

CHAPTER 317
DOORSTEP CONTRACTS ACT

*Substituted by:
XXVI. 2000.17.*

To regulate the activities of door-to-door sellers.

11th February, 1987;
15th March, 1987

ACT VII of 1987, as amended by Acts XXVIII of 1994 and XXVI of 2000.

1. The short title of this Act is the Doorstep Contracts Act.

Short title.
*Amended by:
XXVI. 2000.17.*

2. In this Act, unless the context otherwise requires -

"business premises" include the premises or any other place where or from which a trader regularly carries on business activity, and include stalls at fairs and markets;

Interpretation.
*Amended by:
XXVIII. 1994.45;
XXVI. 2000.17.*

"consumer" means a person who in transactions covered by this Act acts otherwise than in a commercial or professional capacity;

"Council" means the Consumer Affairs Council established by the Consumers Affairs Act;

Cap. 378.

"Director" means the Director of Consumer Affairs;

"doorstep contract" means a contract for the provision or supply of goods or services to a consumer by a door-to-door seller acting either on his own behalf or on behalf of a trader, which contract has been negotiated at the consumer's home or place of work or at any other place or premises away from the business premises of the door-to-door seller or of the trader on whose behalf he is acting, including contracts concluded during an excursion organised by the trader away from his business premises, or during a visit by a trader to the consumer's home or to that of another consumer, or to the consumer's place of work;

"door-to-door seller" means a person who offers the provision or supply of any type of goods or services by means of a doorstep contract, whether the offer is unsolicited by the person to whom it is made, or is solicited by the latter person in response to any advertisement, but does not include vendors of foodstuffs and drinks who sell their goods from door-to-door;

"goods" include any article or thing, whether tangible or intangible, which may form the object of trade;

"Minister" means the Minister responsible for consumer affairs;

"prescribe" means prescribed by regulations under this Act;

"services" shall have the meaning assigned to it under the Consumer Affairs Act, but shall exclude contracts of insurance;

Cap. 378.

"trader" shall have the meaning assigned to it by the Consumer Affairs Act, and includes any person acting in the name, on behalf or in the interest of a trader or under the trader's direction, and further includes a person who is acting in furtherance of a

Cap. 378.

professional activity, and, unless the context otherwise requires, includes also the door-to-door seller.

Application.
Amended by:
XXVIII.1994.45;
XXVI. 2000.17.

3. This Act shall not apply to -

- (a) contracts which have been negotiated exclusively at the initiative of the consumer where the contract exclusively concerns the goods or services regarding which the consumer requested the visit of the trader:

Provided that the ordering of catalogues, patterns, samples and similar items, a request by the consumer for a visit or demonstration, and participation in an event organised by the trader, shall not be considered as initiating negotiations;

- (b) contracts which have been negotiated solely in writing, not being doorstep contracts;
- (c) contracts which are concluded before a court, notary or other person who is under a duty to inform both contracting parties of their rights and obligations;
- (d) contracts relating to immovable property or any rights thereto;
- (e) contracts under which the overall price payable by the consumer does not exceed twenty liri:

Provided that where one or more contracts provide for a continuous supply and the whole value of the contract is or may be made to exceed twenty liri, such contract or contracts shall, notwithstanding the value of each individual separate consignment, be deemed to be a contract under which the overall price payable by the consumer exceeds twenty liri;

- (f) contracts relating to the sale of such goods as the Minister may prescribe.

Licence to act as
itinerant seller.
Amended by:
XXVI. 2000.17.

4. (1) No person may act as a door-to-door seller unless he is in possession of a licence issued for the purpose by the Director. Such licence shall not exempt its holder from obtaining any other licence or permit required by or under any other law.

(2) Unless otherwise prescribed, the Director shall not issue such a licence except to a person who -

- (i) is an individual of majority age;
- (ii) produces a certificate from the Commissioner of Police showing that he is of good conduct, and in addition produces such other evidence of his probity, reliability and competence as the Director may require or as may be prescribed; and
- (iii) has a place of trade at a permanent address which is open to the public at regular hours, or is employed by such person.

(3) A licence to act as a door-to-door seller shall be personal and shall be valid up to the end of the calendar year in which it is

issued, and may be renewed by the Director for further periods not exceeding one year each.

(4) The Director may at any time withdraw or suspend or refuse to renew a licence under this article, if the holder of the licence has acted in breach of any of the provisions of this Act or has been convicted of any offence under this Act, the Consumer Affairs Act, or any regulations made thereunder.

Cap. 378.

(5) The Director may charge for the issue or renewal of a licence such fees as the Minister may prescribe.

5. (1) Any person who acts as a door-to-door seller without a licence from the Director or who employs or otherwise conducts trade through a door-to-door seller who is not in possession of a licence issued by the Director shall be guilty of an offence against this Act and shall be liable, on conviction, to a fine (*multa*) of not less than one hundred liri but not exceeding five hundred liri, or to imprisonment for a term of not more than six months, or to both such fine and imprisonment.

Penalty for acting as an itinerant seller without a licence.
Amended by:
XXVI. 2000.17.

(2) Any doorstep contract concluded with or through a door-to-door seller who does not hold a valid licence under this Act, shall, at the option of the consumer, be annulable:

Provided that such nullity shall not be raised by the consumer after the lapse of the period of one month from the date when the goods or services to which the contract refers are delivered or supplied to him, and shall not be pleaded by the door-to-door seller or the person employing him or otherwise conducting trade through him, at any time.

5A. A person who calls at the home or place of work of a consumer for the purpose of negotiating a doorstep contract or for an incidental or related purpose shall leave that place at the request of the consumer. Any person who fails to leave such home or place of work when so requested shall be guilty of an offence against this Act and shall on conviction be liable to a fine (*multa*) not exceeding five hundred liri.

A person engaged in door-to-door trading to leave if requested to do so.
Added by:
XXVI. 2000.17.

6. (1) No doorstep contract made by or through a door-to-door seller shall be valid unless it is concluded by a private writing which may be cancelled as is provided in article 8.

Sales to be concluded by private writing.
Amended by:
XXVI. 2000.17.

(2) One copy of the private writing shall be retained by the door-to-door seller and another copy shall be retained by the consumer. A cancellation form shall be attached to the private writing retained by the consumer.

7. A private writing shall, on pain of nullity, contain -

- (a) the date when and place where it is signed;
- (b) the name and address of the consumer;
- (c) the name of the door-to-door seller and the number of his licence;
- (d) the permanent address of the place of trade of the door-to-door seller or the person by whom he is

Contents of private writing.
Amended by:
XXVI. 2000.17.

- employed;
- (e) a description of the goods or services to which the contract refers;
 - (f) the price for which the goods or services were to be supplied, and the terms of payment, including full details regarding interests and any other charges;
 - (g) the time stipulated for the supply of the goods or services, which time shall in no case exceed sixty days from the date of the private agreement;
 - (h) a clause printed in clear, bold and highlighted type that the consumer has the right to cancel the private writing in accordance with the provisions of article 8;
 - (i) such other additional conditions or particulars as the Council may require from time to time; and
 - (j) such other conditions as the Minister may from time to time prescribe in order to ensure a proper description of the goods and that no undue pressure is exerted on the consumer.

Cancellation of
doorstep contract.
Substituted by:
XXVI. 2000.17.

8. (1) A doorstep contract shall not be binding and conclusive if it is cancelled by the consumer as provided in this article: provided that cancellation is made within fifteen days from the date of the private writing, or within such longer period as may be stipulated in the private writing.

(2) Cancellation of a doorstep contract may be made in any manner provided the intention is substantially conveyed by the consumer to the door-to-door seller or to the trader on whose behalf he is acting. Cancellation may be effected by word of mouth, by means of telephone or telefax message, or by the delivery either by hand or by ordinary or registered post at the permanent address of the door-to-door seller or trader of a notice of cancellation form signed by the consumer or by a person duly authorised to represent him.

(3) A cancellation form in the form set out in the Schedule may be used by a consumer wishing to cancel a doorstep contract. A copy of such a cancellation form shall in all cases be attached to the copy of the private agreement retained by the consumer. If the consumer wishes to avail himself of the cancellation form he may sign such form and deliver it to the door-to-door seller or to the trader on whose behalf is acting.

(4) It shall be the obligation of a door-to-door seller who calls on a consumer to forthwith inform him of his status as a door-to-door seller, of the purpose of his call, to properly identify himself, and to properly explain to the consumer his rights of cancellation arising under this article and of the possibility to use the cancellation form.

Payment of
doorstep contract
price.
Amended by:
XXVI. 2000.17.

9. Except for a payment of a deposit not exceeding ten *per centum* of the price of the goods being the subject of the doorstep contract, which deposit shall not be payable before the expiration

of the time within which it may be cancelled in accordance with article 8, the door-to-door seller or the trader on whose behalf the door-to-door seller has concluded the doorstep contract, shall not require the consumer to pay any part of the price before the delivery of the goods, and where the goods are delivered in parts, no payment shall be demanded except as represents the price of the part delivered.

10. (1) Where a doorstep contract has not been cancelled in accordance with article 8, the consumer shall not have a right to cancel the doorstep contract without just cause, unless such right is stipulated in the private writing.

Right of
cancellation.
Amended by:
XXVI. 2000.17.

(2) The consumer shall have the right to cancel a doorstep contract for a just cause, or because of the violation by the door-to-door seller of any of the provisions of article 9.

11. Any clause in the private writing which -

- (a) requires the consumer to pay any form of compensation if he exercises his right to cancel the doorstep contract, or
- (b) provides that any dispute arising therefrom shall be settled otherwise than by the competent court in Malta, or
- (c) purports to remove or reduce any of the rights given to the consumer by any of the provisions of this Act, or to limit or remove the competence of local courts or tribunals,

Prohibited clauses.
Amended by:
XXVI. 2000.17.

shall be void.

12. In any dispute as to whether -

- (a) a doorstep contract has been negotiated exclusively at the initiative of the consumer, or
- (b) a doorstep contract has been negotiated solely in writing, or
- (c) the provisions of this Act have been complied with in the conclusion of the doorstep contract, or
- (d) the allegation that the right of cancellation had not been exercised by the consumer within the period established under article 8,

Burden of proof.
Amended by:
XXVI. 2000.17.

the burden of proof shall lie with the trader.

13. Notwithstanding the provisions of this or any other law, the consumer shall not be barred from bringing an action or pleading a defence under this Act on the ground of a false or incorrect date of conclusion of the private writing or its cancellation, even where such falsity or incorrectness has been made by him or with his knowledge and consent.

False statement by
consumer

14. (1) A contract of sale concluded before the coming into force of this Act, being a contract of sale to which the provisions of this Act are applicable, shall not be enforceable against the consumer unless there has been made the actual delivery of the

Sales concluded
before the coming
into force of this
Act.

goods sold and the payment of the price of the sale, or, if the benefit of payment by instalments has been granted to the consumer, at least twenty-five per cent of the purchase price has been paid:

Provided that the trader may in such cases recover any expenses that he may have actually incurred under the contract.

(2) When a consumer wishes to keep in effect a contract which in accordance with the provisions of subarticle (1) is not enforceable by the trader, he shall within one month from the coming into force of this Act confirm the same by signing and delivering to the trader a declaration confirming the contract, and thereupon such contract shall be enforceable by either party.

Power to make regulations.
Amended by:
XXVI. 2000.17.

15. The Minister may make regulations for better putting into effect any of the provisions of this Act, and without prejudice to the generality of the foregoing may by such regulations prescribe:

- (a) the fees to be paid for any licence under this Act;
 - (b) the fees to be paid for any service that may be provided by the Director under this Act;
 - (c) the form in which any contract or cancellation or any clause thereof shall be made, whether generally or in respect of any class of goods;
 - (d) the form in which any licence shall be issued under this Act;
 - (e) the means of identification of any door-to-door seller licensed under this Act;
 - (f) the requirements and qualifications for the issue of a licence;
 - (g) such goods or services that may not be sold by means of a doorstep contract;
 - (h) any other matter which may be prescribed under this Act.
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SCHEDULE

*Amended by:
XXVI. 2000.17.*

[ARTICLE 8]

Cancellation of Doorstep Contract

To _____
(Name and address of Trader)

I hereby declare that I am cancelling the doorstep contract for the purchase of

(description of goods)

for the price of _____

payable _____

signed between _____
(Name of door-to-door seller)

on behalf of _____
(Name of company)

and myself _____
(Name of consumer)

on _____
(date or doorstep contract)
