

**2003 No. 1374**

**CONSUMER PROTECTION**

**The Enterprise Act 2002 (Part 8 Community Infringements  
Specified UK Laws) Order 2003**

<i>Made</i> - - - - -	<i>23rd May 2003</i>
<i>Laid before Parliament</i>	<i>27th May 2003</i>
<i>Coming into force</i> - -	<i>20th June 2003</i>

The Secretary of State, in exercise of the powers conferred on her by section 210(9) and (10) and 212(3) and (6) of the Enterprise Act 2002(a) hereby makes the following Order:

**Citation and commencement**

1. This Order may be cited as the Enterprise Act 2002 (Part 8 Community Infringements Specified UK Laws) Order 2003 and shall come into force on 20th June 2003.

**Listed Directives and Specified Laws**

2. Schedule 13 to the Enterprise Act 2002 (“the Act”) is amended by substituting “Articles 86 to 100” for “Articles 86 to 99” in entry 11 relating to Directive 2001/83/EC(b) (the Community code relating to medicinal products for human use).

3. The laws set out in the Schedule to this Order are hereby specified for the purposes of section 212(3) of the Act to the extent that they give effect to the listed Directives or provide additional permitted protections.

23rd May 2003

*Brian Wilson,*  
Minister of State for Energy and Construction,  
Department of Trade and Industry

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(a) 2002 c. 40.  
(b) OJ L 311, 28.11.2001, p. 67.

## SCHEDULE

Article 3

### Listed Directives

<i>Directives</i>	<i>Specified UK laws</i>
Council Directive 84/450/EEC of 10th September 1984 relating to the approximation of the laws, regulations and administrative provisions of the Member States concerning misleading advertising <b>(b)</b>	Control of Misleading Advertisements Regulations 1988 except article 4A <b>(a)</b> (comparative advertisements)
Council Directive 85/577/EEC of 20th December 1985 to protect the consumer in respect of contracts negotiated away from business premises <b>(d)</b>	Consumer Protection (Cancellation of Contracts Concluded away from Business Premises) Regulations 1987 <b>(c)</b>
Council Directive 87/102/EEC of 22nd December 1986 for the approximation of the laws, regulations and administrative provisions of the Member States concerning consumer credit <b>(f)</b> as last amended by Directive 98/7/EC <b>(g)</b>	Consumer Credit Act 1974 <b>(e)</b> and secondary legislation made thereunder (not including consumer hire agreements and sections 137 to 140 (extortionate credit))
Council Directive 90/314/EEC of 13th June 1990 on package travel, package holidays and package tours <b>(i)</b>	Package Travel, Package Holidays and Package Tours Regulations 1992 <b>(h)</b>
Council Directive 93/13/EEC of 5th April 1993 on unfair terms in consumer contracts <b>(j)</b>	Unfair Terms in Consumer Contracts Regulations 1999 <b>(k)</b>
Directive 94/47/EC of the European Parliament and of the Council of 26th October 1994 on the protection of purchasers in respect of certain aspects of contracts relating to the purchase of the right to use immovable properties on a timeshare basis <b>(m)</b>	Timeshare Act 1992 <b>(l)</b> and secondary legislation made thereunder (not including its application to timeshare accommodation in caravans)
Directive 97/7/EC of the European Parliament and of the Council of 20th May 1997 on the protection of consumers in respect of distance contracts (except article 10) <b>(o)</b>	Consumer Protection (Distance Selling) Regulations 2000 <b>(n)</b>

**(a)** S.I. 1988/915. Article 4A was inserted by S.I. 2000/914 implementing Directive 97/55/EC (OJ L 290, 23rd October 1997 p. 18) which amended Council Directive 84/450/EEC.

**(b)** OJ L 250, 19.9.84, p. 17.

**(c)** S.I. 1987/2117.

**(d)** OJ L 372, 31.12.85, p. 31.

**(e)** 1974 c. 39.

**(f)** OJ L 42, 12.2.87, p. 48.

**(g)** OJ L 101, 1.4.98, p. 17.

**(h)** S.I. 1992/3288.

**(i)** OJ L 158, 23.6.90, p. 59.

**(j)** OJ L 95, 21.4.93, p. 29.

**(k)** S.I. 1999/2083.

**(l)** 1992 c. 35.

**(m)** OJ L 280, 29.10.94, p. 83.

**(n)** S.I. 2000/2334.

**(o)** OJ L 144, 4.6.97, p. 19.

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*Directives*

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*Specified UK laws*

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Article 10 of the above Directive

Part V of the Telecommunications (Data Protection and Privacy) Regulations 1999(a) (use of telecommunications services for direct marketing purposes)

Directive 1999/44/EC of the European Parliament and of the Council of 25th May 1999 on certain aspects of the sale of consumer goods and associated guarantees(d)

(i) Sections 9 to 11 of the Supply of Goods (Implied Terms) Act 1973(b), sections 13 to 15 and 15B of the Sale of Goods Act 1979(c), sections 3 to 5, 11C to 11E and 13 of the Supply of Goods and Services Act 1982(e), and any rule of law in Scotland which provides comparable protection to section 13 of the Supply of Goods and Services Act 1982 (implied terms as to quality and fitness);

(ii) Sections 20 and 32 of the Sale of Goods Act 1979(f) (passing of risk and delivery of goods);

(iii) Sections 48A to 48F of the Sale of Goods Act 1979(g), and sections 11M, 11N and 11P to 11S of the Supply of Goods and Services Act 1982(h) (additional remedies for consumers);

(iv) Regulation 15 of the Sale and Supply of Goods to Consumers Regulations 2002(i) and articles 4 and 5 of the Consumer Transactions (Restrictions on Statements) Order 1976(j) (consumer guarantees);

(v) Sections 6(2), 7(1), 7(2), 20(2), 21 and 27(2) of the Unfair Contract Terms Act 1977(k) and article 3 of the Consumer Transactions (Restrictions on Statements) Order 1976 (anti-avoidance measures)

Directive 2000/31/EC of the European Parliament and of the Council of 8th June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the internal market (“Directive on electronic commerce”)(m)

Regulations 6, 7, 8, 9 and 11 of the Electronic Commerce (EC Directive) Regulations 2002(l) (requirements as to information and orders)

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(a) S.I. 1999/2093.

(b) 1973 c. 13; sections 9–11 amended by Schedule 4 paragraph 35 of the Consumer Credit Act 1974 (c. 39) and Schedule 2 paragraphs 4(3)(a) and (b), 4(4)(a)–(c) and 4(5)(a)–(d) of the Sale and Supply of Goods Act 1994 (c. 35); section 10 amended by regulation 13 of the Sale and Supply of Goods to Consumers Regulations 2002, S.I. 2002/3045.

(c) 1979 c. 54; sections 13–15 amended by sections 1(1) and 1(2), Schedule 2 paragraphs 5(4)(a) and (b), 5(5)(a) and (b), and 5(6)(a) and (b), and Schedule 3 of the Sale and Supply of Goods Act 1994; section 14 amended by regulation 3 of the Sale and Supply of Goods to Consumers Regulations 2002; section 15B inserted by section 5(1) of the Sale and Supply of Goods Act 1994.

(d) OJ L 171, 7.7.99, p. 12.

(e) 1982 c. 29; sections 4 and 5 amended by Schedule 2 paragraphs 6(3), 6(4)(a) and 6(4)(b), and Schedule 3 of the Sale and Supply of Goods Act 1994; section 4 amended by regulation 7 of the Sale and Supply of Goods to Consumers Regulations 2002; sections 11C–E inserted by Schedule 1 paragraph 1 of the Sale and Supply of Goods Act 1994; section 11D amended by regulation 8 of the Sale and Supply of Goods to Consumers Regulations 2002.

(f) Sections 20 and 32 amended by regulation 4 of the Sale and Supply of Goods to Consumers Regulations 2002.

(g) Sections 48A–F inserted by regulation 5 of the Sale and Supply of Goods to Consumers Regulations 2002.

(h) Sections 11M–S inserted by regulation 9 of the Sale and Supply of Goods to Consumers Regulations 2002.

(i) S.I. 2002/3045.

(j) S.I. 1976/1813.

(k) 1977 c. 50; section 6(2) amended by section 63 and Schedule 2 paragraph 19 of the Sale of Goods Act 1979; section 20(2) amended by sections 62 and 63, and Schedule 2 paragraph 21 of the Sale of Goods Act 1979.

(l) S.I. 2002/2013.

(m) OJ L 178, 17.7.2000, p. 1.

<i>Provisions of Directives</i>	<i>Specified UK laws</i>
Articles 10 to 21 of Council Directive 89/552/EEC of 3rd October 1989 on the co-ordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities(d) as amended by Directive 97/36/EC(e)	The provisions of the Broadcasting Acts 1990(a) and 1996(b), and codes and rules made by the Independent Television Commission thereunder(c), in particular sections 6(1) (in relation to advertising), 8, 9, 60 and 79(4) of the Broadcasting Act 1990 (regulations as to advertising) and sections 18(5), 25(5) and 30(5) of the Broadcasting Act 1996, in so far as they apply sections 6 to 12 of the Broadcasting Act 1990 to digital programme services, digital additional services and qualifying teletext services
Articles 86 to 100 of Directive 2001/83/EC of the European Parliament and of the Council of 6th November 2001 on the Community code relating to medicinal products for human use(g)	Medicines (Advertising) Regulations 1994(f)

(a) 1990 c. 42.

(b) 1996 c. 55; section 25(5) amended by regulation 2 and paragraph 11 of the Schedule to S.I. 1998/3196.

(c) Codes and rules made by the Independent Television Commission can be obtained by writing to them at 33 Foley Street, London W1W 7TL and from their website (<http://www.itc.org.uk>).

(d) OJ 298, 17.10.89, p. 23.

(e) OJ 202, 30.7.97, p. 60.

(f) S.I. 1994/1932.

(g) OJ L 311, 28.11.2000, p. 67.

## EXPLANATORY NOTE

*(This note is not part of the Order)*

Part 8 of the Enterprise Act 2002 (“the Act”) implements Directive 98/27/EC of the European Parliament and of the Council of 19th May 1998 on injunctions for the protection of consumers’ interests (OJ L 166, 11.6.98, p. 51). It enables persons and bodies which are general or designated enforcers to seek enforcement orders prohibiting domestic and Community infringements which harm the collective interests of consumers. Part 8 also enables Community enforcers to seek enforcement orders prohibiting Community infringements. This Order specifies the laws in the United Kingdom which give effect to the EC Directives, and provisions of Directives, listed in Schedule 13 of the Act (as amended by Article 2 of this Order) together with additional protections permitted under them in respect of which acts or omissions may constitute Community infringements.

The specified UK laws are specified to the extent that they give effect to the listed Directives (or provisions of Directives) or provide additional permitted protection. Additional permitted protections are protections which are in addition to the minimum required by the Directive concerned and which are permitted by that Directive. The Order expressly excludes provisions of the specified UK laws that do not give effect to the listed Directive or provide additional permitted protection (eg Article 4A of the Control of Misleading Advertisements Regulations 1988 and the application of the Consumer Credit Act 1974 to consumer hire agreements).

Schedule 13 is amended to include Article 100 of Directive 2001/83/EC (OJ L 311, 28.11.01, p. 67) (the Community code relating to medicinal products for human use).

£1.75

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E0652 6/2003 130652 19585

ISBN 0-11-046269-6



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