

2019 No. 203

EXITING THE EUROPEAN UNION

CONSUMER PROTECTION

The Consumer Protection (Enforcement) (Amendment etc.) (EU Exit) Regulations 2019

Made - - - - *6th February 2019*

Coming into force in accordance with regulation 1

The Secretary of State makes these Regulations in exercise of the powers conferred by section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018(a).

In accordance with paragraph 1(3) of Schedule 7 to that Act, a draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament.

PART 1

Introduction

Citation and commencement

1. These Regulations may be cited as the Consumer Protection (Enforcement) (Amendment etc.) (EU Exit) Regulations 2019 and come into force on exit day.

Interpretation

2. In these Regulations, “the 2002 Act” means the Enterprise Act 2002(b).

(a) 2018 c.16.

(b) 2002 c. 40. Part 8 amended by the Civil Partnership Act 2004 (c. 33), section 261(1), Schedule 27, paragraph 169, S.I. 2006/3363, S.I. 2007/528, S.I. 2008/1277, S.I. 2009/1941, S.I. 2011/1043, S.I. 2011/1208, the Financial Services Act 2012 (c. 21), section 114(1), Schedule 18, paragraphs 95(1) and (2), the Crime and Courts Act 2013 (c. 22), section 17(5), Schedule 9, Part 3, paragraphs 81(b) and (c), S.I. 2013/783, S.I. 2014/631, S.I. 2014/892, the Consumer Rights Act 2015 (c. 15), section 77(2), Schedule 6, paragraphs 67 to 80, section 79(1), Schedule 7, the Digital Economy Act 2017 (c. 30), section 4(10), Schedule 3, Part 2, paragraphs 42 and 44, S.I. 2018/378 and S.I. 2018/634. Section 243 amended by the Financial Services Act 2012 (c. 21), section 114(2), Schedule 19. Schedule 13 amended by S.I. 2004/2095, S.I. 2005/2759, S.I. 2006/3363, S.I. 2008/1277, S.I. 2009/2999, S.I. 2010/1010, S.I. 2010/2960, S.I. 2011/1208, S.I. 2014/2908, S.I. 2015/542, S.I. 2015/1392, S.I. 2015/1911, S.I. 2017/752, S.I. 2018/634 and S.I. 2018/1153. There are amendments to other provisions of the Act, but those amendments are not relevant to these Regulations.

PART 2

Amendment of primary legislation

Amendment of the Enterprise Act 2002

3.—(1) The 2002 Act is amended as follows.

(2) In section 210 (consumers)—

(a) in subsection (6)—

(i) for “Community infringement” substitute “Schedule 13 infringement”;

(ii) for paragraphs (a) and (b) substitute “the listed enactment concerned”;

(b) after subsection (6) insert—

“(6A) An enactment is a listed enactment if it is specified in Schedule 13 or to the extent that it is so specified.

(6B) References to an enactment include—

(a) references to subordinate legislation (within the meaning of the Interpretation Act 1978(a));

(b) for the purposes of paragraph 6 of Schedule 13, references to a rule of law in Scotland;

(c) for the purposes of paragraph 16 of Schedule 13, references to rules forming part of the law of any part of the United Kingdom made other than under an Act.”;

(c) omit subsections (7) and (7A).

(3) For section 212 (Community infringements), substitute—

“212. Schedule 13 infringements

(1) In this Part a Schedule 13 infringement is an act or omission which contravenes a listed enactment and which harms the collective interests of consumers.

(2) References to a listed enactment must be construed in accordance with section 210.”

(4) In section 213 (enforcers)—

(a) omit subsection (5);

(b) in subsection (5A), for “(being bodies or persons designated by the Secretary of State under Article 4(1) or 4(2) of the CPC Regulation) is a CPC enforcer” substitute “is a Schedule 13 enforcer”;

(c) omit subsections (10) and (11).

(5) In section 214 (consultation), in subsection (2)(d), for “Community infringement” substitute “Schedule 13 infringement”.

(6) In section 215 (applications)—

(a) in subsection (1), for “Community infringement” substitute “Schedule 13 infringement” in both places where it occurs;

(b) omit subsection (4);

(c) in subsection (4A)—

(i) for “CPC enforcer” substitute “Schedule 13 enforcer”;

(ii) for “Community infringement” substitute “Schedule 13 infringement”;

(d) omit subsections (6), (7) and (8).

(7) In section 216 (applications: directions by CMA), omit subsection (6).

(a) 1978 c.30; “subordinate legislation” is defined in section 21(1), as amended by the European Union (Withdrawal) Act 2018, section 23(5), Schedule 8, paragraphs 18 and 19.

(8) In section 217 (enforcement orders), in subsection (2), for “Community infringement” substitute “Schedule 13 infringement”.

(9) In section 218 (interim enforcement order)—

(a) in subsection (1)(a), for “Community infringement” substitute “Schedule 13 infringement” in both places where it occurs;

(b) in subsection (4), for “Community infringement” substitute “Schedule 13 infringement”.

(10) In section 218A (unfair commercial practices: substantiation of claims), in subsection (1)—

(a) for “Community infringement” substitute “Schedule 13 infringement”;

(b) for the words from “Directive 2005/29/EC of the European Parliament” to the end of the subsection, substitute “the Consumer Protection from Unfair Trading Regulations 2008(a)”.

(11) In section 219 (undertakings)—

(a) in subsection (3)(c), for “Community infringement” substitute “Schedule 13 infringement”;

(b) in subsection (5A), for “CPC enforcer” substitute “Schedule 13 enforcer”;

(c) in subsection (5B)—

(i) for “CPC enforcer” substitute “Schedule 13 enforcer”;

(ii) for “Community infringement” substitute “Schedule 13 infringement”.

(12) In section 219A (definition of enhanced consumer measures), in subsection (5)(c), for “CPC enforcer” substitute “Schedule 13 enforcer”.

(13) In section 220 (further proceedings), in subsection (2), for “CPC enforcer” substitute “Schedule 13 enforcer”.

(14) Omit section 221 (Community infringements: proceedings).

(15) In section 222 (bodies corporate: accessories), in subsection (1), for “Community infringement” substitute “Schedule 13 infringement”.

(16) In section 229 (advice and information), in subsection (6), for “general or CPC enforcer or a designated enforcer” substitute “enforcer”.

(17) Omit sections 235 (Injunctions Directive) and 235A (CPC Regulation).

(18) In section 235B (dual enforcers), for “CPC enforcer” substitute “Schedule 13 enforcer” in both places where it occurs.

(19) In section 243(b) (overseas disclosures), in subsection (12)(c), for “an order under section 212(3)” substitute “Schedule 13”.

(20) For Schedule 13 (Listed Directives and Regulations), substitute the Schedule set out in the Schedule to these Regulations.

Amendment of the Consumer Rights Act 2015

4.—(1) Schedule 5 (investigatory powers etc.) to the Consumer Rights Act 2015(c) is amended as follows.

(2) In paragraph 2 (enforcers), for “an EU enforcer” substitute “a Schedule 13 enforcer” in both places where it occurs.

(a) S.I. 2008/1277, amended by S.I. 2011/1043, S.I. 2011/2085, S.I. 2013/783, S.I. 2013/3134, S.I. 2014/549, S.I. 2014/870, the Consumer Rights Act 2015 (c.15), section 60, Schedule 1, paragraph 55(b), section 77(2), Schedule 6, paragraph 85(j), S.I. 2015/1629, S.I. 2015/1630 and S.I. 2018/1326.

(b) Section 243 amended by the Financial Services Act 2012 (c. 21), section 114(2), Schedule 19.

(c) 2015 c.15. Schedule 5 amended by S.I. 2015/1640, S.I. 2015/1726, the Enterprise Act 2016 (c. 12), section 25(2), the Housing and Planning Act 2016 (c. 22), section 132(4), S.I. 2016/1091, S.I. 2016/1092, S.I. 2016/1093, S.I. 2016/1101, S.I. 2016/1105, S.I. 2016/1152, S.I. 2016/1153, S.I. 2016/1259, S.I. 2017/737 and S.I. 2018/634. There are amendments to other provisions of the Act, but those amendments are not relevant to this regulation.

(3) In the italic heading before paragraph 4, for “EU enforcers” substitute “Schedule 13 enforcers”.

(4) For paragraph 4 substitute—

“4. In this Schedule “Schedule 13 enforcer” means a person or body which is a Schedule 13 enforcer under section 213(5A) of the Enterprise Act 2002.”

(5) In paragraph 8 (interpretation of other terms), for “Community infringement” substitute “Schedule 13 infringement”.

(6) In paragraph 13 (exercise of powers in this Part)—

- (a) omit sub-paragraph (2)(c);
- (b) in sub-paragraph (3), for “an EU enforcer” substitute “a Schedule 13 enforcer”;
- (c) in sub-paragraph (10), omit the definition of “Community enforcer”.

(7) In the heading of Part 4, for “EU enforcers” substitute “Schedule 13 enforcers”.

(8) In the italic heading before paragraph 20, for “EU enforcers” substitute “Schedule 13 enforcers”.

(9) In paragraph 20—

- (a) in sub-paragraph (1), for “an EU enforcer” substitute “a Schedule 13 enforcer”;
- (b) in sub-paragraph (2)—
 - (i) for “an EU enforcer” substitute “a Schedule 13 enforcer”;
 - (ii) for “CPC enforcer” substitute “Schedule 13 enforcer”;
- (c) in sub-paragraph (3), for “EU enforcer” substitute “Schedule 13 enforcer”;
- (d) in sub-paragraph (3)(a), for “Community infringement” substitute “Schedule 13 infringement”;
- (e) in sub-paragraphs (4) and (5), for “An EU enforcer” substitute “A Schedule 13 enforcer”;
- (f) in sub-paragraph (5)(a), for “Community infringement” substitute “Schedule 13 infringement”;
- (g) in sub-paragraph (6), for “An EU enforcer” substitute “A Schedule 13 enforcer”.

(10) In paragraph 32 (power to enter premises with warrant)—

- (a) in sub-paragraph (3)(b)—
 - (i) for “an EU enforcer” substitute “a Schedule 13 enforcer”;
 - (ii) for “Community infringement as defined in section 212 of the Enterprise Act 2002” substitute “Schedule 13 infringement”;
- (b) in sub-paragraph (3)(c), for “an EU enforcer” substitute “a Schedule 13 enforcer”.

(11) In paragraph 41 (compensation)—

- (a) in sub-paragraph (4), for “an EU enforcer” substitute “a Schedule 13 enforcer”;
- (b) in sub-paragraph (4)(a), for “Community infringement” substitute “Schedule 13 infringement”.

Amendment of the Data Protection Act 2018

5. In Part 2 of Schedule 2 (Exemptions etc from the GDPR) to the Data Protection Act 2018(a)—

- (a) in the table in paragraph 11, omit row 10 (consumer protection enforcer);
- (b) in paragraph 12, omit the definitions of “consumer protection enforcer” and “CPC Regulation”.

(a) 2018 c.12.

PART 3

Amendment and revocation of subordinate legislation

Amendment of the Enterprise Act 2002 (Part 8 Designated Enforcers: Criteria for Designation, Designation of Public Bodies as Designated Enforcers and Transitional Provisions) Order 2003

6. In the Enterprise Act 2002 (Part 8 Designated Enforcers: Criteria for Designation, Designation of Public Bodies as Designated Enforcers and Transitional Provisions) Order 2003(a), in article 3 (criteria for designation)—

- (a) in paragraph (b), for “Community infringements” substitute “Schedule 13 infringements”;
- (b) in paragraph (f)—
 - (i) omit “and Community enforcers”;
 - (ii) for “Community infringements” substitute “Schedule 13 infringements”.

Revocation of orders made under section 212(3) of the Enterprise Act 2002

7. The following are revoked—

- (a) the Enterprise Act 2002 (Part 8 Community Infringements Specified UK Laws) Order 2003(b);
- (b) the Enterprise Act 2002 (Part 8 Community Infringements Specified UK Laws) (Amendment) Order 2005(c);
- (c) the Enterprise Act 2002 (Part 8 Community Infringements Specified UK Laws) Order 2006(d);
- (d) the Enterprise Act 2002 (Part 8 EU Infringements) Order 2014(e);
- (e) the Enterprise Act 2002 (Part 8 Community Infringements and Specified UK Laws) (Amendment) Order 2015(f).

PART 4

Revocation of retained direct EU legislation

Revocation of Regulation (EC) No 2006/2004

8. Regulation (EC) No 2006/2004 of the European Parliament and of the Council on cooperation between national authorities responsible for the enforcement of consumer protection laws is revoked.

(a) S.I. 2003/1399, amended by the Railways and Transport Safety Act 2003 (c. 20), sections 16(4) and (5), Schedule 3, paragraph 4, S.I. 2003/3182, S.I. 2006/522 and S.I. 2014/549.

(b) S.I. 2003/1374, amended by S.I. 2004/2095, S.I. 2005/2418, S.I. 2008/1277, S.I. 2008/1816, S.I. 2010/1010, S.I. 2010/2960, S.I. 2011/1208, S.I. 2012/1916, S.I. 2013/472, S.I. 2015/1392, S.I. 2015/1628 and S.I. 2018/634.

(c) S.I. 2005/2418.

(d) S.I. 2006/3372, amended by S.I. 2008/1277.

(e) S.I. 2014/2908, amended by S.I. 2015/1628 and S.I. 2017/752.

(f) S.I. 2015/1628.

PART 5

Transitional provisions

Post-exit day enforcement of Community infringements: general rule

9.—(1) Subject to regulation 10, the amendments in regulations 3 and 4 and the revocations in regulation 7 do not apply in relation to any Community infringement or suspected Community infringement to the extent that it occurred (or is suspected to have occurred) before exit day.

(2) “Community infringement” has the meaning given by section 212 of the 2002 Act before these Regulations come into force.

Post-exit day enforcement of Community infringements: exceptions to general rule

10.—(1) A Community enforcer may not, after exit day—

- (a) exercise any function under Part 8 of the 2002 Act, or
- (b) continue any proceedings relating to an application made to a court under that Part prior to exit day, and any such proceedings that have not been determined before exit day are deemed to be withdrawn.

(2) The deemed withdrawal of proceedings under paragraph (1)(b) does not prevent another enforcer from making an application to court under Part 8 of the 2002 Act in relation to the infringement, or suspected infringement, in question.

(3) In paragraph (1) a “Community enforcer” has the meaning given by section 213 of the 2002 Act before these Regulations come into force and in paragraph (2) “another enforcer” means an enforcer under that section after these Regulations come into force.

(4) Regulation 9 does not apply to regulation 3(4)(c).

Kelly Tolhurst

Parliamentary Under Secretary of State

Department for Business, Energy and Industrial Strategy

6th February 2019

SCHEDULE

Regulation 3(20)

Substituted Schedule 13 to the Enterprise Act 2002

“SCHEDULE 13 Sections 210 and 243(12)(c)

Listed enactments

1. Sections 9 to 11 of the Supply of Goods (Implied Terms) Act 1973(a).

2. The Consumer Credit Act 1974(b) and secondary legislation made under that Act excluding requirements relating to consumer hire agreements.

(a) 1973 c.13, amended (in relation to the relevant sections) by the Consumer Credit Act 1974 (c.39), section 192(3)(a), Schedule 4, paragraph 35, the Sale and Supply of Goods Act 1994 (c. 35), section 7, Schedule 2, paragraphs 4(3), (4) and (5), S.I. 2002/3045, the Consumer Rights Act 2015 (c.15), section 60, Schedule 1, paragraphs 1, 2 and 3. As a result of the amendments made by the Consumer Rights Act 2015, sections 9 to 11 of the Supply of Goods (Implied Terms) Act 1973 apply to a “relevant hire purchase agreement” which, by virtue of the amendment of section 15(1) of the 1973 Act by section 60, Schedule 1, paragraphs 1, 7(1) and (2)(a) of the 2015 Act, does not include a contract to which Chapter 2 of Part 1 of the 2015 Act applies (contract for a trader to supply goods to a consumer) but, by virtue of article 6(1)(a) of the Consumer Rights Act 2015 (Commencement No. 3, Transitional Provisions, Savings and Consequential Amendments) Order 2015 (S.I. 2015/1630), the amendments do not apply to contracts entered into before 1st October 2015.

(b) 1974 c. 39, amended by S.I. 1983/1878, the Age of Legal Capacity (Scotland) Act 1991 (c. 50), section 10(2), Schedule 2, the Water Consolidation (Consequential Provisions) Act 1991 (c. 60), section 2(1), Schedule 1, paragraph 26, the Friendly

3. Sections 6(2), 7(1), 7(2), 20(2), 21 and 27(2) of the Unfair Contract Terms Act 1977(a), to the extent that those sections remain in force, or continue to apply to a consumer contract, by virtue of the saving made, in connection with their repeal or disapplication by the Consumer Rights Act 2015(b), by article 6 of the Consumer Rights Act 2015 (Commencement No. 3, Transitional Provisions, Savings and Consequential Amendments) Order 2015(c).

4. Sections 13 to 15, 15B, 20 and 32 of the Sale of Goods Act 1979(d), to the extent that those sections continue to apply to a contract for a trader to supply goods to a consumer by virtue of the saving made, in connection with their amendment by the Consumer Rights Act 2015(e), by article 6 of the Consumer Rights Act 2015 (Commencement No. 3, Transitional Provisions, Savings and Consequential Amendments) Order 2015.

5. Sections 48A to 48F of the Sale of Goods Act 1979, to the extent that those sections remain in force by virtue of the saving made, in connection with their repeal by the Consumer Rights Act 2015(f), by article 6 of the Consumer Rights Act 2015 (Commencement No. 3, Transitional Provisions, Savings and Consequential Amendments) Order 2015.

6. Sections 3 to 5, 11C to 11E and 13 of the Supply of Goods and Services Act 1982(g), and any rule of law in Scotland which provides comparable protection to section 13, to the extent that those sections continue to apply to a contract for a trader to supply goods or, in

Societies Act 1992 (c. 40), section 120(2), Schedule 22, Part 1, the Tribunal and Inquiries Act 1992 (c. 53), section 18(2), Schedule 4, Part 1, S.I. 1992/231, S.I. 1992/3218, the Charities Act 1993 (c. 10), section 98(1), Schedule 6, paragraph 30, the Railways Act 1993 (c. 43), section 152(1), Schedule 12, paragraph 8, the Local Government (Wales) Act 1994 (c. 19), section 66(6), Schedule 16, paragraph 45, section 66(8), Schedule 18, the Coal Industry Act 1994 (c. 21), section 67(1), Schedule 9, paragraph 15, the Law of Property (Miscellaneous Provisions) Act 1994 (c. 36), section 21(1), Schedule 1, paragraph 6, the Local Government etc. (Scotland) Act 1994 (c. 39), section 180(1), Schedule 13, paragraph 94, S.I. 1995/3275, the Arbitration Act 1996 (c. 23), section 107(1), Schedule 3, paragraph 28, S.I. 1996/275, the Bank of England Act 1998 (c. 11), section 23(1), Schedule 5, Part I, paragraph 36, Part IV, paragraph 60, the Data Protection Act 1998 (c. 29), section 62, the Government of Wales Act 1998 (c. 38), section 152, Schedule 18, Part VI, S.I. 1998/997, the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6), section 165(1), Schedule 9, paragraph 45, the Freedom of Information Act 2000 (c. 36), section 18(4), Schedule 2, Part 1, paragraph 7, S.I. 2000/2334, S.I. 2001/544, S.I. 2001/3649, S.I. 2001/4050, the Land Registration Act 2002 (c. 9), section 133, Schedule 11, paragraph 11, the Enterprise Act 2002 (c. 40), section 278(1), Schedule 25, paragraph 6, S.I. 2003/1374, S.I. 2003/1475, the Civil Partnership Act 2004 (c. 33), section 261(1), Schedule 27, paragraphs 50 and 51, section 261(4), Schedule 30, S.I. 2004/3236, the Mental Capacity Act 2005 (c. 9), section 67(1), Schedule 6, paragraph 21, S.I. 2005/2967, S.I. 2005/3129, the Consumer Credit Act 2006 (c. 14), sections 1 to 15, 16(1)-(3), 17 to 55(1), 55(2), Schedule 1, 56 to 58(1)-(4), 61(1), 62 to 65, 70, Schedule 4, the Charities Act 2006 (c. 50), section 75(1), Schedule 8, paragraph 56, S.I. 2006/242, S.I. 2006/2383, S.I. 2006/3221, the Tribunals, Courts and Enforcement Act 2007 (c. 15), section 50(6), Schedule 10, Part 1, paragraph 11, section 146, Schedule 23, Part 1, the Legal Services Act 2007 (c. 29), section 208(1), Schedule 21, paragraph 31, S.I. 2007/126, S.I. 2008/733, S.I. 2008/1277, S.I. 2008/1816, S.I. 2008/2826, S.I. 2008/3002, S.I. 2009/1835, S.I. 2010/866, S.I. 2010/1010, the Energy Act 2011 (c. 16), sections 25 to 29, S.I. 2011/99, the Financial Services Act 2012 (c. 21), section 108, section 114(1), Schedule 18, Part 2, paragraph 37, S.I. 2012/2404, S.I. 2013/1881, S.I. 2013/1882, S.I. 2013/3115, S.I. 2014/366, S.I. 2014/436, S.I. 2014/560, the Consumer Rights Act 2015, section 77(2), Schedule 6, paragraphs 12 to 18, S.I. 2015/910, S.I. 2016/392, S.I. 2017/752, the Data Protection Act 2018 (c. 12), section 211(1)(a), Schedule 19, Part 1, paragraphs 7 to 10 and S.I. 2018/1038.

- (a) 1977 c.50, amended (in relation to section 21) by the Supply of Goods and Services Act 1982 (c. 29), section 11B(6) and S.I. 2005/871).
- (b) 2015 c. 15. Sections 6(2), 7(2), 20(2) and 27(2)(b) of the Unfair Contract Terms Act 1977 (c. 50) repealed by the Consumer Rights Act 2015, section 75, Schedule 4, paragraphs 2, 8(1) and (3), 9(1) and (3), 19(1) and (3) and 24(1) and (2). Sections 7(1) and 21 of the Unfair Contract Terms Act 1977 do not apply to consumer contracts by virtue of sections 7(4A) and 21(3B) of that Act inserted by the Consumer Rights Act 2015, section 75, Schedule 4, paragraphs 9(4) and 20(4).
- (c) S.I. 2015/1630. The saving under article 6(1) relates to contracts entered into, and notices provided or communicated, before 1st October 2015 within the scope of the provisions brought into force by sub-paragraphs (a) to (c) and (g) of article 3. Under article 6(2), provisions brought into force by article 4 (contracts to supply a consumer transport service) do not apply to a contract to supply a consumer transport service entered into before 1 October 2016. There are specific transitional provisions in relation to the Sale and Supply of Goods to Consumers Regulations 2002 (S.I. 2002/3045) and the Unfair Terms in Consumer Contracts Regulations 1999 (S.I. 1999/2083) in articles 6(3) and 6(4) respectively.
- (d) 1979 c. 54, amended (in relation to the relevant sections) by the Sale and Supply of Goods Act 1994 (c. 35), sections 1, 5(1) and 7, Schedule 2, paragraph 5(1), (4), (5) and (6) and S.I. 2002/3045.
- (e) Sections 13 to 15, 15B, 20 and 32 of the Sale of Goods Act 1979 (c. 54) amended by the Consumer Rights Act 2015 (c. 15), section 60, Schedule 1, paragraphs 8, 12, 13(1) and (3), 14, 16(1) and (2), 17(1) and 21, so that they do not apply to a contract to which Chapter 2 of Part 1 of the 2015 Act applies (contract for a trader to supply goods to a consumer).
- (f) Sections 48A to 48F of the Sale of Goods Act 1979 (c. 54) inserted by S.I. 2002/3045 and repealed by the Consumer Rights Act 2015 (c. 15), section 60, Schedule 1, paragraphs 8 and 27.
- (g) 1982 c. 29, amended (in relation to the relevant sections) by the Sale and Supply of Goods Act 1994 (c. 35), section 6, Schedule 1, paragraph 1, section 7(1), Schedule 2, paragraph 6(1), (3) and (4), section 7(2), Schedule 3 and S.I. 2002/3045.

the case of section 13, a contract for a trader to supply a service, to a consumer by virtue of the saving made, in connection with their amendment by the Consumer Rights Act 2015(a), by article 6 of the Consumer Rights Act 2015 (Commencement No. 3, Transitional Provisions, Savings and Consequential Amendments) Order 2015.

7. Sections 11M to 11S of the Supply of Goods and Services Act 1982 to the extent that those sections remain in force by virtue of the saving made, in connection with their repeal by the Consumer Rights Act 2015(b), by article 6 of the Consumer Rights Act 2015 (Commencement No. 3, Transitional Provisions, Savings and Consequential Amendments) Order 2015.

8. The Package Travel, Package Holidays and Package Tours Regulations 1992(c), to the extent that those Regulations remain in force by virtue of the saving made, in connection with their revocation, by regulation 37(2) of the Package Travel and Linked Travel Arrangements Regulations 2018(d).

9. The Unfair Terms in Consumer Contracts Regulations 1999(e), to the extent that those Regulations remain in force by virtue of the saving made, in connection with their revocation by the Consumer Rights Act 2015(f), by article 6 of the Consumer Rights Act 2015 (Commencement No. 3, Transitional Provisions, Savings and Consequential Amendments) Order 2015.

10. The Consumer Protection (Distance Selling) Regulations 2000(g), to the extent that those Regulations remain in force for contracts entered into prior to their disapplication by virtue of regulation 2(a) of the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013(h).

11. Regulations 6, 7, 8, 9 and 11 of the Electronic Commerce (EC Directive) Regulations 2002(i).

12. Regulation 15 of the Sale and Supply of Goods to Consumers Regulations 2002(j), to the extent that regulation 15 remains in force by virtue of the saving made, in connection with its revocation by the Consumer Rights Act 2015(k), by article 6 of the Consumer Rights Act 2015 (Commencement No. 3, Transitional Provisions, Savings and Consequential Amendments) Order 2015.

13. Regulations 19 to 26, 30 and 32 of the Privacy and Electronic Communications (EC Directive) Regulations 2003(l).

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- (a) Sections 3 to 5 and 11C to 11E of the Supply of Goods and Services Act 1982 (c. 29) amended by the Consumer Rights Act 2015 (c.15), section 60, Schedule 1, paragraphs 37 and 38(a), so that those sections apply to a “relevant contract for the transfer of goods” which, by virtue of the amendment of section 1(1) of the 1982 Act by paragraph 39, does not include a contract to which Chapter 2 of Part 1 of the 2015 Act applies (contract for a trader to supply goods to a consumer). Section 13 of the Supply of Goods and Services Act 1982 amended by the Consumer Rights Act 2015, section 60, Schedule 1, paragraphs 37 and 38(c) so that section 13 of the 1982 Act applies to a relevant contract for the supply of a service which, by virtue of the amendment of section 12(1) of the 1982 Act by paragraph 51, does not include a contract to which Chapter 4 of Part 1 of the 2015 Act applies (contract for a trader to supply a service to a consumer).
- (b) Sections 11M to 11S inserted by S.I. 2002/3045 and repealed by the Consumer Rights Act 2015 (c. 15), section 60 and Schedule 1, paragraphs 37 and 50.
- (c) S.I. 1992/3288, amended by S.I. 1995/1648, S.I. 1998/1208, S.I. 2003/1376, S.I. 2003/1400, S.I. 2011/1043, S.I. 2015/1630.
- (d) S.I. 1992/3288 revoked by regulation 37(1) of S.I. 2018/634 but the revocation does not, by virtue of regulation 37(2), have effect in relation to any contract concluded before 1st July 2018.
- (e) S.I. 1999/2083, amended by S.I. 2001/1186, S.I. 2001/3649, S.I. 2003/3182, S.I. 2004/2095, S.I. 2006/523, S.I. 2011/1043, S.I. 2013/472, S.I. 2013/783, S.I. 2013/1865, S.I. 2014/549.
- (f) S.I. 1999/2083 revoked by the Consumer Rights Act 2015 (c. 15), section 75, Schedule 4, paragraph 34.
- (g) S.I. 2000/2334, amended by S.I. 2004/2095, S.I. 2005/55, S.I. 2005/689, S.I. 2008/1277, S.I. 2009/209, S.I. 2010/2960, S.I. 2013/783 and S.I. 2014/549.
- (h) S.I. 2013/3134. Regulation 2(a) of S.I. 2013/3134 provides that S.I. 2000/2334 does not apply to contracts entered into on or after 13th June 2014.
- (i) S.I. 2002/2013, amended by S.I. 2019/87.
- (j) S.I. 2002/3045, amended (in relation to regulation 15) by S.I. 2008/1277.
- (k) S.I. 2002/3045 revoked by the Consumer Rights Act 2015 (c. 15), section 60 and Schedule 1, paragraph 53.
- (l) S.I. 2003/2426, amended (in relation to the relevant regulations) by S.I. 2004/1039, S.I. 2011/1208, S.I. 2016/524, S.I. 2016/1177 and the Financial Guidance and Claims Act 2018 (c. 10), section 35.

- 14.** The Price Marking Order 2004**(a)**.
- 15.** Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to air passengers in the event of denied boarding and of cancellation or long delay of flights.
- 16.** The Financial Services (Distance Marketing) Regulations 2004**(b)** and rules corresponding to any provisions of those Regulations made by the Financial Conduct Authority or a designated professional body within the meaning of section 326(2) of the Financial Services and Markets Act 2000**(c)**.
- 17.** The Price Marking Order (Northern Ireland) 2004**(d)**.
- 18.** The Civil Aviation (Denied Boarding, Compensation and Assistance) Regulations 2005**(e)**.
- 19.** The Consumer Protection from Unfair Trading Regulations 2008**(f)**.
- 20.** The Cancellation of Contracts made in a Consumer's Home or Place of Work etc. Regulations 2008**(g)**, to the extent that those Regulations remain in force for contracts entered into prior to their disapplication by regulation 2(b) of the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013**(h)**.
- 21.** The Provision of Services Regulations 2009**(i)**.
- 22.** The Timeshare, Holiday Products, Resale and Exchange Contracts Regulations 2010**(j)**.
- 23.** Chapters 1 and 2 of Part 14 of the Human Medicines Regulations 2012**(k)**.
- 24.** Regulations 4 and 6A to 10 of the Consumer Rights (Payment Surcharges) Regulations 2012**(l)**.
- 25.** The Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013**(m)**.
- 26.** Regulation 19(1) and (2) of the Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015**(n)**.
- 27.** Sections 2, 3, 5, 9 to 15, 19, 23, 24, 28 to 32, 36(3) and (4), 37, 38, 42, 50, 54, 58, 59, 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**(o)**.

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- (a) S.I. 2004/102, amended by S.I. 2009/3231, S.I. 2014/1855 and S.I. 2015/1630.
- (b) S.I. 2004/2095, amended by S.I. 2007/108, S.I. 2008/1277, S.I. 2009/209, S.I. 2010/1010, S.I. 2010/2960, S.I. 2011/99, S.I. 2011/1043, S.I. 2012/1809, S.I. 2013/472, S.I. 2013/1881, S.I. 2013/3134, S.I. 2014/208 and S.I. 2017/752.
- (c) 2000 c. 8.
- (d) S.R. 2004 No. 368, amended by S.R. 2011 No. 330 and S.R. 2014 No. 223.
- (e) S.I. 2005/975, amended by S.I. 2016/729.
- (f) S.I. 2008/1277, amended by S.I. 2011/1043, S.I. 2011/2085, S.I. 2013/783, S.I. 2013/3134, S.I. 2014/549, S.I. 2014/870, the Consumer Rights Act 2015 (c.15), section 60, Schedule 1, paragraph 55(b), section 77(2), Schedule 6, paragraph 85(j), S.I. 2015/1629, S.I. 2015/1630 and S.I. 2018/1326.
- (g) S.I. 2008/1816, amended by S.I. 2010/1010, S.I. 2013/1881 and S.I. 2017/488.
- (h) Regulation 2(b) provides that S.I. 2000/2334 does not apply to contracts entered into on or after 13th June 2014.
- (i) S.I. 2009/2999, amended by S.I. 2010/252, S.I. 2011/1043, S.I. 2012/1809, S.I. 2013/3115, S.I. 2014/1937, S.I. 2015/102, S.I. 2015/2059 and the Data Protection Act 2018 (c. 12), section 211(1)(b), Schedule 19, Part 2, paragraph 342, and S.I. 2018/1329.
- (j) S.I. 2010/2960, amended by the Consumer Rights Act 2015 (c. 15), section 77(2), Schedule 6, paragraph 85(k), S.I. 2015/1630, S.I. 2018/634 and S.I. 2018/1397.
- (k) S.I. 2012/1916, amended (in relation to the relevant regulations) by S.I. 2014/324 and S.I. 2014/1878.
- (l) S.I. 2012/3110, amended (in relation to the relevant regulations) by S.I. 2013/761, 2014/549, S.I. 2017/752 and S.I. 2018/1326.
- (m) S.I. 2013/3134, amended by S.I. 2014/870, S.I. 2015/1629, S.I. 2015/1726, S.I. 2018/634 and S.I. 2018/1326.
- (n) S.I. 2015/542, amended (in relation to the relevant regulations) by S.I. 2015/1392 and S.I. 2018/1326.
- (o) 2015 c. 15, amended (in relation to the relevant provisions) by S.I. 2015/1682, the Housing and Planning Act 2016 (c. 22), section 132(4), S.I. 2018/1326 and regulation 4 of these Regulations.

28. Article 10(4) of Regulation (EU) 2015/751 of the European Parliament and of the Council of 29 April 2015 on interchange fees for card-based payment transactions.

29. The Package Travel and Linked Travel Arrangements Regulations 2018(a).”

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers conferred by section 8(1) of the European Union (Withdrawal) Act 2018 (c.16) in order to address failures of retained EU law to operate effectively and other deficiencies (in particular under sections 8(2)(b), (c), (d) and (g)) arising from the withdrawal of the United Kingdom from the European Union.

These Regulations make amendments to legislation in the field of enforcement of the laws protecting consumers’ rights.

Part 2 amends primary legislation and, in particular, regulation 3 amends Part 8 (enforcement of certain consumer legislation) of the Enterprise Act 2002 (c.40) (“the 2002 Act”) which provides for enforcement of breaches of consumer legislation harming the collective interests of consumers. Regulation 4 makes similar changes to Schedule 5 (investigatory powers etc.) to the Consumer Rights Act 2015 (c.15) (“the 2015 Act”).

The amendments to the 2002 Act replace the concept of a “Community infringement” with a “Schedule 13 infringement”. A Community infringement consists of a contravention of European Union Directives and Regulations listed in Schedule 13 to the 2002 Act before these Regulations come into force and any law of the United Kingdom specified in an order under section 212(3) (“a section 212 order”) before that time. A Schedule 13 infringement consists of a contravention of the legislation specified in Schedule 13 as substituted by these Regulations, and that legislation includes direct EU legislation and the domestic legislation specified, prior to exit day, in the section 212 orders (save for such legislation or provisions as are no longer relevant).

Those amendments remove the functions of Community enforcers so that they cannot apply to the UK courts for enforcement orders under Part 8 of the 2002 Act. Community enforcers are bodies in other EU Member States which, prior to exit day, are entitled to bring legal proceedings in the UK under Directive 2009/22/EC of the European Parliament and of the Council of 23 April 2009 on injunctions for the protection of consumers’ interest (OJ L 110, 1.5.2009, p. 30).

Those amendments also rename as Schedule 13 enforcers those bodies or persons which, prior to exit day, are CPC enforcers. (CPC enforcers are listed in section 213(5A) of the 2002 Act and are designated under Article 4(1) and 4(2) of Regulation (EC) No 2006/2004 of the European Parliament and of the Council on cooperation between national authorities responsible for the enforcement of consumer protection laws) (OJ L 364, 9.12.2004, p. 1) (“the CPC Regulation”). After exit day, Schedule 13 enforcers may apply to court under Part 8 of the 2002 Act for enforcement orders in the case of Schedule 13 infringements.

Part 3 amends the Enterprise Act 2002 (Part 8 Designated Enforcers: Criteria for Designation, Designation of Public Bodies as Designated Enforcers and Transitional Provisions) Order 2003 (S.I. 2003/1399). Part 3 also revokes the section 212 orders.

Part 4 revokes the CPC Regulation.

Part 5 sets out transitional provisions. These provisions preserve the ability of enforcers to exercise functions under the 2002 Act and the 2015 Act in relation to pre-exit day Community infringements. By way of exception, Community enforcers may not exercise any functions under Part 8 of the 2002 Act after exit day and may not continue court proceedings under that Part. There are no transitional provisions in relation to the CPC Regulation.

(a) S.I. 2018/634, amended by S.I. 2018/1367.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

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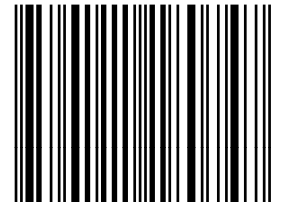
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