



# Enterprise Act 2002

## 2002 CHAPTER 40

### PART 1

#### THE OFFICE OF FAIR TRADING

##### *Establishment of OFT*

#### **1 The Office of Fair Trading**

- (1) There shall be a body corporate to be known as the Office of Fair Trading (in this Act referred to as “the OFT”).
- (2) The functions of the OFT are carried out on behalf of the Crown.
- (3) Schedule 1 (which makes further provision about the OFT) has effect.
- (4) In managing its affairs the OFT shall have regard, in addition to any relevant general guidance as to the governance of public bodies, to such generally accepted principles of good corporate governance as it is reasonable to regard as applicable to the OFT.

#### **2 The Director General of Fair Trading**

- (1) The functions of the Director General of Fair Trading (in this Act referred to as “the Director”), and his property, rights and liabilities, are transferred to the OFT.
- (2) The office of the Director is abolished.
- (3) Any enactment, instrument or other document passed or made before the commencement of subsection (1) which refers to the Director shall have effect, so far as necessary for the purposes of or in consequence of anything being transferred, as if any reference to the Director were a reference to the OFT.

### **3 Annual plan**

- (1) The OFT shall, before each financial year, publish a document (the “annual plan”) containing a statement of its main objectives and priorities for the year.
- (2) The OFT shall for the purposes of public consultation publish a document containing proposals for its annual plan at least two months before publishing the annual plan for any year.
- (3) The OFT shall lay before Parliament a copy of each document published under subsection (2) and each annual plan.

### **4 Annual and other reports**

- (1) The OFT shall, as soon as practicable after the end of each financial year, make to the Secretary of State a report (the “annual report”) on its activities and performance during that year.
- (2) The annual report for each year shall include—
  - (a) a general survey of developments in respect of matters relating to the OFT’s functions;
  - (b) an assessment of the extent to which the OFT’s main objectives and priorities for the year (as set out in the annual plan) have been met;
  - (c) a summary of the significant decisions, investigations or other activities made or carried out by the OFT during the year;
  - (d) a summary of the allocation of the OFT’s financial resources to its various activities during the year; and
  - (e) an assessment of the OFT’s performance and practices in relation to its enforcement functions.
- (3) The OFT shall lay a copy of each annual report before Parliament and arrange for the report to be published.
- (4) The OFT may—
  - (a) prepare other reports in respect of matters relating to any of its functions; and
  - (b) arrange for any such report to be published.

#### *General functions of OFT*

### **5 Acquisition of information etc.**

- (1) The OFT has the function of obtaining, compiling and keeping under review information about matters relating to the carrying out of its functions.
- (2) That function is to be carried out with a view to (among other things) ensuring that the OFT has sufficient information to take informed decisions and to carry out its other functions effectively.
- (3) In carrying out that function the OFT may carry out, commission or support (financially or otherwise) research.

## **6 Provision of information etc. to the public**

- (1) The OFT has the function of—
  - (a) making the public aware of the ways in which competition may benefit consumers in, and the economy of, the United Kingdom; and
  - (b) giving information or advice in respect of matters relating to any of its functions to the public.
- (2) In carrying out those functions the OFT may—
  - (a) publish educational materials or carry out other educational activities; or
  - (b) support (financially or otherwise) the carrying out by others of such activities or the provision by others of information or advice.

## **7 Provision of information and advice to Ministers etc.**

- (1) The OFT has the function of—
  - (a) making proposals, or
  - (b) giving other information or advice,on matters relating to any of its functions to any Minister of the Crown or other public authority (including proposals, information or advice as to any aspect of the law or a proposed change in the law).
- (2) A Minister of the Crown may request the OFT to make proposals or give other information or advice on any matter relating to any of its functions; and the OFT shall, so far as is reasonably practicable and consistent with its other functions, comply with the request.

## **8 Promoting good consumer practice**

- (1) The OFT has the function of promoting good practice in the carrying out of activities which may affect the economic interests of consumers in the United Kingdom.
- (2) In carrying out that function the OFT may (without prejudice to the generality of subsection (1)) make arrangements for approving consumer codes and may, in accordance with the arrangements, give its approval to or withdraw its approval from any consumer code.
- (3) Any such arrangements must specify the criteria to be applied by the OFT in determining whether to give approval to or withdraw approval from a consumer code.
- (4) Any such arrangements may in particular—
  - (a) specify descriptions of consumer code which may be the subject of an application to the OFT for approval (and any such description may be framed by reference to any feature of a consumer code, including the persons who are, or are to be, subject to the code, the manner in which it is, or is to be, operated and the persons responsible for its operation); and
  - (b) provide for the use in accordance with the arrangements of an official symbol intended to signify that a consumer code is approved by the OFT.
- (5) The OFT shall publish any arrangements under subsection (2) in such manner it considers appropriate.
- (6) In this section “consumer code” means a code of practice or other document (however described) intended, with a view to safeguarding or promoting the interests of

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*Status: This is the original version (as it was originally enacted).*

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consumers, to regulate by any means the conduct of persons engaged in the supply of goods or services to consumers (or the conduct of their employees or representatives).

### *Miscellaneous*

## **9 Repeal of certain powers of direction**

Section 12 of the Fair Trading Act 1973 (c. 41) (in this Act referred to as “the 1973 Act”) and section 13 of the Competition Act 1980 (c. 21) (powers of Secretary of State to give directions) shall cease to have effect.

## **10 Part 2 of the 1973 Act**

- (1) The following provisions of the 1973 Act shall cease to have effect—
  - (a) section 3 and Schedule 2 (which establish, and make provision with respect to, the Consumer Protection Advisory Committee);
  - (b) sections 13 to 21 (which relate to references made to, and reports of, that Committee); and
  - (c) section 22 (power of Secretary of State to make orders in pursuance of a report of that Committee).
- (2) But subsection (1)(c) does not affect—
  - (a) any order under section 22 of the 1973 Act which is in force immediately before the commencement of this section;
  - (b) the continued operation of that section so far as applying to the revocation of any such order.
- (3) If the orders saved by subsection (2)(a) have been revoked, the Secretary of State may by order—
  - (a) repeal any unrepealed provision of Part 2 of the 1973 Act and subsection (2) above; and
  - (b) make such other consequential modifications of any Act or subordinate legislation (whenever passed or made) as he thinks fit.
- (4) An order under subsection (3)—
  - (a) may make transitional or saving provision in connection with any modification made by the order; and
  - (b) shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

## **11 Super-complaints to OFT**

- (1) This section applies where a designated consumer body makes a complaint to the OFT that any feature, or combination of features, of a market in the United Kingdom for goods or services is or appears to be significantly harming the interests of consumers.
- (2) The OFT must, within 90 days after the day on which it receives the complaint, publish a response stating how it proposes to deal with the complaint, and in particular—
  - (a) whether it has decided to take any action, or to take no action, in response to the complaint, and
  - (b) if it has decided to take action, what action it proposes to take.

- (3) The response must state the OFT’s reasons for its proposals.
- (4) The Secretary of State may by order amend subsection (2) by substituting any period for the period for the time being specified there.
- (5) “Designated consumer body” means a body designated by the Secretary of State by order.
- (6) The Secretary of State—
  - (a) may designate a body only if it appears to him to represent the interests of consumers of any description, and
  - (b) must publish (and may from time to time vary) other criteria to be applied by him in determining whether to make or revoke a designation.
- (7) The OFT—
  - (a) must issue guidance as to the presentation by the complainant of a reasoned case for the complaint, and
  - (b) may issue such other guidance as appears to it to be appropriate for the purposes of this section.
- (8) An order under this section—
  - (a) shall be made by statutory instrument, and
  - (b) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (9) In this section—
  - (a) references to a feature of a market in the United Kingdom for goods or services have the same meaning as if contained in Part 4, and
  - (b) “consumer” means an individual who is a consumer within the meaning of that Part.