

## Antiquities/Antiques

If you trade in fine art, antiques, antiquities, antiquarian books, manuscripts, or other collectibles, the Consumer Protection from Unfair Trading Regulations 2008 (CPRs) (<http://www.legislation.gov.uk/uksi/2008/1277/contents/made>) apply to your business. This leaflet only covers the requirements of the CPRs but please also be aware that other legislation - both national and local - may apply to your business. You should be aware that the Regulations apply whether you are selling to, or buying from, consumers.

If you are selling to businesses, the Business Protection from Misleading Marketing Regulations 2008 (<http://www.legislation.gov.uk/uksi/2008/1276/contents/made>) will apply, which prohibit you from giving a misleading indication to the other business which would deceive him and affect, or be likely to affect, his economic behaviour or injure or be likely to injure a competitor.

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### Unfair commercial practices

The Consumer Protection from Unfair Trading Regulations 2008 (<http://www.legislation.gov.uk/uksi/2008/1277/contents/made>) prohibit commercial practices that are unfair. The Regulations prohibit a trader from misleading consumers about a number of specified matters, either through providing information which is false, or through information which is misleading. It is also a breach of the Regulations to omit information which a consumer needs in order to make an informed purchase.

The specified matters in relation to goods (and parts of goods) include the following:

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- the existence or nature of the item (in other words, what it actually is)
- the main characteristics of the item which includes:
  - the composition of the item (what it is made from)
  - the geographical origin of the item ('English' for example)
  - the method and date of manufacture (such as describing an item as 'Regency')
  - usage of the product (which could include its history)
- the price or the manner in which the price is calculated
- the existence of a specific price advantage

For a practice to be a misleading action or omission it must cause, or be likely to cause, the average consumer to take a different transactional decision. In practice, this means that the consumer is influenced to make a purchase or decides not to purchase, based upon that misleading action.

Also, giving the consumer inaccurate information about market conditions, or how easy it might be to find the item elsewhere in order to get the customer to buy (or sell) at unfavourable conditions, is specifically banned, regardless of the effect on the consumer.

See also our leaflets 'A guide to the Consumer Protection from Unfair Trading Regulations 2008'

([http://www.derbyshire.gov.uk/images/ft23\\_tcm44-71886.pdf](http://www.derbyshire.gov.uk/images/ft23_tcm44-71886.pdf)) and 'A guide to the Business Protection from Misleading Marketing Regulations' ([http://www.derbyshire.gov.uk/images/ft27\\_tcm44-94976.pdf](http://www.derbyshire.gov.uk/images/ft27_tcm44-94976.pdf)).

### **'Antique'**

There is no uniformly accepted definition of the term 'antique', though many people use the measure that anything over 100 years old is an antique. The key consideration in applying any description is that it should not be misleading. Terms such as 'collectible' or 'vintage' may be more appropriate than 'antique' for more recent pieces.

Special cases:

- 'antique' firearms - only certain firearms may be sold as antique with restrictions not being purely age related - you should seek advice from your local police if selling such items. Useful guidance can also be found on the Home Office website (<http://www.homeoffice.gov.uk/>)

- sales of 'antique' knives are generally exempt from offensive weapons controls but care should be exercised when describing such items and advice should be sought from your local police
- under Hallmarking legislation, the date at which items of gold and silver are considered antique, and therefore exempt from hallmarking, is 1920
- 'cultural items' are subject to special controls under the 1970 UNESCO convention - you should obtain guidance from the Department for Culture Media and Sport (DCMS) Cultural Property Unit (<http://www.culture.gov.uk/>)

### What you can do

To avoid breaching the Consumer Protection from Unfair Trading Regulations 2008

(<http://www.legislation.gov.uk/ukxi/2008/1277/contents/made>) (and possibly committing a criminal offence) you should set up a system of checks on items you buy and sell, and ensure that these checks are effectively carried out. This is known as taking all reasonable precautions and exercising all due diligence, and it is a defence within the Act.

The following points are **recommended** for inclusion in such a system:

- obtain a receipt on all purchases, identifying the name and address of the seller
- ask for written provenance or other written information that establishes the item's descriptions - verbal information is not sufficient
- if an object has been repaired or restored, establish to what extent and pass on this information to any prospective purchaser (preferably in writing)
- keep records of all items you buy and sell, the description you applied to each, and any supporting information for this description (such as the auction catalogue)
- any item that is sold with a guarantee of authenticity must be supported by proof that the object has been examined and is genuine
- set up procedures that ensure that each item on display or being advertised has been recorded properly as mentioned above - if you have a member of staff who acts as an expert, he/she should have seen the item and the description you intend to apply prior to it going into the shop or being advertised - all staff should be

aware of the procedures - no member of staff without sufficient expertise should be putting descriptions to items

- the Regulations prohibit commercial practices which contravene the requirements of professional diligence - if you have any reason to doubt the authenticity of a product (such as a manufacturer's mark), particularly where there has been known to historical abuse, then you should disclose this doubt - this would not apply where you have applied a description of manufacture or origin yourself

Also, to avoid common problems associated with dealing in antiques, you should:

- specifically ask if the property being offered to you is free of any legal claim and that the seller is authorised to sell it
- be suspicious of any item with an asking price that does not equate to its market value
- pay by cheque or other method that provides an audit trail
- notify the police if you suspect that an item is stolen or from excavations, architectural monuments, public institutions or private property
- refuse to buy, sell or value it, if you are concerned about an object's history

If you are examining items and applying descriptions to them yourself, you should be extremely careful. Customers are likely to view your opinion as that of an expert and rely on your description.

The Regulations apply to persons selling items as agents for another person as well as the actual owner of the item being sold.

### **Auction houses**

An auction house is similarly within the scope of the Regulations, and can commit an offence of applying misleading information to or omitting information about an item.

Auction houses should not rely on a general disclaimer in a catalogue in an attempt to avoid liability for the descriptions being applied to the items that are being auctioned. An auction house should ensure that the owner of the item verifies the description to be applied to it, or that an expert is employed to advise on descriptions.

## Relevant legislation

Business Protection from Misleading Marketing Regulations 2008

(<http://www.legislation.gov.uk/uksi/2008/1276/contents/made>)

Consumer Protection from Unfair Trading Regulations 2008

(<http://www.legislation.gov.uk/uksi/2008/1277/contents/made>)

### *Where can I get further help?*

This leaflet is not an authoritative document on the law and is only intended for guidance. For further details or clarification contact Derbyshire Trading Standards at:

Chatsworth Hall  
Chesterfield Road  
Matlock  
Derbyshire  
DE4 3FW

Telephone:

<b>Businesses:</b>	Call Derbyshire	08 456 058 058
<b>Consumers:</b>	Citizens Advice consumer helpline	08454 040506

Fax: 01629 536197

Website: [www.derbyshire.gov.uk/tradingstandards](http://www.derbyshire.gov.uk/tradingstandards)

We want everyone to be able to understand us. On request, we will arrange:

- Language interpreters, including for sign language
- Translation of written materials into other languages
- Materials in large print, on tape or in Braille.

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[http://www.derbyshire.gov.uk/images/ft13\\_tcm9-8197.pdf](http://www.derbyshire.gov.uk/images/ft13_tcm9-8197.pdf)

or telephone us on 01629 536166.

