

Representative Consumer Actions Legislation Commenced

May 2024

In July 2023, the *Representative Actions for the Protection of the Collective Interests of Consumers Act 2023 ('Act')* was enacted. A commencement order pursuant to [S.I. No. 181/2024](#) has now been published bringing the Act into operation on 30 April 2024.

Background

In our previous articles in [January 2023](#), [May 2023](#) and [September 2023](#), we discussed how the primary purpose of the Act is to transpose into Irish law the European Union Directive on representative actions for the protection of the collective interests of consumers (EU) 2020/1828. The Act allows for a new legal framework to enable a 'qualified entity'

to bring representative actions on behalf of consumers, at both national and cross-border level, in circumstances where a trader has infringed their consumer rights under specified consumer legislation.

Recent Developments

[S.I. No. 182/2024](#), *The Representative Actions for the Protection of the Collective Interests of Consumers Act 2023 (Prescribed Forms) Regulations 2024 ('Regulations')* were published on 30 April 2024. The Regulations contain prescribed forms referenced in the Act, including an application for designation as a qualified entity pursuant to section 8 of the Act. The Regulations also include guidelines to assist with completion. Applicants for designation as a qualified entity are required to





provide details of 12 months of public activity related to the protection of consumer interests in which the organisation has engaged prior to making the application. Examples include website content, contribution to public consultation and published articles. The applicant will also be required to explain how the main purpose of the organisation shows a legitimate interest in protecting consumer interests provided for in existing legislation along with confirmation of their nonprofit making character.

The following forms are also included with the Regulations:

- Application for request of a review of refusal of designation or of revocation of designation under section 14 of the Act;
- Notification by a consumer to be represented by a qualified entity for redress measures under section 24 of the Act;
- Notification by a qualified entity to consumers regarding the admissibility of a representative action for redress under section 24 of the Act;
- Notification by a consumer to be no longer represented by a qualified entity for redress measures under section 24 of the Act; and
- Notification by a qualified entity to consumers of the particulars of any redress measures ordered by the court in the action concerned under section 26 of the Act.

The [forms](#) can be found on the Department of Enterprise, Trade and Employment website.

Under section 29(1) of the Act, a qualified entity may charge a 'modest fee' to a consumer requesting to be represented in a representative action for redress. Section 29(5) of the Act stated that the maximum fee chargeable would be prescribed by the Minister. To this end, [S.I. No. 183/2024 Representative](#)

Actions for the Protection of the Collective Interests of Consumers Act 2023 (Section 29) (Maximum Fee) Regulations 2024 allows for a qualified entity to charge a fee of €25 in this regard.

What is Next

The Act is now in force and the fact there is a mechanism in place for a body to apply to be designated as a qualified entity marks significant progress for the advent of consumer representative actions in Ireland. However, it remains to be seen what body or bodies will be designated as qualified entities. It is necessary that they be independent, have a legitimate interest in protecting consumer interests and have a non-profit making character. However, as discussed in our previous articles, Ireland's long-standing laws of maintenance and champerty, which prohibit third-party funding of litigation, have cast a question mark over the viability of nonprofit organisations funding the type of representative actions envisaged by the Act.

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