



Enterprise Act 2002

2002 CHAPTER 40

PART 8

ENFORCEMENT OF CERTAIN CONSUMER LEGISLATION

[^{F1}Enforcement orders and interim enforcement orders]

Textual Amendments

- F1** S. 214 cross-heading substituted (2.6.2020) by [The Consumer Protection \(Enforcement\) \(Amendment etc.\) Regulations 2020 \(S.I. 2020/484\)](#), regs. 1(2), **2(3)** (with reg. 8)

214 Consultation

- ^{F2}(1) An enforcer must not make an application for an enforcement order unless—
- (a) the enforcer has engaged in appropriate consultation with the person against whom the enforcement order would be made, and
 - (b) if the enforcer is not the [^{F3}CMA], the enforcer has given notice to the [^{F3}CMA] of the enforcer's intention to apply for the enforcement order, and the appropriate minimum period has elapsed.
- (1A) The appropriate minimum period is—
- (a) in the case of an enforcement order, 14 days beginning with the day on which notice under subsection (1)(b) is given;
 - (b) in the case of an interim enforcement order, seven days beginning with the day on which notice under subsection (1)(b) is given.]
- (2) Appropriate consultation is consultation for the purpose of—
- (a) achieving the cessation of the infringement in a case where an infringement is occurring;
 - (b) ensuring that there will be no repetition of the infringement in a case where the infringement has occurred;

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- (c) ensuring that there will be no repetition of the infringement in a case where the cessation of the infringement is achieved under paragraph (a);
 - (d) ensuring that the infringement does not take place in the case of a [^{F4}Schedule 13 infringement] which the enforcer believes is likely to take place.
- (3) Subsection (1) does not apply if the [^{F5}CMA] thinks that an application for an enforcement order should be made without delay.
- (4) [^{F6}Subsection (1)(a)] ceases to apply—
- (a) for the purposes of an application for an enforcement order at the end of the period of 14 days [^{F7}or, where subsection (4A) applies, 28 days] beginning with the day after the person against whom the enforcement order would be made receives a request for consultation from the enforcer;
 - (b) for the purposes of an application for an interim enforcement order at the end of the period of seven days beginning with the day after the person against whom the interim enforcement order would be made receives a request for consultation from the enforcer.
- [^{F8}(4A) This subsection applies where the person against whom the enforcement order would be made is a member of, or is represented by, a representative body, and that body operates a consumer code which has been approved by—
- (a) an enforcer, other than a designated enforcer which is not a public body,
 - (b) a body which represents an enforcer mentioned in paragraph (a),
 - (c) a group of enforcers mentioned in paragraph (a), or
 - (d) a community interest company whose objects include the approval of consumer codes.
- (4B) In subsection (4A)—
- “consumer code” means a code of practice or other document (however described) intended, with a view to safeguarding or promoting the interests of 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), and
- “representative body” means an organisation established to represent the interests of two or more businesses in a particular sector or area, and for this purpose “business” has the meaning it bears in section 210.]
- (5) The Secretary of State may by order make rules in relation to consultation under this section.
- (6) Such an order must be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) In this section [^{F9}(except subsections (1A) and (4))] and in sections 215 and 216 references to an enforcement order include references to an interim enforcement order.

Textual Amendments

- F2** S. 214(1)(1A) substituted for s. 214(1) (28.3.2013) by [The Public Bodies \(The Office of Fair Trading Transfer of Consumer Advice Scheme Function and Modification of Enforcement Functions\) Order 2013 \(S.I. 2013/783\)](#), arts. 1(2), **9(2)**

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- F3** Word in s. 214(1)(b) substituted (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 1(1), **Sch. 1 para. 7** (with art. 3)
- F4** Words in s. 214(2)(d) substituted (31.12.2020) by The Consumer Protection (Enforcement) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/203), regs. 1, **3(5)** (with reg. 9) (as amended by S.I. 2020/1347, regs. 1(3), 3(8)); 2020 c. 1, Sch. 5 para. 1(1)
- F5** Word in s. 214(3) substituted (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 1(1), **Sch. 1 para. 7** (with art. 3)
- F6** Words in s. 214(4) substituted (28.3.2013) by The Public Bodies (The Office of Fair Trading Transfer of Consumer Advice Scheme Function and Modification of Enforcement Functions) Order 2013 (S.I. 2013/783), arts. 1(2), **9(3)**
- F7** Words in s. 214(4)(a) inserted (1.10.2015) by Consumer Rights Act 2015 (c. 15), s. 100(5), **Sch. 7 para. 5(2)** (with s. 79(2)); S.I. 2015/1630, art. 3(i)
- F8** S. 214(4A)(4B) inserted (1.10.2015) by Consumer Rights Act 2015 (c. 15), s. 100(5), **Sch. 7 para. 5(3)** (with s. 79(2)); S.I. 2015/1630, art. 3(i)
- F9** Words in s. 214(7) substituted (28.3.2013) by The Public Bodies (The Office of Fair Trading Transfer of Consumer Advice Scheme Function and Modification of Enforcement Functions) Order 2013 (S.I. 2013/783), arts. 1(2), **9(4)**

215 Applications

- (1) An application for an enforcement order must name the person the enforcer thinks—
 - (a) has engaged or is engaging in conduct which constitutes a domestic or a [^{F10}Schedule 13 infringement], or
 - (b) is likely to engage in conduct which constitutes a [^{F10}Schedule 13 infringement].
- (2) A general enforcer may make an application for an enforcement order in respect of any infringement.
- (3) A designated enforcer may make an application for an enforcement order in respect of an infringement to which his designation relates.

^{F11}(4)

[^{F12}(4A) A [^{F13}Schedule 13 enforcer] may make an application for an enforcement order in respect of a [^{F14}Schedule 13 infringement].]

- (5) The following courts have jurisdiction to make an enforcement order—
 - [^{F15}(za) the High Court or the county court if the person against whom the order is sought carries on business or has a place of business in England and Wales;]
 - (a) the High Court or a county court if the person against whom the order is sought carries on business or has a place of business in ^{F16}...Northern Ireland;
 - (b) the Court of Session or the sheriff if the person against whom the order is sought carries on business or has a place of business in Scotland.

^{F17}(6)

^{F18}(7)

^{F19}(8)

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- (9) An enforcer which is not the [F20CMA] must notify the [F20CMA] of the result of an application under this section.

Textual Amendments

- F10** Words in s. 215(1) substituted (31.12.2020) by [The Consumer Protection \(Enforcement\) \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/203), regs. 1, **3(6)(a)** (with reg. 9) (as amended by S.I. 2020/1347, regs. 1(3), 3(8)); 2020 c. 1, Sch. 5 para. 1(1)
- F11** S. 215(4) omitted (31.12.2020) by virtue of [The Consumer Protection \(Enforcement\) \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/203), regs. 1, **3(6)(b)** (with reg. 9) (as amended by S.I. 2020/1347, regs. 1(3), 3(8)); 2020 c. 1, Sch. 5 para. 1(1)
- F12** S. 215(4A) inserted (8.1.2007) by [The Enterprise Act 2002 \(Amendment\) Regulations 2006](#) (S.I. 2006/3363), **reg. 12**
- F13** Words in s. 215(4A) substituted (31.12.2020) by [The Consumer Protection \(Enforcement\) \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/203), regs. 1, **3(6)(c)(i)** (with reg. 9) (as amended by S.I. 2020/1347, regs. 1(3), 3(8)); 2020 c. 1, Sch. 5 para. 1(1)
- F14** Words in s. 215(4A) substituted (31.12.2020) by [The Consumer Protection \(Enforcement\) \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/203), regs. 1, **3(6)(c)(ii)** (with reg. 9) (as amended by S.I. 2020/1347, regs. 1(3), 3(8)); 2020 c. 1, Sch. 5 para. 1(1)
- F15** S. 215(5)(za) inserted (22.4.2014) by [Crime and Courts Act 2013](#) (c. 22), s. 61(3), **Sch. 9 para. 81(c)**; S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F16** Words in s. 215(5)(a) omitted (22.4.2014) by virtue of [Crime and Courts Act 2013](#) (c. 22), s. 61(3), **Sch. 9 para. 81(b)**; S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F17** S. 215(6) omitted (31.12.2020) by virtue of [The Consumer Protection \(Enforcement\) \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/203), regs. 1, **3(6)(d)** (with reg. 9) (as amended by S.I. 2020/1347, regs. 1(3), 3(8)); 2020 c. 1, Sch. 5 para. 1(1)
- F18** S. 215(7) omitted (31.12.2020) by virtue of [The Consumer Protection \(Enforcement\) \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/203), regs. 1, **3(6)(d)** (with reg. 9) (as amended by S.I. 2020/1347, regs. 1(3), 3(8)); 2020 c. 1, Sch. 5 para. 1(1)
- F19** S. 215(8) omitted (31.12.2020) by virtue of [The Consumer Protection \(Enforcement\) \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/203), regs. 1, **3(6)(d)** (with reg. 9) (as amended by S.I. 2020/1347, regs. 1(3), 3(8)); 2020 c. 1, Sch. 5 para. 1(1)
- F20** Word in s. 215(9) substituted (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013](#) (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 1(1), **Sch. 1 para. 8** (with art. 3)

216 Applications: directions by [F21CMA]

- (1) This section applies if the [F22CMA] believes that an enforcer other than the [F22CMA] intends to apply for an enforcement order.
- (2) In such a case the [F22CMA] may direct that if an application in respect of a particular infringement is to be made it must be made—
 - (a) only by the [F22CMA], or
 - (b) only by such other enforcer as the [F22CMA] directs.
- (3) If the [F22CMA] directs that only it may make an application that does not prevent—
 - (a) the [F22CMA] or any enforcer from accepting an undertaking under section 219, or

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- (b) the [F22CMA] from taking such other steps it thinks appropriate (apart from making an application) for the purpose of securing that the infringement is not committed, continued or repeated.
- (4) The [F22CMA] may vary or withdraw a direction given under this section.
- (5) The [F22CMA] must take such steps as it thinks appropriate to bring a direction (or a variation or withdrawal of a direction) to the attention of enforcers it thinks may be affected by it.
- F23(6)

Textual Amendments

- F21** Word in s. 216 heading substituted (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014 \(S.I. 2014/892\)](#), art. 1(1), [Sch. 1 para. 9](#) (with art. 3)
- F22** Word in s. 216(1)-(5) substituted (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014 \(S.I. 2014/892\)](#), art. 1(1), [Sch. 1 para. 9](#) (with art. 3)
- F23** S. 216(6) omitted (31.12.2020) by virtue of [The Consumer Protection \(Enforcement\) \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/203\)](#), regs. 1, [3\(7\)](#) (with reg. 9) (as amended by S.I. 2020/1347, regs. 1(3), 3(8)); 2020 c. 1, Sch. 5 para. 1(1)

217 Enforcement orders

- (1) This section applies if an application for an enforcement order is made under section 215 and the court finds that the person named in the application has engaged in conduct which constitutes the infringement.
- (2) This section also applies if such an application is made in relation to a [F24Schedule 13 infringement] and the court finds that the person named in the application is likely to engage in conduct which constitutes the infringement.
- (3) If this section applies the court may make an enforcement order against the person.
- (4) In considering whether to make an enforcement order the court must have regard to whether the person named in the application—
 - (a) has given an undertaking under section 219 in respect of conduct such as is mentioned in subsection (3) of that section;
 - (b) has failed to comply with the undertaking.
- (5) An enforcement order must—
 - (a) indicate the nature of the conduct to which the finding under subsection (1) or (2) relates, and
 - (b) direct the person to comply with subsection (6).
- (6) A person complies with this subsection if he—
 - (a) does not continue or repeat the conduct;
 - (b) does not engage in such conduct in the course of his business or another business;

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- (c) does not consent to or connive in the carrying out of such conduct by a body corporate with which he has a special relationship (within the meaning of section 222(3)).
- (7) But subsection (6)(a) does not apply in the case of a finding under subsection (2).
- (8) An enforcement order may require a person against whom the order is made to publish in such form and manner and to such extent as the court thinks appropriate for the purpose of eliminating any continuing effects of the infringement—
- (a) the order;
 - (b) a corrective statement.
- (9) If the court makes a finding under subsection (1) or (2) it may accept an undertaking by the person—
- (a) to comply with subsection (6), or
 - (b) to take steps which the court believes will secure that he complies with subsection (6).
- (10) An undertaking under subsection (9) may include a further undertaking by the person to publish in such form and manner and to such extent as the court thinks appropriate for the purpose of eliminating any continuing effects of the infringement—
- (a) the terms of the undertaking;
 - (b) a corrective statement.
- [^{F25}(10A) An enforcement order may require a person against whom the order is made to take enhanced consumer measures (defined in section 219A) within a period specified by the court.
- (10B) An undertaking under subsection (9) may include a further undertaking by the person to take enhanced consumer measures within a period specified in the undertaking.
- (10C) Subsections (10A) and (10B) are subject to section 219C in a case where the application for the enforcement order was made by a designated enforcer which is not a public body.
- (10D) Where a person is required by an enforcement order or an undertaking under this section to take enhanced consumer measures, the order or undertaking may include requirements as to the provision of information or documents to the court by the person in order that the court may determine if the person is taking those measures.]
- (11) If the court—
- (a) makes a finding under subsection (1) or (2), and
 - (b) accepts an undertaking under subsection (9),
- it must not make an enforcement order in respect of the infringement to which the undertaking relates.
- [^{F26}(12) An enforcement order made in a part of the United Kingdom by a court specified in relation to that part in the second or third column of the table has effect in another part of the United Kingdom as if made by a court specified in relation to that other part in the same column of the table—

England and Wales	The High Court	The county court
Scotland	The Court of Session	The sheriff

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Northern Ireland	The High Court	A county court]
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Textual Amendments

- F24** Words in s. 217(2) substituted (31.12.2020) by [The Consumer Protection \(Enforcement\) \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/203\)](#), regs. 1, **3(8)** (with reg. 9) (as amended by S.I. 2020/1347, regs. 1(3), 3(8)); 2020 c. 1, Sch. 5 para. 1(1)
- F25** S. 217(10A)-(10D) inserted (1.10.2015) by [Consumer Rights Act 2015 \(c. 15\)](#), s. 100(5), **Sch. 7 para. 6** (with s. 79(2)); S.I. 2015/1630, art. 3(i)
- F26** S. 217(12) substituted (26.11.2020) by [The Consumer Protection \(Enforcement\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1347\)](#), regs. 1(2), **2(2)**

218 Interim enforcement order

- (1) The court may make an interim enforcement order against a person named in the application for the order if it appears to the court—
- that it is alleged that the person is engaged in conduct which constitutes a domestic or [^{F27}Schedule 13 infringement] or is likely to engage in conduct which constitutes a [^{F27}Schedule 13 infringement],
 - that if the application had been an application for an enforcement order it would be likely to be granted,
 - that it is expedient that the conduct is prohibited or prevented (as the case may be) immediately, and
 - if no notice of the application has been given to the person named in the application that it is appropriate to make an interim enforcement order without notice.
- (2) An interim enforcement order must—
- indicate the nature of the alleged conduct, and
 - direct the person to comply with subsection (3).
- (3) A person complies with this subsection if he—
- does not continue or repeat the conduct;
 - does not engage in such conduct in the course of his business or another business;
 - does not consent to or connive in the carrying out of such conduct by a body corporate with which he has a special relationship (within the meaning of section 222(3)).
- (4) But subsection (3)(a) does not apply in so far as the application is made in respect of an allegation that the person is likely to engage in conduct which constitutes a [^{F28}Schedule 13 infringement].
- (5) An application for an interim enforcement order against a person may be made at any time before an application for an enforcement order against the person in respect of the same conduct is determined.
- (6) An application for an interim enforcement order must refer to all matters—
- which are known to the applicant, and
 - which are material to the question whether or not the application is granted.

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- (7) If an application for an interim enforcement order is made without notice the application must state why no notice has been given.
- (8) The court may vary or discharge an interim enforcement order on the application of—
- (a) the enforcer who applied for the order;
 - (b) the person against whom it is made.
- (9) An interim enforcement order against a person is discharged on the determination of an application for an enforcement order made against the person in respect of the same conduct.
- (10) If it appears to the court as mentioned in subsection (1)(a) to (c) the court may instead of making an interim enforcement order accept an undertaking from the person named in the application—
- (a) to comply with subsection (3), or
 - (b) to take steps which the court believes will secure that he complies with subsection (3).
- [^{F29}(11) An interim enforcement order made in a part of the United Kingdom by a court specified in relation to that part in the second or third column of the table has effect in another part of the United Kingdom as if made by a court specified in relation to that other part in the same column of the table—

England and Wales	The High Court	The county court
Scotland	The Court of Session	The sheriff
Northern Ireland	The High Court	A county court]

Textual Amendments

- F27** Words in s. 218(1)(a) substituted (31.12.2020) by [The Consumer Protection \(Enforcement\) \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/203\)](#), regs. 1, **3(9)(a)** (with reg. 9) (as amended by S.I. 2020/1347, regs. 1(3), 3(8)); 2020 c. 1, Sch. 5 para. 1(1)
- F28** Words in s. 218(4) substituted (31.12.2020) by [The Consumer Protection \(Enforcement\) \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/203\)](#), regs. 1, **3(9)(b)** (with reg. 9) (as amended by S.I. 2020/1347, regs. 1(3), 3(8)); 2020 c. 1, Sch. 5 para. 1(1)
- F29** S. 218(11) substituted (26.11.2020) by [The Consumer Protection \(Enforcement\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1347\)](#), regs. 1(2), **2(3)**

Changes to legislation:

There are currently no known outstanding effects for the Enterprise Act 2002, Cross Heading: Enforcement orders and interim enforcement orders.