



Enterprise Act 2002

2002 CHAPTER 40

PART 8

ENFORCEMENT OF CERTAIN CONSUMER LEGISLATION

Introduction

210 Consumers

- (1) In this Part references to consumers must be construed in accordance with this section.
- (2) In relation to a domestic infringement a consumer is an individual in respect of whom the first and second conditions are satisfied.
- (3) The first condition is that—
 - (a) goods are or are sought to be supplied to the individual (whether by way of sale or otherwise) in the course of a business carried on by the person supplying or seeking to supply them, or
 - (b) services are or are sought to be supplied to the individual in the course of a business carried on by the person supplying or seeking to supply them.
- (4) The second condition is that—
 - (a) the individual receives or seeks to receive the goods or services otherwise than in the course of a business carried on by him, or
 - (b) the individual receives or seeks to receive the goods or services with a view to carrying on a business but not in the course of a business carried on by him.

^{F1}(5)

- (6) In relation to a [^{F2}Schedule 13 infringement] a consumer is a person who is a consumer for the purposes of [^{F3}the listed enactment concerned].

^{F4}(6A) An enactment is a listed enactment if it is specified in Schedule 13 or to the extent that it is so specified.

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(6B) References to an enactment include—

- (a) references to subordinate legislation (within the meaning of the Interpretation Act 1978);
- (b) for the purposes of paragraph 6 of Schedule 13, references to a rule of law in Scotland;
- (c) for the purposes of paragraph 16 of Schedule 13, references to rules forming part of the law of any part of the United Kingdom made other than under an Act.]

^{F5}(7)

^{F6}(7A)

(8) A business includes—

- (a) a professional practice;
- (b) any other undertaking carried on for gain or reward;
- (c) any undertaking in the course of which goods or services are supplied otherwise than free of charge.

(9) The Secretary of State may by order modify Schedule 13.

(10) An order under this section must be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

Textual Amendments

- F1** S. 210(5) omitted (1.10.2015) by virtue of [Consumer Rights Act 2015 \(c. 15\)](#), s. 100(5), [Sch. 7 para. 2](#) (with s. 79(2)); S.I. 2015/1630, art. 3(i)
- F2** Words in s. 210(6) substituted (31.12.2020) by [The Consumer Protection \(Enforcement\) \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/203\)](#), regs. 1, [3\(2\)\(a\)\(i\)](#) (with reg. 9) (as amended by S.I. 2020/1347, regs. 1(3), 3(8)); 2020 c. 1, Sch. 5 para. 1(1)
- F3** Words in s. 210(6) substituted for s. 210(6)(a)(b) (31.12.2020) by [The Consumer Protection \(Enforcement\) \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/203\)](#), regs. 1, [3\(2\)\(a\)\(ii\)](#) (with reg. 9) (as amended by S.I. 2020/1347, regs. 1(3), 3(8)); 2020 c. 1, Sch. 5 para. 1(1)
- F4** S. 210(6A)(6B) inserted (31.12.2020) by [The Consumer Protection \(Enforcement\) \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/203\)](#), regs. 1, [3\(2\)\(b\)](#) (with reg. 9) (as amended by S.I. 2020/1347, regs. 1(3), 3(8)); 2020 c. 1, Sch. 5 para. 1(1)
- F5** S. 210(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\(2\)\(c\)](#) (with reg. 9) (as amended by S.I. 2020/1347, regs. 1(3), 3(8)); 2020 c. 1, Sch. 5 para. 1(1)
- F6** S. 210(7A) omitted (31.12.2020) by virtue of [The Consumer Protection \(Enforcement\) \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/203\)](#), regs. 1, [3\(2\)\(c\)](#) (with reg. 9) (as amended by S.I. 2020/1347, regs. 1(3), 3(8)); 2020 c. 1, Sch. 5 para. 1(1)

211 Domestic infringements

(1) In this Part a domestic infringement is an act or omission which—

- (a) is done or made by a person in the course of a business,
- (b) falls within subsection (2), and
- (c) harms the collective interests of consumers^{F7}

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- [^{F8}(1A) But an act or omission which satisfies the conditions in subsection (1) is a domestic infringement only if at least one of the following is satisfied—
- (a) the person supplying (or seeking to supply) goods or services has a place of business in the United Kingdom, or
 - (b) the goods or services are supplied (or sought to be supplied) to or for a person in the United Kingdom (see section 232).]
- (2) An act or omission falls within this subsection if it is of a description specified by the Secretary of State by order and consists of any of the following—
- (a) a contravention of an enactment which imposes a duty, prohibition or restriction enforceable by criminal proceedings;
 - (b) an act done or omission made in breach of contract;
 - (c) an act done or omission made in breach of a non-contractual duty owed to a person by virtue of an enactment or rule of law and enforceable by civil proceedings;
 - (d) an act or omission in respect of which an enactment provides for a remedy or sanction enforceable by civil proceedings;
 - (e) an act done or omission made by a person supplying or seeking to supply goods or services as a result of which an agreement or security relating to the supply is void or unenforceable to any extent;
 - (f) an act or omission by which a person supplying or seeking to supply goods or services purports or attempts to exercise a right or remedy relating to the supply in circumstances where the exercise of the right or remedy is restricted or excluded under or by virtue of an enactment;
 - (g) an act or omission by which a person supplying or seeking to supply goods or services purports or attempts to avoid (to any extent) liability relating to the supply in circumstances where such avoidance is restricted or prevented under an enactment.
- (3) But an order under this section may provide that any description of act or omission falling within subsection (2) is not a domestic infringement.
- (4) For the purposes of subsection (2) it is immaterial—
- (a) whether or not any duty, prohibition or restriction exists in relation to consumers as such;
 - (b) whether or not any remedy or sanction is provided for the benefit of consumers as such;
 - (c) whether or not any proceedings have been brought in relation to the act or omission;
 - (d) whether or not any person has been convicted of an offence in respect of the contravention mentioned in subsection (2)(a);
 - (e) whether or not there is a waiver in respect of the breach of contract mentioned in subsection (2)(b).
- (5) References to an enactment include references to subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)).
- (6) The power to make an order under this section must be exercised by statutory instrument.
- (7) But no such order may be made unless a draft of it has been laid before Parliament and approved by a resolution of each House.

Changes to legislation: There are currently no known outstanding effects for the Enterprise Act 2002, Cross Heading: Introduction. (See end of Document for details)

Textual Amendments

- F7** Words in s. 211(1)(c) omitted (1.10.2015) by virtue of [Consumer Rights Act 2015 \(c. 15\)](#), s. 100(5), [Sch. 7 para. 3\(2\)](#) (with s. 79(2)); S.I. 2015/1630, art. 3(i)
- F8** S. 211(1A) inserted (1.10.2015) by [Consumer Rights Act 2015 \(c. 15\)](#), s. 100(5), [Sch. 7 para. 3\(3\)](#) (with s. 79(2)); S.I. 2015/1630, art. 3(i)

[^{F9}212] Schedule 13 infringements

- (1) In this Part a Schedule 13 infringement is an act or omission which contravenes a listed enactment and which harms the collective interests of consumers.
- (2) References to a listed enactment must be construed in accordance with section 210.]

Textual Amendments

- F9** S. 212 substituted (31.12.2020) by [The Consumer Protection \(Enforcement\) \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/203\)](#), regs. 1, [3\(3\)](#) (with reg. 9) (as amended by S.I. 2020/1347, regs. 1(3), 3(8)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

213 Enforcers

- (1) Each of the following is a general enforcer—
- the [^{F10}CMA];
 - every local weights and measures authority in Great Britain;
 - the Department of Enterprise, Trade and Investment in Northern Ireland.
- (2) A designated enforcer is any person or body (whether or not incorporated) which the Secretary of State—
- thinks has as one of its purposes the protection of the collective interests of consumers, and
 - designates by order.
- (3) The Secretary of State may designate a public body only if he is satisfied that it is independent.
- (4) The Secretary of State may designate a person or body which is not a public body only if the person or body (as the case may be) satisfies such criteria as the Secretary of State specifies by order.

^{F11}(5)

[^{F12}(5A) Each of the following [^{F13}is a Schedule 13 enforcer]—

- the [^{F14}CMA];
- the Civil Aviation Authority;
- the [^{F15}Financial Conduct Authority];
- the Secretary of State for Health [^{F16}and Social Care];
- the Department of Health, Social Services and Public Safety in Northern Ireland;
- the Office of Communications;

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- (g) the Department of Enterprise, Trade and Investment in Northern Ireland;
 - (h) every local weights and measures authority in Great Britain;
 - [^{F17}(i) an enforcement authority within the meaning of section 120(15) of the Communications Act 2003 (regulation of premium rate services);]
 - [^{F18}(j) the Information Commissioner][^{F19};
 - [^{F20}(k) the Department for Infrastructure;
 - (l) the Maritime and Coastguard Agency;
 - (m) the Office of Rail and Road;
 - (n) the Office for the Traffic Commissioner.]
- (6) An order under this section may designate an enforcer in respect of—
- (a) all infringements;
 - (b) infringements of such descriptions as are specified in the order.
- (7) An order under this section may make different provision for different purposes.
- (8) The designation of a body by virtue of subsection (3) is conclusive evidence for the purposes of any question arising under this Part that the body is a public body.
- (9) An order under this section must be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

^{F21}(10)

^{F22}(11)

Textual Amendments

- F10** Word in s. 213(1)(a) 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. 6](#) (with art. 3)
- F11** S. 213(5) omitted (31.12.2020) by virtue of [The Consumer Protection \(Enforcement\) \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/203\)](#), regs. 1, [3\(4\)\(a\)](#) (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. 213(5A) inserted (8.1.2007) by [The Enterprise Act 2002 \(Amendment\) Regulations 2006 \(S.I. 2006/3363\)](#), [reg. 11](#)
- F13** Words in s. 213(5A) substituted (31.12.2020) by [The Consumer Protection \(Enforcement\) \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/203\)](#), regs. 1, [3\(4\)\(b\)](#) (with reg. 9) (as amended by S.I. 2020/1347, regs. 1(3), [3\(3\)\(a\)\(8\)](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)
- F14** Word in s. 213(5A)(a) 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. 6](#) (with art. 3)
- F15** Words in s. 213(5A)(c) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 18 para. 95\(2\)](#) (with [Sch. 20](#)); S.I. 2013/423, art. 3, [Sch.](#)
- F16** Words in s. 213(5A)(d) inserted (11.4.2018) by [The Secretaries of State for Health and Social Care and for Housing, Communities and Local Government and Transfer of Functions \(Commonhold Land\) Order 2018 \(S.I. 2018/378\)](#), art. 1(2), [Sch. para. 11](#) (with art. 14)
- F17** S. 213(5A)(i) substituted (1.10.2015) by [Consumer Rights Act 2015 \(c. 15\)](#), s. 100(5), [Sch. 7 para. 4](#) (with s. 79(2)); S.I. 2015/1630, art. 3(i)
- F18** S. 213(5A)(j) inserted (26.5.2011) by [The Privacy and Electronic Communications \(EC Directive\) \(Amendment\) Regulations 2011 \(S.I. 2011/1208\)](#), regs. 1(1), [16\(a\)](#)
- F19** Semi-colon in s. 213(5A)(j) substituted (2.6.2020) by [The Consumer Protection \(Enforcement\) \(Amendment etc.\) Regulations 2020 \(S.I. 2020/484\)](#), regs. 1(2), [2\(2\)\(b\)](#) (with reg. 8)

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- F20** S. 213(5A)(k)-(n) inserted (2.6.2020) by [The Consumer Protection \(Enforcement\) \(Amendment etc.\) Regulations 2020 \(S.I. 2020/484\)](#), regs. 1(2), **2(2)(c)** (with reg. 8)
- F21** S. 213(10) omitted (31.12.2020) by virtue of [The Consumer Protection \(Enforcement\) \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/203\)](#), regs. 1, **3(4)(c)** (with reg. 9); 2020 c. 1, Sch. 5 para. 1(1)
- F22** S. 213(11) omitted (31.12.2020) by virtue of [The Consumer Protection \(Enforcement\) \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/203\)](#), regs. 1, **3(4)(c)** (with reg. 9); 2020 c. 1, Sch. 5 para. 1(1)

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