

SENIOR CITIZENS' GUIDE TO CANCELLATION OF A REMOTE SALES TRANSACTION

By Advocate Shavit Ben-Chorin

A customer aged 65+ who has made a remote purchase of a product or service is permitted to cancel the transaction within four months from the date of receiving the product or from the date of receiving the agreement – the latter of the two dates. Customers below the age of 65 are only entitled to cancel a transaction within fourteen days.

WHAT IS A REMOTE SALES TRANSACTION?

A remote sales transaction is a transaction involving goods or services made without the physical presence of the two parties to the transaction, i.e. not made face to face.

A transaction made by the supplier contacting the customer by mail, telephone, radio, fax, TV, catalog, leaflets, email, or by a demonstration of the product or service shown on the website of the supplier before making the purchase.

The customer makes the purchase on the basis of the information provided on a website, in a catalog, or by telephone.

EXAMPLES OF A REMOTE SALES TRANSACTION

- Ordering a product on the internet
- Booking a cruise through a travel agency as a result of advertising in a newspaper or on a website
- A sales representative of a cellphone company contacting a customer and offering to sell the customer a cellphone.

FULL DISCLOSURE FORM

In every remote sales transaction, the supplier is required to provide a Full Disclosure Form that includes: Name, ID number, and address of the supplier in Israel and abroad, the key features of the goods or service, price of the product or service and terms of payment for the transaction and an explanation on how the customer

can exercise the right to cancel the transaction.

CANCELLATION OF A REMOTE SALES TRANSACTION

A customer aged 65+ who has made a remote purchase of a product or service is permitted to cancel the transaction within four months of either the date of purchase or the date of receipt of the Full Disclosure form – the latter of the two dates. Cancellation is possible on condition that the transaction was preceded by a conversation between the supplier and the customer, including a conversation via electronic means of communication.

NOTIFICATION OF CANCELLATION OF A TRANSACTION

Remote sales transactions for the purchase of a product:

The customer in a remote sales transaction must notify the supplier of cancellation of the transaction within four months from the date of receipt of the product or from the date of receiving the details of the transaction – the latter of the two dates.

Remote sales transactions for purchase of services of hospitality, travel, flights, vacation or entertainment:

The customer must notify the supplier of cancellation of the transaction within four months of making the transaction or of the date of receipt of details of the transaction – the latter of the two dates – but no later than seven working days before actual provision of the service.

Other services: The customer must notify the supplier of cancellation of the transaction within four months of making the transaction or of the date of receipt of the transaction details – the latter of the

two dates. If the transaction is for services that are not ongoing, the supplier must be notified of the cancellation up to two working days before the start of the service.

HOW TO CANCEL THE TRANSACTION

The supplier must accept cancellation by notification provided by the customer in any one of the ways listed below, providing the details of the transaction given by the supplier:

- Orally, by telephone or verbal notification at the place of business, unless legally stated that cancellation requires written notification.
- Registered mail
- Email
- Fax
- Internet

RETURN OF THE PRODUCT AND CANCELLATION FEE

In the case of cancellation due to a defect or discrepancy of the product or service and the information provided to the customer, the supplier must return the customer's money within 14 days of receipt of the notification and the customer must return the product to the supplier's place of business.

If the cancellation is made because the customer has a change of mind and wishes to cancel the transaction, the supplier is entitled to a cancellation fee and the customer must return the product to the supplier's place of business. The cancellation fee is set at 5% of the transaction or NIS100, the lower of the two.

IMPORTANT TO NOTE:

When the customer wishes to cancel a transaction, the supplier may request a document that proves the customer is aged 65+ but may not demand any additional proof in order to cancel the transaction.

In the case of a remote sales transaction, in order to extend the allowed period for cancellation of the transaction a conversation must have taken place between the customer and the means of communication before actually making the transaction.

The intention of the law by the term "conversation" is not a conversation that takes place after the transaction has been made, but a conversation that was an integral part of the original transaction. A conversation that takes place with anyone who is not the protected customer (even if the transaction was made on behalf of the protected customer) does not grant the right to extend the cancellation date.

In the case of a transaction made on a website, the Consumer Protection Law applies only to Israeli websites. If the transaction is made on a website abroad the cancellation policy in that country applies. Generally, the terms are stated before the purchase and it is important to read all the conditions beforehand.

The following transactions may not be cancelled: depreciable goods (a product that loses value rapidly before being returned to the seller) such as food, data technology products (e.g. software), customized products, products that can be reproduced/copied and the customer has opened the original packaging.

In the event the customer complies with the terms for cancelling a transaction, and the supplier refuses, a claim can be submitted for the return of the product and for punitive compensation of up to NIS10,000 to be determined by the court.

In certain circumstances it may be possible to cancel the transaction after the allowed time frame (e.g. in the case of breach of contract, non-delivery of the goods, or misleading the customer). In these cases, it is advisable to get legal advice before cancelling.

FREQUENTLY ASKED QUESTIONS

In the cases described below the supplier is entitled to demand a cancellation fee as described above.

Q: I am a senior citizen and purchased a travel service on the internet. The transaction was preceded by a telephone conversation. I signed a disclosure form with all the details. The supplier claims that since I signed the disclosure form my right to cancel does not extend to the four-month period. Is this correct?

A: No. It is sufficient that there was a conversation before concluding the transaction, and the fact that the customer has signed a disclosure form, or any other written document, does not negate the right to the extension of the four-month cancellation period.

Q: I purchased a travel service and still have the right to cancel. I want to cancel because I have decided not to go. Is this permissible?

A: Yes. The legal right to cancel is not contingent on the reason for cancellation. You have the right to change your mind for any reason.

Q: I am a senior citizen. I saw an offer for travel services on the website of a travel agency. I contacted the agency and purchased the service. I tried to cancel within the allowed time but the agency said I have no right to cancel, claiming that this was not a remote sales transaction because the transaction was not the result of contact initiated by them.

A: The agency is wrong. An offer the customer sees on a website (or advertisement in the newspaper) is deemed contact initiated by the supplier and is defined as remote marketing (even if the contact was made by electronic means such as a website). Therefore, the transaction concluded as a result of this contact is a remote sales transaction.

Q: We are a married couple. My wife is 61 and I am 67. My wife purchased a vacation package by telephone. Do we have the right to an extended cancellation date as senior citizens?

A: Your wife is not legally a senior citizen (65+) and she is the customer who made the purchase. In this case you do not have the right to extend the cancellation date.

Q: I am a senior citizen and purchased a family vacation package for myself and my family (including children and grandchildren). Am I entitled to cancel the purchase for the entire family?

A: Yes. The right is in effect regardless for whom it was purchased.

Q: We are senior citizens and purchased a water purifier by telephone. How is the period of four months calculated?

A: The four months are calculated from the date of purchase. For example, if the purchase was made on January 1 you have the right to cancel before May 1.

Q: I am a senior citizen. I purchased a mixer on the internet as a birthday gift for my son who loves to bake. At the birthday party, which took place a month and a half after I made the purchase, I discovered that he had already purchased one for himself. Can I return the mixer to the supplier?

A: Yes. As long as it is not yet four months since the purchase date, and on condition that the mixer has not been used. It should be noted that opening the original packaging is not considered use or damage to the goods unless it can be proven otherwise. However, it is recommended not to open the original packaging.

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