

2015 No. 1628

CONSUMER PROTECTION

The Enterprise Act 2002 (Part 8 Community Infringements and Specified UK Laws) (Amendment) Order 2015

<i>Made</i> - - - -	<i>27th August 2015</i>
<i>Laid before Parliament</i>	<i>28th August 2015</i>
<i>Coming into force</i> - -	<i>1st October 2015</i>

The Secretary of State makes the following Order in exercise of the power conferred by section 212(3) of the Enterprise Act 2002(a).

Citation and commencement

1. This Order may be cited as the Enterprise Act 2002 (Part 8 Community Infringements and Specified UK Laws) (Amendment) Order 2015 and comes into force on 1st October 2015.

Amendments

2.—(1) The Enterprise Act 2002 (Part 8 Community Infringements Specified UK Laws) Order 2003(b) is amended as follows.

(2) In the Schedule, in the right hand column headed “Specified UK laws”—

(a) in respect of Directive 93/13/EEC on unfair terms in consumer contracts(c) listed in the left hand column headed “Directives and Regulations”, insert after the entry “Unfair Terms in Consumer Contracts Regulations 1999”—

“Sections 2, 61 to 64, 67 to 70, 72 to 74 of, and Schedules 2 and 3, and Part 3 of Schedule 5 to, the Consumer Rights Act 2015”;

(b) in respect of Directive 1999/44/EC on certain aspects of the sale of consumer goods and associated guarantees(d) listed in the left hand column headed “Directives and Regulations”, insert after sub-paragraph (v)—

“(vi) Sections 2, 3, 9 to 11, 13 to 15, 19, 23, 24, 30 to 32, 58 and 59 of the Consumer Rights Act 2015”.

3.—(1) The Enterprise Act 2002 (Part 8 EU Infringements) Order 2014(e) is amended as follows.

(a) 2002 c.40. Section 212(3) is amended by S.I. 2006/3363.
(b) S.I. 2003/1374, amended by S.I. 2008/1277 and S.I. 2015/1392; there are other amending instruments but none is relevant.
(c) OJ No L 95, 21.4.93, p.29.
(d) OJ No L171, 7.7.99, p.12.
(e) S.I. 2014/2908.

(2) In the Schedule, in the right hand column headed “Specified UK law”, in respect of Directive 2011/83/EU on consumer rights^(a), listed in the left hand column headed “Directive”, insert after the entry “Regulations 4, 7, 8, 9 and 10 of the Consumer Rights (Payment Surcharges) Regulations 2012”—

“Sections 5, 11(4) to (6), 12, 19, 28, 29, 36(3) to (4), 37, 38, 42, 50 and 54 of the Consumer Rights Act 2015”.

Nick Boles

Minister of State for Skills

Department for Business, Innovation and Skills

27th August 2015

EXPLANATORY NOTE

(This note is not part of the Order)

Part 8 of the Enterprise Act 2002 (c. 40) (“the 2002 Act”) enables specified enforcement bodies to seek orders prohibiting domestic and Community infringements which harm the collective interests of consumers.

A Community infringement is an act or omission which contravenes a listed EU Regulation or listed Directive as given effect by the laws, regulations or administrative provisions of an EEA state. Schedule 13 to the 2002 Act lists the relevant EU Directives and Regulations and section 212 of the 2002 Act provides for the law in the United Kingdom giving effect to any listed Regulation or listed Directive to be specified in an order made by the Secretary of State.

This Order amends two earlier orders under section 212 of the 2002 Act in consequence of the passing of the Consumer Rights Act 2015 (c. 15) (“the 2015 Act”).

The Enterprise Act 2002 (Part 8 Community Infringements Specified UK Laws) Order 2003 (S.I. 2003/1374) (“the 2003 Order”) specifies the UK legislation giving effect to Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts (“the Unfair Terms Directive”) and Directive 99/44/EC of the European Parliament and of the Council of 25 May 1999 on certain aspects of the sale of consumer goods and associated guarantees (“the Goods and Guarantees Directive”).

With effect from 1st October 2015 the 2015 Act revokes the UK legislation previously implementing those two Directives and re-transposes them in one Act. Article 2 of this Order therefore amends the 2003 Order so that it specifies the provisions of the 2015 Act which give effect to the Unfair Terms Directive and the Goods and Guarantees Directive with effect from 1st October 2015.

The specified provisions of 2015 Act will not apply to contracts entered into or notices given or purported to be given before 1st October 2015, and this being so, this Order does not revoke references in the 2003 Order to the UK legislation implementing the Directives before that date, even though the 2015 Act revokes that legislation.

The Enterprise Act 2002 (Part 8 EU Infringements) Order 2014 (S.I. 2014/2908) (“the 2014 Order”) specifies the UK legislation giving effect to Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights (“the Consumer Rights Directive”). With effect from 1st October 2015 the 2015 Act implements further provisions of the Consumer Rights Directive (namely provisions relating to pre-contractual information, the delivery of goods and the passing of risk). Article 3 of this Order therefore amends the 2014 Order

(a) OJ No L 304, 22.11.2011, p.64.

so that it also specifies the relevant provisions of the 2015 Act as UK law giving effect to the Consumer Rights Directive.

The amendments made by this Order ensure that the specified provisions of the 2015 Act can be enforced as Community infringements under Part 8 of the 2002 Act.

The impact assessments completed for the Consumer Rights Bill, introduced to Parliament on 23rd January 2014, contain an assessment of the effect on the costs of business and the public and voluntary sector, and can be found at <https://www.gov.uk/government/publications/consumer-rights-bill>.

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