



Enterprise Act 2002

2002 CHAPTER 40

PART 8

ENFORCEMENT OF CERTAIN CONSUMER LEGISLATION

Miscellaneous

228 Evidence

- (1) Proceedings under this Part are civil proceedings for the purposes of—
 - (a) section 11 of the Civil Evidence Act 1968 (c. 64) (convictions admissible as evidence in civil proceedings);
 - (b) section 10 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1968 (c. 70) (corresponding provision in Scotland);
 - (c) section 7 of the Civil Evidence Act (Northern Ireland) 1971 (c. 36 (N.I.)) (corresponding provision in Northern Ireland).
- (2) In proceedings under this Part any finding by a court in civil proceedings that an act or omission mentioned in section 211(2)(b), (c) or (d) or 212(1) has occurred—
 - (a) is admissible as evidence that the act or omission occurred;
 - (b) unless the contrary is proved, is sufficient evidence that the act or omission occurred.
- (3) But subsection (2) does not apply to any finding—
 - (a) which has been reversed on appeal;
 - (b) which has been varied on appeal so as to negative it.

229 Advice and information

- (1) As soon as is reasonably practicable after the passing of this Act the OFT must prepare and publish advice and information with a view to—
 - (a) explaining the provisions of this Part to persons who are likely to be affected by them, and

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- (b) indicating how the OFT expects such provisions to operate.
- (2) The OFT may at any time publish revised or new advice or information.
- (3) Advice or information published in pursuance of subsection (1)(b) may include advice or information about the factors which the OFT may take into account in considering how to exercise the functions conferred on it by this Part.
- (4) Advice or information published by the OFT under this section is to be published in such form and in such manner as it considers appropriate.
- (5) In preparing advice or information under this section the OFT must consult such persons as it thinks are representative of persons affected by this Part.
- (6) If any proposed advice or information relates to a matter in respect of which another general enforcer or a designated enforcer may act the persons to be consulted must include that enforcer.

230 Notice to OFT of intended prosecution

- (1) This section applies if a local weights and measures authority in England and Wales intends to start proceedings for an offence under an enactment or subordinate legislation specified by the Secretary of State by order for the purposes of this section.
- (2) The authority must give the OFT—
 - (a) notice of its intention to start the proceedings;
 - (b) a summary of the evidence it intends to lead in respect of the charges.
- (3) The authority must not start the proceedings until whichever is the earlier of the following—
 - (a) the end of the period of 14 days starting with the day on which the authority gives the notice;
 - (b) the day on which it is notified by the OFT that the OFT has received the notice and summary given under subsection (2).
- (4) The authority must also notify the OFT of the outcome of the proceedings after they are finally determined.
- (5) But such proceedings are not invalid by reason only of the failure of the authority to comply with this section.
- (6) Subordinate legislation has the same meaning as in section 21(1) of the Interpretation Act 1978 (c. 30).
- (7) An order under this section must be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

231 Notice of convictions and judgments to OFT

- (1) This section applies if—
 - (a) a person is convicted of an offence by or before a court in the United Kingdom, or
 - (b) a judgment is given against a person by a court in civil proceedings in the United Kingdom.

- (2) The court may make arrangements to bring the conviction or judgment to the attention of the OFT if it appears to the court—
 - (a) having regard to the functions of the OFT under this Part or under the Estate Agents Act 1979 (c. 38) that it is expedient for the conviction or judgment to be brought to the attention of the OFT, and
 - (b) without such arrangements the conviction or judgment may not be brought to the attention of the OFT.
- (3) For the purposes of subsection (2) it is immaterial that the proceedings have been finally disposed of by the court.
- (4) Judgment includes an order or decree and references to the giving of the judgment must be construed accordingly.