

*These notes refer to the Enterprise Act 2002 (c.40)
which received Royal Assent on 7 November 2002*

ENTERPRISE ACT 2002

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 8: Enforcement of Certain Consumer Legislation

Enforcement procedure

Section 220: Further proceedings

548. This section applies where an enforcer believes that an enforcement order (including an interim enforcement order) or an undertaking given to the court has been breached. In any such case, either the enforcer who made the application for the order or the OFT will be able to make a further application to the court to enforce the order (*subsections (1) and (2)*).
549. This further application might lead the court to find that its order or undertakings given to it have been breached and therefore that the defendant is in contempt of court. If the court finds that a breach has been committed, it can impose a fine and/or, if the defendant is an individual, a term of imprisonment not exceeding two years.
550. However, where a further application is made to the court in respect of a failure to comply with an undertaking given to the court, the enforcer may instead make an application for an enforcement order or for an interim enforcement order (*subsection (3)*). Similarly, the court may make an enforcement order or an interim enforcement order instead of finding that the defendant is in contempt (*subsection (4)*). An application to enforce an undertaking given to the court must be made to the court that accepted the undertaking (*subsection (5)(b)*).
551. An enforcer (other than the OFT) must notify the OFT if it makes an application to the court in respect of a failure to comply with an enforcement order, an interim enforcement order, or an undertaking given to the court. It must also notify the OFT of any order made by the court on the application (*subsection (6)*). Where an enforcer makes an application for an enforcement order or an interim enforcement order in further proceedings the consultation requirements in section 214 and the OFT's powers of direction in section 216 do not apply: the purpose of notifying the OFT is to keep it informed of proceedings against particular traders to assist its co-ordination function.