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STATUTORY INSTRUMENTS

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**2003 No. 1375**

**CONSUMER PROTECTION**

**The Enterprise Act 2002 (Part 8  
Request for Consultation) 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 power conferred on her by section 214(5) and (6) of the Enterprise Act 2002(1) hereby makes the following Order:

**Citation, commencement and interpretation**

1. This Order may be cited as the Enterprise Act 2002 (Part 8 Request for Consultation) Order 2003 and shall come into force on 20th June 2003.
2. In this Order:
  - “electronic address” includes a fax number and an e-mail address; and
  - “enforcement subject” means a person against whom an enforcement order would be sought by an enforcer.

**Initial request for consultation**

3. Articles 4 to 7 below set out rules in respect of an enforcer making an initial request for consultation to an enforcement subject under section 214 of the Enterprise Act 2002.
4. An initial request for consultation may be made:
  - (a) by posting, or transmitting the request by any means of electronic communication to, or leaving it at, an address for service set out in article 5 appropriate to the method of communication addressed to a person specified in article 6; or
  - (b) by delivering the request personally to a person specified in article 6.

**Address for service etc.**

5. An initial request for consultation may be sent to one of the following addresses as appropriate:

- (a) in respect of an individual his usual or last known place of business, employment, or residence;
- (b) in the case of a body corporate its principal or registered office or its principal place of business;
- (c) in the case of a limited liability partnership the address of its principal or registered office;
- (d) in the case of a partnership or an unincorporated body or association its principal office or principal place of business; or
- (e) in any case an electronic address which the enforcement subject has held out as an address at which he or it can be contacted.

**Person to whom a request for consultation is to be made**

6. The person to whom an initial request for consultation is to be addressed or delivered is:
- (a) for an individual, that person;
  - (b) for a body corporate, a director, secretary, chief executive, treasurer, manager or other officer of the company;
  - (c) for a limited liability partnership, any designated member as defined by section 18 of the Limited Liability Partnerships Act 2000(2);
  - (d) for a partnership, a partner or any person having control or management of the business;
  - (e) for an unincorporated body or association, the proprietor or a person concerned in the management or control of the body or association.

**Date of receipt of request**

7.—(1) An initial request for consultation which satisfies the requirements of Article 4 is, unless the contrary is proved, deemed to be received as follows:

- (a) where left at an address, the next business day;
- (b) where sent by first class post, the second business day after the day on which it was posted;
- (c) where sent by second class post, the fifth business day after the day on which it was posted;
- (d) where transmitted by any means of electronic communication, the business day after the notice was transmitted over a public electronic communications network;
- (e) where delivered personally, the day it is delivered or if delivered after 5 p.m. or on a non-working day the following business day.

(2) A non-working day is a Saturday, Sunday or a day which is a bank holiday in any part of the United Kingdom as a result of the Banking and Financial Dealings Act 1971(3).

23rd May 2003

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

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(2) 2000 c. 12.  
(3) 1971 c. 80.

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## EXPLANATORY NOTE

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

Part 8 of the Enterprise Act 2002 (“the Act”) enables persons or bodies which are general or designated enforcers to seek enforcement orders prohibiting infringements of domestic or Community provisions which harm the collective interests of consumers. Section 214 of the Act requires an enforcer to consult the person against whom the enforcement order would be made and not to apply for an order until 14 days after the request for consultation is received by the person concerned in respect of an enforcement order or 7 days in respect of an interim enforcement order. Prior consultation is not required if the OFT thinks that an application for an enforcement order or an interim enforcement order should be made without delay. This Order lays down rules in respect of the making and receipt of an enforcer’s initial request for consultation to the person concerned.