

ENTERPRISE ACT 2002

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1: the Office of Fair Trading

General functions of OFT

Section 5: Acquisition of information etc.

30. This section gives the OFT the function of obtaining and reviewing information relating to any of its functions, both in respect of competition and consumer matters. This information-gathering role, which may involve research, is with a view to the OFT having the information it needs to make decisions and carry out its functions.

Section 6: Provision of information etc. to the public

31. The OFT is given the function of promoting to the public the benefits that competition has for consumers and the economy. The OFT may also provide the public with information or advice on matters relating to its functions.
32. In relation to these roles, the OFT may publish educational literature or take part in educational activities (such as seminars or lectures). It may also provide support to others producing educational literature or carrying out educational activities.
33. In publishing information under sections 3, 4 and 6, OFT must have regard to the considerations set out in section 244. These are considering the need to exclude from disclosure: (i) any information whose disclosure OFT thinks is contrary to the public interest; (ii) commercial information whose disclosure OFT thinks might significantly harm the legitimate business interests of the undertaking to which it relates; and (iii) information relating to the private affairs of an individual whose disclosure OFT thinks might significantly harm the individual's interests. Under section 244, OFT must also consider the extent to which the disclosure of information mentioned under (ii) or (iii) above is necessary for the purpose of fulfilling its functions under sections 3, 4 and 6.

Section 7: Provision of information and advice to Ministers etc.

34. The OFT can, of its own volition, make proposals or give other information and advice to Government Ministers or public authorities on matters relating to its functions. Such advice may address the impact of future as well as existing legislation.
35. In addition to the OFT acting of its own volition, Government Ministers may also request proposals, information or advice from the OFT on matters relating to its functions.

Section 8: Promoting good consumer practice

36. This section enables the OFT to set up and undertake an enhanced role in respect of consumer codes of practice produced by a variety of bodies.

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

37. *Subsection (1)* sets out the OFT's general function to promote good practice in the carrying out of activities that may affect the economic interests of consumers in the UK.
38. *Subsection (2)* provides that the function includes making arrangements to approve consumer codes (as defined in subsection (6)) and both to give and withdraw approval.
39. It is expected that the OFT will use the power in this section to run a two-stage scheme under which bodies will submit their codes for approval. First, it is intended that bodies will develop consumer codes based on core criteria set by OFT. This first stage does not involve approval. OFT will confirm in writing where a code appears to meet the core criteria and is likely to be of practical benefit to consumers and good traders. At the second stage, sponsors will need to provide evidence of delivery of the initial promises in the code and the OFT will approve and promote the code once it is satisfied that this has been demonstrated. An approved code of practice will contain a redress mechanism and a complaints procedure. It might also include sector-specific criteria.
40. *Subsection (3)* provides that the arrangements made by OFT for approving consumer codes must set out the criteria it will use to decide whether approval should be granted or removed.
41. *Subsection (4)(a)* provides that the arrangements under subsection (2) may set out in detail the type of codes that may be the subject of an application for approval.
42. *Subsection (4)(b)* allows the OFT to set out arrangements for the use of a logo to signify OFT approval of a consumer code.
43. *Subsection (5)* requires OFT to publish the arrangements to approve consumer codes in any way it considers appropriate.
44. *Subsection (6)* defines a consumer code of practice as any document that is intended to regulate the conduct of a person supplying goods or services to consumers and the purpose of which is to safeguard or promote the interests of consumers. This definition does not include codes of practice that only give non-binding guidance.