EXPLANATORY MEMORANDUM TO

THE CONSUMER RIGHTS ACT 2015 (CONSEQUENTIAL AMENDMENTS) ORDER 2015

2015 No. XXXX

1. This explanatory memorandum has been prepared by Department for Business, Innovation and Skills (BIS) and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 This Order makes a number of amendments to legislation in consequence of the Consumer Rights Act 2015 ('the 2015 Act').

2.2 It amends the Uniform Laws on International Sales Act 1967 to ensure that if parties choose to apply the Convention relating to a Uniform Law on the International Sale of Goods (as provided for by that Act), that choice takes effect subject to those provisions being treated as mandatory under the 2015 Act if the contract is with a consumer.

2.3 In addition it makes amendments to Schedules 14 and 15 to the Enterprise Act 2002. This ensures that public bodies have the power to disclose and share information obtained through or for the purposes of enforcing Part 2 of the 2015 Act on unfair terms and Chapter 5 of Part 3 of the 2015 Act in relation to online re-sale of tickets.

2.4 It also amends Schedule 3 of the Regulatory Enforcement and Sanctions Act 2008 ('the 2008 Act') by adding Parts 1, 2 and Chapter 5 of Part 3 of the 2015 Act to the legislation specified for certain purposes of the 2008 Act. This enables a local authority to be a "primary authority" in relation to "relevant functions" as regards a specified business. A "relevant function" includes enforcement of specified legislation.

2.5 Finally, it adds the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 (S.I. 2013/3134) ('the Regulations') to the list of legislation at paragraph 10 of Schedule 5 to the Act so that public enforcers of the Regulations have access to the investigatory powers in Schedule 5 to the Act. Consequential amendments to the Regulations are also made by removing the original investigatory powers provisions.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Context

4.1 Currently, parties can choose to apply the Convention relating to a Uniform Law on the International Sale of Goods subject to certain mandatory provisions of the Sale of Goods Act 1979. However, the Sale of Goods Act 1979 will not apply to business-to-consumer contracts entered into once the 2015 Act is in force. So this Order amends the Uniform Laws on International Sales Act 1967 to take account of the 2015 Act.

4.2 Schedule 14 and 15 of the Enterprise Act 2002 enable public bodies to disclose and share information through information gateways. This Order applies these information gateways to the enforcement of unfair terms and the online ticket market in the 2015 Act.

4.3 The 2008 Act provides for oversight of local authority functions and co-ordination of regulatory enforcement by local authorities through the primary authority scheme. These include functions, such as enforcement, related to specified legislation. The legislation which has been specified under the 2008 Act includes legislation which will be replaced by the 2015 Act, insofar as it relates to business-to-consumer contracts. So this Order adds the 2015 Act to the specified legislation.

4.4 Schedule 5 to the 2015 Act brings together the investigatory powers of consumer law enforcers currently found in a number of pieces of secondary legislation. This will simplify the legislative framework for enforcers and businesses which is considered as burdensome and confusing. To ensure the investigatory powers across consumer legislation are as harmonised as possible, the opportunity is now being taken to bring the Regulations within Schedule 5 to the 2015 Act.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

Nick Boles, Minister of State for Skills, has made the following statement regarding Human Rights:

In my view the provisions of the Consumer Rights Act 2015 (Consequential Amendments) Order 2015 are compatible with the Convention rights.

7. Policy background

7.1 UK consumers spend £90 billion a month[1]. However, UK consumer law is unnecessarily complex, ambiguous in places and has not kept up with technological developments. The Government consulted extensively on reforming consumer law,

[1] Household Final Consumption Expenditure (HHFCE) for the UK. http://www.ons.gov.uk/ons/rel/consumer-trends/consumer-trends/index.html

culminating in 2012 with a number of formal consultations. Responses to these consultations indicated that there was broad support for the reforms from business and consumer stakeholders.

7.2 In June 2013, the Government published its response to these consultations which proposed a simple, modern framework of consumer rights. A copy of the Government's response and accompanying impact assessments can be viewed here: https://www.gov.uk/government/publications/consumer-rights-bill. A draft Consumer Rights Bill was published alongside the Government's response which underwent pre-legislative scrutiny in late 2013. In January 2014, the Government published a statement on Policy Reform and Responses to Pre-Legislative Scrutiny.

7.3 On 23 January 2014 the Consumer Rights Bill was introduced into Parliament and it gained Royal Assent on 26 March 2015.

7.4 In order to simplify consumer law, the 2015 Act consolidates various provisions in existing legislation. These include provisions in the Sales of Goods Act 1979 and the Unfair Contract Terms Act 1977, insofar as they relate to business-to-consumer contracts, and the Unfair Terms in Consumer Contracts Regulations 1999. These provisions in existing legislation will not apply to business-to-consumer contracts entered into once the 2015 Act is in force.

7.5 Part 3 and Schedule 5 to the 2015 Act sets out the investigatory powers of public enforcers of consumer law, such as local authority Trading Standards Services, in one place so that these powers are more transparent. Adding the requirement for these enforcers to give two days' written notice will reduce the impact of burdensome inspections on compliant businesses.

7.6 Alongside the 2015 Act, the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 implement the Consumer Rights Directive (2011/83/EU). These regulations ensure that consumers and traders are clear about the bargain they are making in three main areas: information which traders should provide to consumers; cancellation rights and responsibilities; and measures to prevent hidden costs. The Government's response to the consultation on the draft regulations is available at: https://www.gov.uk/government/policies/providing-better-information-andprotection-for-consumers/supporting-pages/implementing-the-consumer-rightsdirective-2011-83-eu . The consumer law reforms constitute a fundamental reform of UK consumer rights and are predicted to boost the economy by £4 billion over the next decade. This will contribute to markets working more effectively, thereby driving economic growth.

8. Consultation outcome

8.1 Details of the consultation process for the consumer law reforms are given in paragraph 7.1. No formal consultation has taken place on the consequential amendments included in this Order.

9. Guidance

9.1 Guidance has been produced for the Consumer Rights Act 2015 which can be viewed here: http://www.businesscompanion.info/. Guidance was also produced for the Regulations which can be viewed at: https://www.gov.uk/government/policies/providingbetter-information-and-protection-for-consumers/supporting-pages/implementing-theconsumer-rights-directive-2011-83-eu. However, no guidance is being issued on the amendment included in this Order.

10. Impact

10.1 The impact on business, charities or voluntary bodies is nil. The Order simply updates the 2015 Act to add the Regulations to the list in Schedule 5 of the Act and makes consequential amendments to other legislation to ensure that they correctly reference the 2015 Act.

10.2 The impact on the public sector is nil. The Order simply updates the 2015 Act to add the Regulations to the list in Schedule 5 of the Act and makes consequential amendments to other legislation to ensure that they correctly reference the 2015 Act.

10.3 An Impact Assessment has not been prepared for this Order.

11. Regulating small business

11.1 This Order applies to small business to the extent that it will affect the regulatory framework for those that transact with consumers, however it will not impose any new or increased burden upon small businesses.

12. Monitoring & review

12.1 As this Order makes consequential amendments, the Department does not consider it appropriate to undertake any future reviews of the Order itself. However the 2015 Act will remain subject to regular reviews to ensure it is operating efficiently and providing consumers and businesses with appropriate rights and obligations.

13. Contact

Suzanne Redding at the Department for Business, Innovation and Skills Tel: 020 7215 0439 or email suzanne.redding@bis.gsi.gov.uk can answer any queries regarding this instrument.