



DÁIL ÉIREANN

AN BILLE UM CHOSAINN TOMHALTÓIRÍ (DEARBHÁIN BHRONNTANAIS), 2018 CONSUMER PROTECTION (GIFT VOUCHERS) BILL 2018

LEASUITHE COISTE COMMITTEE AMENDMENTS

DÁIL ÉIREANN

AN BILLE UM CHOSAINN TOMHALTÓIRÍ (DEARBHÁIN BHRONNTANAIS), 2018 —ROGHCHOISTE

CONSUMER PROTECTION (GIFT VOUCHERS) BILL 2018 —SELECT COMMITTEE

Leasuithe Amendments

SECTION 2

1. In page 3, between lines 8 and 9, to insert the following:

“Gift voucher contracts

2. The Act of 2007 is amended by the insertion of the following Part after Part 4:

“Part 4A

GIFT VOUCHER CONTRACTS

Definitions and application

66A. (1) In this Part—

‘durable medium’ means any medium on which information is provided and stored, including paper and email, that—

- (a) renders the information accessible for future reference for a period of time adequate for the purposes of the information, and
- (b) allows the unchanged reproduction of the information;

‘expiry date’ means the date after which, by virtue of the passage of time, a gift voucher ceases to be redeemable for the purchase of goods or services;

‘gift voucher’ means, subject to subsection (2), any voucher, coupon or other document or instrument, including in electronic form, that is intended to be used as a substitute for money in the payment, in whole or in part, for goods or services or otherwise exchanged for goods or services;

‘gift voucher contract’ means a contract between a relevant trader and another person whereby the relevant trader supplies the person with a gift voucher;

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‘relevant trader’ means a trader who supplies a gift voucher to a person in accordance with a gift voucher contract.

- (2) In this Part, ‘gift voucher’ does not include a voucher, coupon or other document or instrument, including in electronic form—
- (a) that is redeemable only for the purposes of the purchase, at a discounted price, of specified goods or specified services, from a specified trader or traders—
 - (i) on a specified date, or
 - (ii) for a specified period of a limited duration not exceeding 3 months,
 - (b) that is supplied under a customer loyalty scheme,
 - (c) that is supplied in connection with a promotional scheme that is connected to the purchase of specified goods or specified services,
 - (d) that is supplied by way of a refund for goods returned to a trader,
 - (e) that is redeemable only in exchange for goods or services relating to telephone services, internet services, fuel, electricity, heating or any other utility,
 - (f) that is a cheque, bank draft or postal money order,
 - (g) that constitutes electronic money, within the meaning of the European Communities (Electronic Money) Regulations 2011 (S.I. No. 183 of 2011), or
 - (h) that is not supplied, marketed, provided or otherwise made available to be given as a gift.
- (3) This Part applies to a gift voucher contract that is entered into on or after the date on which this subsection comes into operation.
- (4) Any reference in this Part to a term of a gift voucher contract includes a reference to a term which, although not contained in the contract, is incorporated in the contract by another term of the contract or by any other means.

Terms of gift voucher contracts

- 66B.** (1) (a) Subject to subsection (5), a gift voucher contract shall contain a term that the gift voucher is—
- (i) subject to an expiry date that is at least 5 years from the date on which the contract was entered into, or
 - (ii) not subject to an expiry date.
- (b) Where a gift voucher contract does not include a term satisfying paragraph (a), the contract shall be deemed to include a term that the gift voucher is subject to an expiry date that is 5 years from the

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date on which the contract was entered into.

- (c) Where a gift voucher contract is deemed to contain a term in accordance with paragraph (b), and that term conflicts with an express term in the contract, the term under paragraph (b) shall override the express term.
 - (d) A relevant trader who enters into a gift voucher contract that is contrary to paragraph (a) commits an offence and is liable on conviction on indictment or on summary conviction, as the case may be, to the fines and penalties provided in Chapter 4 of Part 5.
- (2) (a) A relevant trader who enters into a gift voucher contract shall specify, whether on the gift voucher itself or otherwise on a durable medium supplied with the gift voucher—
- (i) the expiry date of the gift voucher,
 - (ii) the date on which the gift voucher contract was entered into and the period during which the gift voucher to which it relates is redeemable, or
 - (iii) that the gift voucher is not subject to an expiry date.
- (b) A relevant trader who fails to comply with paragraph (a) commits an offence and is liable on summary conviction to the fines and penalties provided in Chapter 4 of Part 5.
- (3) (a) A gift voucher contract shall not contain a term requiring the full value of a gift voucher to be redeemed in a single transaction.
- (b) A relevant trader who enters into a gift voucher contract that is contrary to paragraph (a) commits an offence and is liable on conviction on indictment or on summary conviction, as the case may be, to the fines and penalties provided in Chapter 4 of Part 5.
- (4) (a) Where—
- (i) a person redeems part of the value of a gift voucher in a transaction, such that the remaining balance of the gift voucher is €1 or more, and
 - (ii) the gift voucher contract contains a term preventing the remaining balance of the gift voucher from being redeemed in another transaction,
- the gift voucher contract shall be deemed to include a term requiring the relevant trader to reimburse the remaining balance of the gift voucher to the person, in cash, by electronic transfer or by way of a gift voucher, in accordance with subsection (5).
- (b) Where a gift voucher contract is deemed to contain a term in accordance with paragraph (a), and that term conflicts with an express term in the contract, the term under paragraph (a) shall

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override the express term.

- (c) A relevant trader who enters into a gift voucher contract that contains an express term that is contrary to paragraph (a) commits an offence and is liable on conviction on indictment or on summary conviction, as the case may be, to the fines and penalties provided in Chapter 4 of Part 5.
- (5) Where the remaining balance referred to in subsection (4)(a) is reimbursed by way of a gift voucher, the gift voucher concerned shall have—
 - (a) an expiry date not earlier than the expiry date of the gift voucher referred to in the said subsection (4)(a), and
 - (b) a value equal to that of the remaining balance of the gift voucher referred to in the said subsection (4)(a).
- (6) (a) In this subsection, ‘gift voucher contract to which this subsection applies’ means a gift voucher contract that contains a term requiring a gift voucher to be redeemed by a named person.
- (b) A gift voucher contract to which this subsection applies shall contain a term providing that—
 - (i) the named person may redeem the gift voucher notwithstanding a difference between that person’s name as it appears on, or in connection with, the gift voucher, and as it appears on that person’s passport, driving licence, or any other form of personal identification, and
 - (ii) the named person’s name as it appears on, or in connection with, the gift voucher may be amended or changed without a fee being charged.
- (c) Where a gift voucher contract to which this subsection applies does not contain a term satisfying paragraph (b), the contract shall be deemed to include a term giving effect to that paragraph.
- (d) Where a gift voucher contract to which this section applies is deemed to contain a term in accordance with paragraph (c), and that term conflicts with an express term in the contract, the term under paragraph (c) shall override the express term.
- (e) A relevant trader who enters into a gift voucher contract to which this subsection applies that is contrary to paragraph (b) commits an offence and is liable on conviction on indictment or on summary conviction, as the case may be, to the fines and penalties provided in Chapter 4 of Part 5.
- (7) (a) A gift voucher contract shall not contain a term that places a limit on the number of gift vouchers that a person is permitted to redeem in a single transaction.

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- (b) A relevant trader who enters into a gift voucher contract that is contrary to paragraph (a) commits an offence and is liable on conviction on indictment or on summary conviction, as the case may be, to the fines and penalties provided in Chapter 4 of Part 5.
- (8) (a) Where a gift voucher contract contains a term relating to the replacement by a relevant trader of a gift voucher that has been lost or stolen, that term shall provide that the replacement gift voucher shall not be subject to an expiry date that is earlier than the expiry date of the gift voucher that it replaces.
- (b) Where a gift voucher contract contains a term relating to the replacement by a relevant trader of a gift voucher that has been lost or stolen, and which does not satisfy paragraph (a), the contract shall be deemed to include a term giving effect to that paragraph.
 - (c) Where a gift voucher contract is deemed to contain a term in accordance with paragraph (b), and that term conflicts with an express term in the contract, the term under paragraph (b) shall override the express term.
 - (d) A relevant trader who enters into a gift voucher contract that is contrary to paragraph (a) commits an offence and is liable on conviction on indictment or on summary conviction, as the case may be, to the fines and penalties provided in Chapter 4 of Part 5.
- (9) Where a gift voucher contract contains a term that is contrary to the requirements of this section—
- (a) the term shall not be binding on—
 - (i) a party to the gift voucher contract who is not a relevant trader, or
 - (ii) a person who has rights under the gift voucher contract under subsection (10),and
 - (b) the gift voucher contract shall continue to bind the parties to it, or a person who has rights under the gift voucher contract under subsection (10), if it is capable of continuing in existence without the term that is contrary to the requirements of this section.
- (10) Where a person (other than a relevant trader) who is party to a gift voucher contract gives, sells or otherwise transfers the gift voucher to which the contract relates to a third person, the third person shall be entitled to exercise all rights under the gift voucher contract on the same terms as the original party to the gift voucher contract.”.”.

—An tAire Gnó, Fiontar agus Nuálaíochta.

[Acceptance of this amendment involves the deletion of section 2 of the Bill.]

[SECTION 3]

SECTION 3

2. In page 5, between lines 6 and 7, to insert the following:

“Consequential amendments to Act of 2007

3. The Act of 2007 is amended—

(a) in section 67, by the substitution of the following paragraph for paragraph (d):

‘(d) any contravention of section 65(1) or section 66B,’

(b) in section 85(1), by the substitution of the following paragraphs for paragraph (d):

‘(d) Regulation 5(3), 7(8), 8(5), 9(4), 10(10), 11(6), 12(5), 19(7), 25(4), 26(5) or 27(4) of the European Union (Consumer Information, Cancellation and Other Rights) Regulations 2013 (S.I. No. 484 of 2013);

(e) section 66B(2).’

and

(c) in section 90(1), by the substitution of the following paragraphs for paragraph (h):

‘(h) the provisions of the European Union (Unjustified Geo-blocking of Consumers) Regulations 2018 (S.I. No. 513 of 2018);

(i) the provisions of Part 4A.’”.

—An tAire Gnó, Fiontar agus Nuálaíochta.

[Acceptance of this amendment involves the deletion of section 3 of the Bill.]