



Scottish Law Commission

promoting law reform

news release • news release

ISSUED ON BEHALF OF THE SCOTTISH LAW COMMISSION

NOT FOR PUBLICATION OR BROADCAST

BEFORE 0001 HOURS 6 MAY 2011

CLAMPING DOWN ON SCAMS AND RIP-OFFS

The Scottish Law Commission, in conjunction with the Law Commission for England and Wales, is asking for views, by 12 July 2011, on how the law should be changed to ensure that consumers have a clear and easy route to redress if they fall victim to misleading and aggressive practices.

Misleading and aggressive practices directed at consumers are common. Often, it is the most vulnerable in society who fall victim to these, with housebound and elderly individuals being particularly susceptible. Misleading practices include fake “wins” and traders selling miracle products which falsely claim to cure illness or restore youth. Aggressive practices include persistent sales calls and threats to damage credit ratings if debts, which are not due, are not paid.

Currently, such practices are prohibited by the Consumer Protection from Unfair Trading Regulations 2008. The consumer, however, does not have a direct right to claim compensation and is left to rely on existing law which is complex and confusing and which leaves gaps in protection; it is often difficult, if not impossible, for a victim of a misleading or aggressive practice to obtain a refund.

The Law Commissions propose that consumers should have a right, which would be limited in time, to “unwind” a transaction, return the item and obtain a refund. If unwinding is not possible, it is proposed that a discount in price could be claimed. Extra losses, for example for distress and inconvenience, could be claimed if proved, with traders having a right to escape liability if they can show that they took all reasonable precautions to avoid committing an offence.

Professor Hector L MacQueen, the Commissioner leading the project in Scotland, said:

“The proposed changes are designed to increase ease of access to redress for consumers, particularly those who do not take legal advice. Having laws which will help those who fall victim to unscrupulous traders will increase consumer confidence and will drive rogue traders out of the marketplace, where currently they damage the reputation of honest businesses.”

NOTES TO EDITORS

1. The Scottish Law Commission was set up in 1965 to promote the reform of the law of Scotland. The Chairman is the Hon Lord Drummond Young, a Court of Session judge. The other Commissioners are Laura J Dunlop QC, Patrick Layden QC TD, and Professor Hector L MacQueen. The Chief Executive is Malcolm McMillan.
2. The joint Consultation Paper on Consumer Redress for Misleading and Aggressive Practices was published, on 12 April 2011, during the Scottish Election period. The Paper and a Summary are available on our website at www.scotlawcom.gov.uk; the Paper may also be purchased from TSO (www.tsoshop.co.uk).
3. Further information can be obtained by contacting Gillian Swanson, Scottish Law Commission, 140 Causewayside, Edinburgh EH9 1PR (Tel: 0131 668 2131, Fax: 0131 662 4900, email: info@scotlawcom.gsi.gov.uk).