STATUTORY INSTRUMENTS

1973 No. 1740

FAIR TRADING

The Pyramid Selling Schemes Regulations 1973

Made - - - -	*22nd October* 1973
Laid before Parliament	*25th October* 1973
Coming into Operation	*15th November* 1973

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

General

1.—(1) These Regulations may be cited as the Pyramid Selling Schemes Regulations 1973 and shall come into operation on 15th November 1973.

(2) In these Regulations "trading 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 £10 in respect of the introduction by him of another person who becomes a participant.

(3) The Interpretation Act 1889(**b**) shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

Contents of advertisements etc.

2. 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 trading scheme ; or

(*b*) any information calculated to lead directly or indirectly to persons becoming participants in such a scheme,

unless it—

(i) states the date from which the scheme first operated in the United Kingdom or, in the case of a proposed scheme, the date on which it is proposed to operate it ;

(ii) 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) describes the goods or services which form the subject of the scheme ;

(iv) states 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 ; and

(a) 1973 c. 41. (b) 1889 c. 63.

(v) describes the role of participants, or if there are two or more classes of participants, the role of each class of participant and, if persons who may participate are expected to induce others to buy goods or acquire services, indicates that such persons are expected to sell.

3. A person shall not issue, circulate or distribute any such document as is mentioned in Regulation 2 if it—

(*a*) includes any assertion or suggestion that the recruitment of participants is easy or that participants in the scheme will inevitably benefit financially from the scheme ;

(*b*) includes any example or illustration of the operation of the scheme in which the benefits which may accrue to a participant are demonstrated by aggregating the particular benefits to which a participant is entitled in consequence of each of a series of similar transactions or other occurrences ;

(*c*) 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 not less than or greater than a specified sum.

4. A person shall not issue, circulate or distribute any such document as is mentioned in Regulation 2, being a prospectus or circular, unless—

(*a*) it states the date on which it was first published ;

(*b*) it sets out the terms and conditions of the agreement on which persons invited to join the scheme are to participate ;

(*c*) it states the total number of participants in the relevant scheme or, if the scheme involves different classes of participants, the total number of participants in each class, at the date of publication of the document or at a date specified therein, being a date not earlier than three months before the date of publication ; and

(*d*) where the relevant scheme was in operation at the date twelve months prior to the date of publication of the document, it states the total number of participants, or if the scheme then involved different classes of participants, the total number of participants in each class, at that date.

Written contracts and rights of participants

5. A promoter of, or a participant in, a trading scheme shall not do any of the following things, namely—

(*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 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) all the terms of the agreement under which the relevant participant is participating in the scheme are set out in an agreement in writing made between him and the promoter or, if more than one, each of the promoters ;

(ii) a copy of that agreement has been furnished to that participant ; and

(iii) that participant enjoys the rights mentioned in Regulation 6:

Provided that nothing in head (i) or (ii) of this Regulation shall apply to preclude the doing of anything mentioned in heads (*a*) to (*d*) if the relevant participant was participating in the scheme before the commencement of these Regulations.

Participants' rights in connection with termination

6. The rights referred to in Regulation 5 are—

(*a*) a right to terminate participation at any time without penalty by giving seven 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 7 days after the participant first agreed to participate in the scheme and the participant so agreed after the commencement of these Regulations, a right to require the promoter or any of the promoters to repay him within 7 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 after the commencement of these Regulations ;

(*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 head (*b*) 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 determines 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 attributable to 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 determination at the promoter's expense at any place which the promoter may reasonably nominate,

any goods which the participant has purchased under the scheme after the commencement of these Regulations.

£25 liability limit

7. A promoter of, or a participant in, a trading scheme shall not accept from a participant any payment or undertaking to make a payment in respect of goods supplied or to be supplied under the scheme after the commencement of these Regulations if—

(*a*) the amount of the payment in question exceeds £25 ; or

(*b*) the amount of that payment plus any amount which the participant has already paid or undertaken to pay for other such goods exceeds £25,

unless—

(i) the participant has requested in writing that the relevant goods be supplied ; and

(ii) he agreed in writing to participate in the scheme at least 7 days before he made that request.

" Non-returnable " deposits

8. A promoter or a participant in a trading scheme shall not accept from a participant—

(i) any payment by way of security for goods or the payment of the price of goods supplied or to be supplied to the participant for sale by him on behalf of the promoter or a promoter or another participant under the scheme ; or

(ii) any undertaking to make such a payment,

unless the recipient has agreed in writing that the payment is refundable upon the participant returning the relevant goods in an undamaged condition to the promoter or a promoter or that other participant.

Training facilities and services

9. A promoter of, or a participant in, a trading scheme shall not—

(*a*) supply any training facilities or other services to a participant in the scheme, or

(*b*) be party to any arrangement under which such facilities are supplied or are to be supplied to a participant

unless the facilities or services are supplied or are to be supplied without charge to the participant.

Civil consequences of contraventions

10.—(1) When a participant makes any payment to or for the benefit of a promoter of, or to another participant in, a trading scheme and the accepting of that payment involves a contravention of Regulation 5, 7 or 8, 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 trading scheme in any circumstances involving a contravention of Regulation 5, 7 or 8 shall be enforceable against him in any civil proceedings.

(3) A participant in a trading scheme shall be under no liability to pay for goods supplied to him in circumstances involving a contravention of Regulation 5.

(4) A participant in a trading scheme shall be under no liability to pay for any training facilities or other services required by Regulation 9 to be supplied only without charge to him and shall be entitled to recover any payment made for such facilities or services.

22nd October 1973.

Geoffrey Howe,
Minister for Trade and Consumer Affairs,
Department of Trade and Industry.

EXPLANATORY NOTE

(*This Note is not part of the Regulations.*)

These Regulations relate to pyramid selling schemes and other trading schemes falling within the ambit of Part XI of the Fair Trading Act 1973.

They apply in relation to all schemes regulated by the provisions of Part XI other than schemes having the characteristics mentioned in Regulation 1(2)(*a*) and (*b*).

Regulations 2 to 4 are concerned with the content of documents which may induce people to participate in such schemes. All such documents must include the information set out in Regulation 2 and must not include any suggestion or example mentioned in Regulation 3. Additional information is required to be included in prospectuses and circulars (Regulation 4).

Regulation 5 generally requires participants to be given written contracts and the rights set out in Regulation 6, which include a right to withdraw at any time and to recover all payments if withdrawal is effected within 7 days of first joining. Participants must also be given the right to sell back goods purchased under the scheme to the promoter or promoters.

Regulation 7 limits to £25 the payments and commitments of new participants for goods supplied or to be supplied. It similarly limits the payments and commitments of any participants for goods the supply of which has not been sought in writing.

Regulation 8 prohibits the taking of " non-returnable " security payments from participants selling as agents: Regulation 9 prohibits the supply of training facilities and other services to participants if charges are made for them.

Regulation 10 deals with the civil consequence of breaches of Regulations 5 to 9.

SI 1973/1740
ISBN 0-11-031740-8

