

EAST RENFREWSHIRE COUNCIL

CABINET

12 November 2015

Report by Director of Environment

CONSUMER RIGHTS ACT 2015

PURPOSE OF REPORT

1. The purpose of this report is to advise the Cabinet of the Consumer Rights Act 2015 and the effect that it will have on the enforcement of existing legislation that is delegated to Trading Standards.

RECOMMENDATIONS

2. It is recommended that the Cabinet
 - (a) Approve the addition of the Consumer Rights Act 2015 to the delegated list of legislation enforced by Trading Standards;
 - (b) Acknowledge that this Act will significantly enhance consumers rights; and
 - (c) Acknowledge that this Act will consolidate and standardise enforcement powers for a number of consumer related pieces of legislation.

BACKGROUND

3. As a “local weights and measures authority in Great Britain” this Council has a duty to enforce certain consumer related legislation. The enforcement of this legislation has been passed to Trading Standards via the Scheme of delegation.

4. Previously each piece of legislation had enforcement powers contained within the body of that legislation. This meant that some legislation had different enforcement powers attached to it. The Consumer Rights Act 2015 consolidates and clarifies enforcers’ powers in one place for legislation listed in Schedule 5.

5. It also sets out a framework that consolidates in one place key consumer rights covering contracts for goods, services, digital content and the law relating to unfair terms in consumer contracts.

REPORT

6. Consumer orientated legislation place the enforcement duty on a “local weights and measures authority in Great Britain”. This Act further defines “Enforcers” in terms of
 - (a) a domestic enforcer - UK legislation generated . Scottish government legislation does not pertain to this Act.

- (b) an EU enforcer - The EU has also legislated to protect consumers and so the UK legislation has been amended to incorporate this European legislation
- (c) a public designated enforcer, or;
- (d) an unfair contract terms enforcer

7. As a “local weights and measures authority in Great Britain” East Renfrewshire Council is a designated “enforcer” in terms of (a), (b) and (d)

8. The legislation in the Scheme of Delegation will not change but this Act repeals the enforcement powers sections in these pieces of legislation and replaces it with one standardised set of investigatory powers, contained in Schedule 5 via Paragraph 77, i.e.

- Power to purchase products
- Power to observe carrying on of business etc
- Power to enter premises without warrant—produce warrant card
- Power to inspect products etc
- Power to test equipment
- Power to require the production of documents
- Power to seize and detain goods
- Power to seize documents required as evidence
- Power to break open container etc
- Power to enter premises with warrant
- Power to require assistance from person on premises

9. These powers are to be used to assess compliance with legislation or, where appropriate, take enforcement action.

10. All Trading Standards Officers are qualified Inspectors of Weights and Measures and authorised under all consumer legislation in the Council Scheme of Delegation. This Act continues this in Schedule 5, 7(1) as Officers are defined as:

- (a) an inspector appointed by the enforcer to exercise powers under this Schedule, or authorised to do so.
- (b) an officer of the enforcer appointed by the enforcer to exercise powers under this Schedule, or authorised to do so.
- (c) an employee of the enforcer (other than an inspector or officer) appointed by the enforcer to exercise powers under this Schedule, or authorised to do so, or;
- (d) a person (other than an inspector, officer or employee of the enforcer) authorised by the enforcer to exercise powers under this Schedule.

11. The Act replaces three major pieces of consumer legislation - the Sale of Goods Act, the Unfair Terms in Consumer Contracts Regulations and the Supply of Goods and Services Act, and introduces changes such as: 30 days to get a refund, Digital Content Rights, Pre-contract Information and Unfair Contracts legislation to enable consumers to challenge hidden fees and charges. All of this will make it easier for consumers to understand and pursue their right in regard to faulty good and services.

FINANCE AND EFFICIENCY

12. This is a mainly a consolidation and clarification of existing consumer law and enforcement of it can be achieved within the existing Trading Standards budgetary provisions.

IMPLICATIONS OF THE PROPOSALS

13. Trading Standards currently enforces consumer legislation and advises consumers on their civil rights. This act consolidates, clarifies and in some cases enhances these rights and this change to legislation will assist us in service delivery and to meet needs of its residents.

14. There are no equalities, IT, financial or other implications associated with this report.

CONCLUSIONS

15. Appending this Consumer Rights Act 2015 to the list of legislation within the Scheme of Delegation will enable the Council to fulfil its statutory duty

RECOMMENDATIONS

16. It is recommended that the Cabinet to:

- (a) Approve the addition of the Consumer Rights Act 2015 to the delegated list of legislation enforced by Trading Standards;
- (b) Acknowledge that this Act will significantly enhance consumers rights; and
- (c) Acknowledge that this Act will consolidate and standardise enforcement powers for a number of consumer related pieces of legislation.

Director of Environment

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October 2015

KEY WORDS

Consumer, Rights, Enforcement, Powers