the agreement to be in force, then:
- (a) the customer may not give the seller notice of cancellation; and
  - (b) the seller may enforce the agreement against the customer, despite section 3.2.
- 3.4 An agreement is cancelled if the customer gives the seller notice of cancellation within the time this section allows.
- 3.5 An offer to enter into an agreement is withdrawn if the customer gives the seller notice of cancellation.
- 3.6 If a customer gives notice of cancellation in accordance with this section, then, subject to section 3.7:
- (a) the agreement, if any, is unenforceable;
  - (b) the seller, on receiving notice of cancellation, must repay to the customer any money which the customer has paid to the seller under the agreement or while considering entering into it; and
  - (c) the seller may not recover any money from the customer in respect of the agreement.
- 3.7 It may be that a timeshare agreement provides for *credit* to be given to or for the customer. Then, despite the giving of notice of cancellation, the agreement continues to be enforceable as regards the repayment of credit and payment of interest, subject to section 10. The right-to-cancel notice must make this point clear.

#### 4 Seller's defence of diligence

- 4.1 In proceedings against a seller under section 2, it is a defence for him to show that he took all reasonable steps and diligently tried to avoid committing the offence. In using this defence, he may not say that the offence was due to:
- (a) the act or default of another; or
  - (b) reliance on information given by another;
- unless he gets the court's permission or serves a notice complying with section 4.2.
- 4.2 A notice under this section must:
- (a) be served on the person bringing the proceedings at least seven clear days before the hearing of the proceedings or (in Scotland) the diet of trial; and
  - (b) give any information the seller has in order to identify or help identify the person who committed the act or default or gave the information on which the seller relied.

#### Defined terms (see s13)

caravan  
credit  
customer  
lender  
notice  
order  
prescribed  
seller  
timeshare agreement  
timeshare credit agreement  
timeshare rights

## **5 Liability of persons other than the principal offender**

- 5.1 If a seller's offence under section 2 is due to the act or default of another person, that other person is guilty of the offence and may be prosecuted by applying this section whether or not the seller is prosecuted.
- 5.2 It may happen that a body corporate is guilty of an offence under section 2 or by applying section 5.1, because of an act or default which occurred with the consent or connivance of, or through neglect by, a director, manager, secretary or other similar officer of the body corporate or a person who was pretending to act in such a capacity. If so, that other person is also guilty of the offence and liable to be prosecuted.
- 5.3 If the body corporate's affairs are managed by its members, section 5.2 applies to a member's acts and defaults in connection with his management functions as if he were a director of the body corporate.
- 5.4 It may happen that an offence under section 2 is committed in Scotland by a Scottish partnership with the consent or connivance of, or through neglect by, a partner. If so, the partner is also guilty of the offence and liable to be prosecuted.

## **6 Prosecution time limit**

- 6.1 Proceedings for an offence under section 2 or paragraphs 3.3 or 4.1 of the Schedule (or, in Scotland, section 331(3) of the Criminal Procedure (Scotland) Act 1975<sup>1</sup>) may not begin after the earlier of these dates:
- (a) three years after the date of the offence; or
  - (b) one year after the prosecutor discovered the offence.
- 6.2 A certificate signed by or on behalf of the prosecutor and stating when he discovered the offence is conclusive proof of that fact unless the contrary is proved.

## **Timeshare credit agreements**

### **7 Lender's duty to tell a customer about the right to cancel a timeshare credit agreement**

- 7.1 Before a lender enters into a timeshare credit agreement, he must give the customer a right-to-cancel notice and a document setting out the terms of the agreement or the substance of its terms.
- 7.2 The right-to-cancel notice must state that:
- (a) the customer may cancel the agreement by giving the lender a notice of cancellation on or before the date specified in the right-to-cancel notice, which must be at least 14 days after the agreement is entered into; and
  - (b) if the customer cancels, all his rights and duties under the agreement are cancelled except as shown in section 10.
- 7.3 Contravening this section does not make the agreement void.

**Defined terms (see s13)**  
caravan  
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timeshare credit agreement  
timeshare rights

**Footnotes**  
<sup>1</sup>1975 c21

## **8 Customer's right to cancel a timeshare credit agreement**

- 8.1 A customer who receives a right-to-cancel notice before entering into a timeshare credit agreement may give the lender notice of cancellation of the agreement on or before the date specified in the right-to-cancel notice.
- 8.2 If a customer does not receive the right-to-cancel notice before entering into the agreement, he may give the lender notice of cancellation of the agreement at any time. But the customer loses this right on showing, by taking some significant action after the expiry of a 14-day period starting on the date the agreement was entered into, that he considers the agreement to be in force .
- 8.3 If a customer gives notice of cancellation within the time this section allows, the agreement is cancelled and unenforceable except as regards repayment of the credit and payment of interest in accordance with section 10.

## **Timeshare agreements and timeshare credit agreements**

### **9 Notices: form; effectiveness; posting**

- 9.1 A right-to-cancel notice sent to a customer must be accompanied by a blank notice of cancellation. Both kinds of notice must be in the prescribed form and comply with any prescribed requirements about prominence and legibility.
- 9.2 Even if the customer gives notice of cancellation which is not in a prescribed form, it is effective if it shows his unconditional wish to cancel.
- 9.3 If the customer sends a notice by post in a properly addressed and pre-paid letter, it is regarded as given at the time of posting.

### **10 Repaying credit and interest after a customer cancels a timeshare credit agreement or a timeshare agreement with credit provisions**

- 10.1 This section applies after a customer gives notice of cancellation:
- (a) in accordance with section 3, of a timeshare agreement which provides for credit to be given to or for him; or
  - (b) in accordance with section 8, of a timeshare credit agreement.
- 10.2 No interest is payable on the amount of credit repaid if the customer repays it fully or partly:
- (a) before the end of one month following the giving of the notice; or
  - (b) in the case of a credit repayable by instalments, before the date the first instalment is due.
- 10.3 If the customer does not fully repay credit repayable by instalments by the date the first instalment is due, he need only repay the credit after receiving a written request, in a prescribed form, which:
- (a) is signed by or on behalf of the seller or lender;
  - (b) sets out the remaining instalments, but recalculated by the seller or lender in close accordance with the agreement and without increasing the repayment period; and
  - (c) includes only principal and interest.

#### **Defined terms (see s13)**

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timeshare credit agreement  
timeshare rights

## General, including dictionary of defined terms

1993 c35  
**Clearer  
Timeshare Act**  
section 13

### 11 Effect of this Act on other law

- 11.1 In section 130(1) of the Fair Trading Act 1973<sup>2</sup> (notice to Director General of Fair Trading of intended prosecution by local weights and measures authority in England and Wales), after “the Property Misdescriptions Act 1991”, insert “or for an offence under section 2 of the Clearer Timeshare Act 1993”. This change does not authorise a local weights and measures authority to bring proceedings in Scotland.

### 12 General provisions

- 12.1 Schedule 1 provides for enforcement. It has effect.
- 12.2 The rights and duties created by this Act add to those in any other Act.
- 12.3 For the purposes of the Consumer Credit Act 1974<sup>3</sup>, a transaction done under or for the purposes of a timeshare agreement is not a linked transaction in relation to any regulated agreement (as defined in that Act).
- 12.4 An *order* made under this Act may make different provision for different cases or circumstances.
- 12.5 Any power under this Act to make an order may be exercised by statutory instrument. A statutory instrument containing such an order (except an order about when this Act comes into effect) may be annulled by a resolution of either House of Parliament.

### 13 Dictionary of defined terms

- 13.1 Common words in Acts, such as “person”, “summary” and “writing”, are defined in the Interpretation Act 1978<sup>4</sup>. In addition, in this Act, the following terms have the meanings given here.
- 13.2 “Caravan” means the same as in section 29(1) of the Caravan Sites and Control of Development Act 1960<sup>5</sup> when applying this Act to Great Britain, and the same as in section 25(1) of the Caravans Act (Northern Ireland) 1963<sup>6</sup> when applying this Act to Northern Ireland.
- 13.3 “Credit” includes a cash loan and any other form of financial support.
- 13.4 “Customer” means someone who, as a private individual, is offered *timeshare rights* through a timeshare agreement.
- 13.5 “Lender” means a person who, in the course of a business, provides or agrees to provide credit to or for a customer through a timeshare credit agreement.
- 13.6 “Notice” means notice in writing.
- 13.7 “Order” means an order made by the Secretary of State.
- 13.8 “Prescribed” means prescribed by an order.
- 13.9 “Seller” means a person who, in the course of a business, offers timeshare rights through a timeshare agreement.

**Defined terms (see s13)**  
caravan  
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timeshare rights

**Footnotes**  
<sup>2</sup>1973 c41  
<sup>3</sup>1974 c39  
<sup>4</sup>1978 c30  
<sup>5</sup>1960 c62  
<sup>6</sup>1963 c17(NI)

- 13.10 “Timeshare agreement” means an agreement which gives, or pretends to give, timeshare rights. This meaning excludes an agreement which may be cancelled by applying section 67 of the Consumer Credit Act 1974<sup>7</sup>.
- 13.11 “Timeshare credit agreement” means an agreement to give credit which the lender, on entering into the agreement, knows or has reasonable cause to believe the customer will use fully or partly to pay for entry into a timeshare agreement. This meaning excludes an agreement which may be cancelled by applying section 67 of the Consumer Credit Act 1974<sup>8</sup>, and a timeshare agreement.
- 13.12 “Timeshare rights” means rights which:
- (a) are usable for a period of at least three years for intermittent periods of a month or less or any other prescribed period;
  - (b) relate to living accommodation in a building or *caravan* anywhere in the world (whether forming part of a pool of such accommodation or not) which is used (or intended to be used) wholly or partly for leisure; and
  - (c) belong to someone who is among a class of people with rights to use, or take part in arrangements under which they may use, that accommodation for leisure during such a period.
- 13.13 However, this meaning does not include a person’s rights:
- (a) as owner of any shares or securities;
  - (b) under a policy of insurance or contract of employment (as defined in section 153 of the Employment Protection (Consolidation) Act 1978<sup>9</sup> when applying this Act to Great Britain, or in article 2(2) of the Industrial Relations (Northern Ireland) Order 1976<sup>10</sup> when applying this Act to Northern Ireland); or
  - (c) gained by taking part in a collective agreement scheme (as defined in section 75 of the Financial Services Act 1986<sup>11</sup>);
- or any rights which may be prescribed.

**Defined terms (see s13)**

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**Footnotes**

<sup>7</sup>1974 c39

<sup>8</sup>1974 c39

<sup>9</sup>1978 c44

<sup>10</sup>SI 1976/1043 (NI 16)

<sup>11</sup>1986 c60



## **Schedule<sup>12</sup>**

### **ENFORCEMENT**

#### **1 Enforcement authorities**

- 1.1 Each local weights and measures authority in Great Britain is an enforcement authority for the purposes of this Schedule. They must enforce this Act within their own area.
- 1.2 In Northern Ireland, the Department of Economic Development is an enforcement authority for the purposes of this Schedule. The Department must enforce this Act there.

#### **2 Powers of officers of enforcement authorities**

- 2.1 If an authorised officer of an enforcement authority has reasonable grounds for suspecting that an offence has been committed under section 2, he may, in order to verify the suspicion, require a person carrying on or employed in a business to:
- (a) produce any document relating to the business; or
  - (b) produce, as a visible and legible document, information about the business which is held on computer disk.
- The officer may take copies of any of these documents or parts of them.
- 2.2 If the officer has reasonable grounds for believing that any documents may be required as evidence in proceedings for an offence under section 2, he may seize and hold them. He must inform the person from whom they are seized.
- 2.3 This paragraph does not require a person to produce, or authorise the taking from him of, any document that he could not be compelled to produce in civil proceedings before the High Court or (in Scotland) the Court of Session.
- 2.4 The powers of an officer under this paragraph may be used only at a reasonable hour and on production (on request) of his credentials.

#### **3 Offences of hindering officers of enforcement authorities and giving them false information**

- 3.1 A person is guilty of an offence who:
- (a) intentionally obstructs an officer of an enforcement authority who is enforcing this Act;
  - (b) without reasonable excuse fails to comply with a requirement made by the officer under paragraph 2.1; or
  - (c) without reasonable excuse fails to give the officer any other help or information which the officer reasonably requires to enforce this Act.
- 3.2 A person guilty of an offence under paragraph 3.1 is liable on summary conviction to a fine of level 5 or lower on the standard scale.

**Defined terms (see s13)**  
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**Footnotes**  
<sup>12</sup>s12

- 3.3 A person is guilty of an offence who, in giving information to an officer of an enforcement authority who is enforcing this Act:
- (a) makes a statement which he knows is false in a material point; or
  - (b) recklessly makes a statement which is false in a material point.

- 3.4 A person guilty of an offence under paragraph 3.3 is liable:
- (a) on summary conviction, to a fine of the statutory maximum or less; or
  - (b) on conviction on indictment, to a fine.

#### **4 Disclosure of information**

- 4.1 A person who discloses to another any information obtained while enforcing this Act is guilty of an offence unless the disclosure was made:
- (a) in, or for the purpose of, performing such a duty; or
  - (b) for a purpose specified in section 38(2)(a), (b) or (c) of the Consumer Protection Act 1987<sup>13</sup> (enforcement of various enactments; compliance with Community obligations; and civil or criminal proceedings).

- 4.2 A person guilty of an offence under paragraph 4.1 is liable:
- (a) on summary conviction, to a fine of the statutory maximum or less; or
  - (b) on conviction on indictment, to a fine.

#### **5 Privilege against self-incrimination**

- 5.1 This Schedule does not require a person to answer any question or give any information if doing so might incriminate him.

**Defined terms (see s13)**

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**Footnotes**

<sup>13</sup>1987 c43

## Citizen's Summary

- 1 This explains briefly the main points of the Act. For the full story, you should read the Act and, if necessary, take legal advice.

### Background

- 2 People can buy rights in timeshare properties. Typically these rights allow them to take a holiday in the property for a week or two every year. Some timeshare sellers have been criticized for using hard-sell tactics and for failing to give customers proper information about their purchase.

### Main purpose of the Act

- 3 The Act protects customers by giving them two new rights:
  - The right to cancel their timeshare agreement or timeshare credit agreement. They have 14 days to use this right, starting from the date they made the agreement.
  - The right to know what the agreement says. [sections 1, 2, 3, 7, 8]
- 4 Not all agreements are covered by the Act. It only applies if:
  - the customer or seller is in the United Kingdom when the agreement is being made; or
  - the agreement is subject to United Kingdom law. [s1]

Also, the customer must be acting as a private individual and the seller must be acting in the course of a business. [s13]

### Other important details from the Act

- 5 *Timeshare agreements* Before a seller makes an agreement, the seller must give the customer a right-to-cancel notice and a document setting out the terms of the agreement. A seller who fails to do this commits a criminal offence and can be fined. [s2]
- 6 Customers who do not get a right-to-cancel notice can cancel their agreement at any time. But they lose this right if, for example, they start using the timeshare or take some other action which shows that they regard their agreement as being in force. [s3]
- 7 If a customer uses the right to cancel, the seller must repay any money the customer has paid. [s3] A seller who refuses to repay does not commit a criminal offence and would have to be sued in the civil courts.
- 8 *Timeshare credit agreements* Similar protection is given to customers who buy timeshare rights using a loan received under a timeshare credit agreement. Customers who cancel this kind of agreement must normally repay the loan as if the purchase had gone ahead. However, if they fully repay within a month of cancelling, they need not pay interest. [s7, 8, 10]

### Who enforces the Act?

- 9 In Great Britain, the local weights and measures authority will normally enforce the Act. In Northern Ireland, the Department of Economic Development will enforce it. [Schedule]

The Citizen's Summary is not part of the Act. Judges may not use it when interpreting the Act.

The notes in square brackets show where to look for more details in the Act.