

Complying with the *Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013* - Scenario-based Guidance for EVCC Members

1. Background

The *Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013* (the Regulations) came into effect in June 2014 and apply to items bought at a distance (including online) and away from a trader's premises (e.g. in a consumer's home), termed 'off-premises' contracts. The law also relates to the information that should be given to consumers when contracts are concluded on a trader's premises.

The Regulations will affect some Electric Vehicle (EV) home chargepoint installers. All businesses affected must comply with these laws otherwise they may be committing a criminal offence.

It is critical that EVCC members:

- **understand whether their business model brings them within the scope of the provisions for 'off-premises' and/or 'distance contracts; and, if they do**
- **select and use the appropriate EVCC model contract, cancellation notice and form and Express Request form in their dealings with consumers ; and**
- **ensure their EVCC model quote reflects their business model.**

The Regulations can be found [here](#).

This document examines the Regulations with particular emphasis on how they apply to EVCC members contracting with consumers

Please note: *The Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013* should not be confused with the *Consumer Protection from Unfair Trading Regulations 2008*. The Consumer Protection from Unfair Trading Regulations 2008 remain in place and prohibit misleading and aggressive commercial practices, including:

- misleading practices, such as false or deceptive messages, or failing to provide important information; and
- aggressive sales techniques that use harassment, coercion or undue influence.

In addition, there are several specific sales tactics that are banned, including:

- falsely claiming that a product or discount is only available for a very limited time in order to put pressure on a consumer to make a quick decision;
- staying in a consumer's home and ignoring requests to leave; and
- pestering consumers by phone, fax or e-mail.

For more about the Consumer Protection from Unfair Trading Regulations 2008 see [here](#).

You can also contact your local authority's trading standards service for further advice on regulations. You can find your local trading standards office and get advice [here](#).

2. Contract Agreements that fall within the scope of the new Regulations

The Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 (the Regulations) apply to goods and services that are bought away from a trader's normal premises and at a distance, including online. The Regulations refers to such agreements as contracts agreed 'off-premises' or by 'distance'. EVCC members should be aware of exactly how such contracts are defined.

DEFINITION OF AN OFF-PREMISES CONTRACT: The Regulations will apply if a consumer is asked to sign a contract during a sales visit to their home, or elsewhere, away from the EVCC member's trade premises and in the presence of a representative of the EVCC member. Under these circumstances the sale is defined as an 'off-premises contract'.

For general information visit [here](#).

Please note: this law will apply in many other circumstances *even if the contract is agreed after the home visit* (or after a meeting away from the business premises). For example, if a sales representative visits a consumer and leaves the quote/contract with the consumer to consider and the consumer is not given adequate time to reflect on the contract or pressure is applied to the consumer to return the contract – then the law may still apply.

DEFINITION OF A DISTANCE CONTRACT: The Regulations will also apply to your business if your sale is defined as a 'distance contract.' This is normally defined as a contract that has been negotiated and agreed exclusively by distance means (by post or email).

Please note: an agreement can still be a 'distance contract' even if a representative of your company visits the consumer's home. For example, if an EVCC member visits a consumer *for the sole purpose of completing a technical survey* and then the quote/order form is sent to the consumer and the contract is subsequently completed by post or email.

For general information visit [here](#).

3. Consumer Rights – ‘off-premises’ and ‘distance’ contracts

Where agreements are defined as ‘off-premises’ or ‘distance’ contracts then the Regulations state that:

- Consumers must be given certain information before the contract is agreed. The EVCC model documents are designed to comply with these rules. All EVCC members have an obligation to make sure that they are using the correct versions of the model contract, cancellation notice and form and Express Request form to comply with the Regulations for their business model.
- For ‘off-premises’ and ‘distance’ sales contracts the cancellation period starts when the consumer signs the contract and ends 14 days **after all of the goods relating to the contract are delivered to the consumer’s home**.
- Consumers should return items within 14 days of cancellation. Online and other distance or off-premises traders will be able to withhold refunds until goods are returned (or evidence of return is provided) and they can reduce the amount of money refunded for goods returned which show evidence of use beyond the handling necessary to see whether the goods are as expected.
- Traders must refund within 14 days of cancellation of service contract or receipt of goods (or on evidence of the consumer returning them).
- Where the consumer cancels a contract, any ancillary contract (such as a warranty or credit agreement) is automatically cancelled.

EVCC members who fail to give the consumer written notice that they can cancel the contract may not be able to enforce the contract and may be committing a criminal offence. The cancellation period may be extended up to 12 months or until the EVCC member has complied with its obligation to give the consumer written notice that they can cancel the contract. Therefore EVCC members **must** give consumers the appropriate version of the EVCC model contract, cancellation notice and cancellation form from the start.

4. Starting work before the end of the cancellation period (off-premises and distance contracts)

Under the Regulations the trader **cannot** start the work (that is the subject of the contract) before the end of the cancellation period **unless** the consumer has given the trader ‘express request’ to do so.

Starting installation work within the cancellation period ‘at the firm’s own risk’ *without the* express request from the consumer is in breach of regulation 36(1) of the legislation and the EVCC. Installation work *without consent* puts pressure on consumers not to cancel and is not allowed under any circumstances.

Permission to start work is called the 'express request' and is defined as a letter or email (or a request made on some other 'durable medium'). The EVCC model 'Express Request form' complies with the legislation if it is provided as a separate document to the contract and order form i.e. it must not be inserted into the contract or order form. It includes a signature box for the consumer, which must be signed by the consumer to be valid.

If the customer later decides to cancel the contract within the cancellation time they are liable for any work undertaken during that time.

Please note: Under 36(2) of the legislation, the consumer loses the right to cancel the contract within the cancellation period when the installation is completely finished. The company can charge the full contract price when this occurs.

5. Definition of an 'On-Premises' Contract

Confusingly, an 'on-premises' contract is *not* defined simply as any contract agreed between a trader and a consumer within the trader's normal business premises. Instead, 'on-premises' contracts are defined as contracts between traders and consumers that are neither distance contracts nor off-premises contracts.

If the contracts your company agrees with consumers are defined as 'on-premises' contracts then the strict cancellation rights as set out in the Regulations do not apply. However, EVCC member companies that are sure that their current practice means that their contracts do not fall within the scope of the Regulations must still comply with the EVCC.

EVCC requires such members to offer a cancellation period of 14 days after the contract is agreed during which the consumer can cancel the contract without penalty (e.g. if a deposit has been taken, it must be returned on cancellation).

Such EVCC members must use the appropriate version of the EVCC model contract, cancellation notice and cancellation form. For more information see section 5.3 of the EVCC.

6. Scenario-based Guidance

The following guidance is based on REAL's current knowledge of the Regulations. However, it is ultimately the courts that must interpret the legislation.

1. Are EV home chargepoints exempt from the Regulations?

Scenario 1a

We don't think the Regulations apply to our company because Clause 28(1)(b) of the Regulations state that the supply of goods that are made to a consumer's specifications or that are clearly personalised are exempt. In our view this means that EV home chargepoints are exempt because they are clearly designed for individual properties. Is this correct?

This is not correct. An EV home chargepoint made up of standard components is not manufactured to the consumer's specifications. The fact the whole system is designed for one specific property does not make the components bespoke and therefore exempt from cancellation rights.

2. What is an 'off-premises' contract?

Scenario 2a

My company uses sales agents who visit consumers in their homes. They talk to consumers, explain the benefits of an EV home chargepoint and they invite consumers to sign agreements during their visit. If the consumer agrees, the consumer will pay a deposit there and then when the contract is signed.

Agreements signed under these circumstances would be defined as 'off-premises' contracts.

Scenario 2b

Our electricians act as our sales agents. They visit consumers to assess the property's supply and load and, where the installation is viable without further work, will normally leave quotes and order forms with consumers to send back if they decide to commit to the contract. Of course, if consumers want to sign the contract when our electricians are present then that's fine by us.

As with Scenario 2a, the Regulations will apply if a consumer signs a contract during a sales visit to their home in the presence of a representative of the EVCC member.

Scenario 2c

When members of our sales team make home visits they sometimes leave quotes and order forms with consumers to send back if they decide to commit to the contract. If we don't hear from those consumers within a couple of days then we'll phone them to ask them if they've made a decision.

Consumers must have 'time to reflect upon the estimate of the trader before concluding the contract'. If your company phones a consumer soon after a home visit (and the consumer then agrees to sign the contract and send it back) then that contract is likely to be defined as an 'off-premises' contract.

Scenario 2d

I recently visited a consumer to talk to them about installing an EV home chargepoint and assess the property. I gave her a quote and contract agreement to consider. I had no further contact with her after I left her house. After a few days her completed order form arrived at the office with her deposit.

Because this consumer has had 'time to reflect' without further visits, phone calls or deadlines, then this agreement would probably be defined as an 'on-premises' contract. The cancellation period for on-premises applies, according to EVCC.

3. What is a distance contract?

Scenario 3a

My electrician visits a consumer only to carry out a survey and assess the electricity supply and load. She does not talk to the consumer about the contract or the quote. If that assessment indicates the installation can go ahead without any alterations or upgrades, we put the quote in the post to the consumer. If the consumer has any questions we deal with those by email or by phone.

Because this agreement is negotiated and agreed exclusively by distance means (by post or email for example) then, under the circumstances described, it would be defined as 'distance' contract under the Regulations. The company does visit the consumer, but the actual contract is negotiated and agreed by distance. The cancellation period for off-premises and distance contracts applies.

Scenario 3b

I or my electricians do all the sales visits for my company. We visit, carry out our assessments and talk to the consumer about the costs, performance etc. Then I send a quote by post or email. It is then up to the consumer what they want to do. If they want to go ahead, they return the order form and signed contract by post. Would this be a 'distance' contract under the Regulations?

In this scenario, the trader and the consumer discussed and negotiated the contract during the sales visit so it is not a 'distance' contract. Also, as long as this consumer is not pressured into agreeing the contract in any way during or after the sales visit, then it is unlikely that this agreement would be defined as an 'off-premises' contract. As explained in Section 5 above, it is likely this agreement would be defined as an 'on premises' contract.

4. What is 'express request'? (Starting the installation before the end of the cancellation period).

Scenario 4a

My consumer is keen for us to start their EV home chargepoint installation as soon as possible. Is there any way we can start the installation before the end of the cancellation period without putting at risk all the money we spend on this work if the consumer does decide to cancel within the cancellation period.

Your company cannot start the work unless the consumer has given you their 'express request' to do so within the cancellation period. This means that they must give you written consent (by letter or email for example) to start the work. EVCC members must provide consumers with the 'Express Request form' for this purpose as a separate document to the contract and your consumer must sign it for it to be valid.

Under 36(2) of the legislation, the consumer loses the right to cancel the contract within the cancellation period when the installation is completely finished. The company can charge the

full contract price when this occurs.

5. What happens if our consumer gives us their 'express request' to start the installation but then decides to cancel the contract before the end of the cancellation period?

Scenario 5a

Mr Brown gave my company his express permission to start an EV home chargepoint installation within the 14-day cancellation period.

My company delivered the equipment to Mr Brown's home and we started to prepare the site for installation. Four days after delivery, Mr Brown said he wanted to cancel the contract. The main components are on site and have not yet been installed.

Under the Regulations, because Mr Brown signed an Express Request form - is he liable for the full contract price?

No – if the consumer signs an Express Request form he can still cancel his purchase of the goods as long as he does so within the cancellation period. The company can charge for the work undertaken up to the point of cancellation. Where a consumer cancels and the company has already installed some components, the company can only charge the consumer for the work – not the parts. Provided the installation is not complete, the components should have re-sale value. The legislation *does not* state that the company can charge *for the cost of removing the goods*.

Scenario 5b

Mrs Smith gave my company her express permission to install an EV home chargepoint within her cancellation period.

My company delivered the equipment to Mrs Smith's home and we completely finished the installation two days after delivery. One week after installation (and within the 14- days after delivery of all the goods) Mrs Smith said she wanted to cancel the contract.

Under the Regulations, because Mrs Smith signed an Express Request form - is she liable for the full contract price? If not, can my company charge the full price for any goods that do not have re-sale value? Can the company charge the consumer for the time involved in removing the goods?

Under 36(2) of the legislation, the consumer loses the right to cancel the contract within the cancellation period if the installation is completely finished. The company can charge the full contract price.

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