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FREE GUIDE · BUSINESS LEGAL HEALTH

Selling on Instagram, Facebook and WhatsApp: the legal rules in South Africa

If you sell to consumers through Instagram, Facebook, TikTok or WhatsApp, South African consumer and privacy law applies just as it would to an online store. A sale agreed by DM or WhatsApp is an electronic transaction, so the ECT Act's consumer protections, including the seven-day cooling-off right, generally apply. The Consumer Protection Act covers your prices, returns and product quality, and POPIA applies to every customer name, number and address you collect.

REVIEWED BY THE ELS TEAM

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Published 25 November 2026 · South Africa

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AT A GLANCE

- A sale agreed by DM or WhatsApp is an **electronic transaction**.
- Consumers generally get a **seven-day cooling-off** right on goods bought this way.
- Section 43 is framed around **a website**, so many sellers use a simple **link-in-bio page**.
- WhatsApp broadcasts that promote products are **direct marketing** under POPIA.

Which laws apply to social sellers

LAW	WHAT IT COVERS	IN PRACTICE
ECT Act	Transactions concluded electronically	Cooling-off on most purchases, secure payment, and disclosures before the sale
Consumer Protection Act	Transactions in the ordinary course of business	Good-quality goods, returns of defective goods and fair terms
POPIA	Personal information	Customer names, numbers and addresses, WhatsApp groups and broadcast marketing

The CPA applies to transactions in the ordinary course of business, so a regular side hustle is covered. An occasional sale of your own second-hand goods usually isn't.

Disclosures when you don't have a website

Section 43 of the ECT Act requires suppliers to publish their business details, prices, delivery terms, returns policy and privacy policy "on the website" where goods are offered. The Act doesn't neatly deal with an Instagram profile or a WhatsApp catalogue, but the risk of ignoring it is real: if the disclosures aren't made, the consumer may cancel within 14 days of receiving the goods.

The practical answer most sellers use is a single page, such as a simple website or link-in-bio page, that carries:

- Your full name or business name, legal status, physical address and contact details.
- Prices, including delivery, and how payment works.
- Your returns, cancellation and refund policy, including the cooling-off right.
- Your terms and conditions and your privacy notice.

Link it in your bio and send it to customers before they pay.

Prices, payment and delivery

- **Show your full price.** Section 43 of the ECT Act requires the full price, including transport costs, taxes and any other fees, to be available before the sale. “DM for price” makes that hard to show.
- **Stick to the price you showed.** Charging more than the price you advertised invites a complaint and a cancellation.
- **Be clear about delivery.** Say who pays for delivery and roughly how long it takes before the customer pays.
- **Use a secure way to take payment.** Section 43(5) of the ECT Act requires a sufficiently secure payment system.

Returns and refunds

Under section 44 of the ECT Act, a consumer can generally cancel within seven days of receiving goods bought electronically, without a reason, paying only the direct cost of returning them. Goods made to the customer’s specifications are excluded under section 42(2). Separately, the CPA lets consumers return defective goods within six months for a repair, replacement or refund.

Customer data in your DMs

Every order message holds personal information: names, numbers, addresses and sometimes proof of payment. POPIA applies to all of it, even if it only lives on your phone.

> **Groups expose numbers.** Adding customers to a WhatsApp group shows every member’s number to everyone else in it. For updates and promotions, use a broadcast list or channel instead, and only for customers who may receive marketing under section 69.

Promotional broadcasts are direct marketing, so the section 69 rules apply: consent for non-customers, an opt-out for existing customers, and your identity and opt-out details on every message.

Five common social selling mistakes

1. **“DM for price”.** The ECT Act expects the full price to be available before the sale.
2. **“No returns, no refunds”.** It ignores both the cooling-off right and the CPA’s protection for defective goods.
3. **Adding customers to WhatsApp groups.** It shares their numbers with strangers.

4 **No written terms anywhere.** When there's a dispute, a chat thread is weak evidence of what was agreed.

5 **Posting order screenshots as social proof.** Names, numbers and addresses in a screenshot are personal information you've just published.

Frequently asked questions

I run a side hustle, not a company. Do these rules apply to me?

If you sell regularly, yes. The CPA applies to transactions in the ordinary course of business, whether you're a company, a sole proprietor or a side hustler.

Does the cooling-off right apply to custom-made items?

No. Section 42(2) of the ECT Act excludes goods made to the consumer's specifications, such as personalised or made-to-order items. The CPA's protection for defective goods still applies.

Do I legally need a website to sell on social media?

No law simply says "have a website", but the section 43 disclosures need a home, and a single page is the easiest way to give customers what the ECT Act expects.

Put your terms where your customers can see them

The ELS Website Terms & Conditions (R1,150) give your shop page the disclosures South African e-commerce law expects. The Web & Online Pack (R4,950) adds a privacy notice, consent form and the full POPIA set. Not sure what you need? Take the free Legal Health Check.

VIEW WEBSITE TERMS | SEE THE WEB & ONLINE PACK

INFORMATION, NOT ADVICE

ELS provides legal information, not legal advice. Nothing in this guide creates an attorney-client relationship. For advice on your specific situation, consult a qualified attorney. The law is stated as at 25 November 2026.

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