
STATUTORY INSTRUMENTS

2003 No. 766 (C. 40)

**COMPETITION
CONSUMER PROTECTION**

The Enterprise Act 2002 (Commencement No. 2,
Transitional and Transitory Provisions) Order 2003

Made - - - - 18th March 2003

The Secretary of State, in exercise of the powers conferred upon her by sections 276(2) and 279 of the Enterprise Act 2002⁽¹⁾, hereby makes the following Order:

Citation and interpretation

1.—(1) This Order may be cited as the Enterprise Act 2002 (Commencement No. 2, Transitional and Transitory Provisions) Order 2003.

(2) In this Order—

“the Act” means the Enterprise Act 2002;

“appeal tribunal” means an appeal tribunal of the Competition Commission;

“existing appeal” means an appeal made to the Competition Commission under section 46 or 47 of the Competition Act 1998⁽²⁾ or regulation 25 or 26 of the EC Competition Law (Articles 84 and 85) Enforcement Regulations 2001⁽³⁾ which has not been finally determined before 1st April 2003; and

“the Tribunal” means the Competition Appeal Tribunal.

(3) In this Order (save where the context otherwise requires) references to sections and Schedules are references to sections of and Schedules to the Act.

Provisions of the Act commenced by this Order

2. 1st April 2003 is the appointed day for the coming into force of the provisions of the Act listed in the first column of the Schedule to this Order for the purposes set out in the second column.

(1) 2002 c. 40.

(2) 1998 c. 41.

(3) S.I. 2001/2916, to which there are amendments not relevant to this Order.

Transitional and transitory provision

3.—(1) Any existing appeal shall be deemed to have been made to the Tribunal and shall continue as an appeal to the Tribunal and anything having any continuing effect done in relation to an existing appeal (including anything done for the purpose of an appeal from a decision made in relation to an existing appeal and anything done in connection with a request for a preliminary ruling of the Court of Justice of the European Communities in relation to an existing appeal) shall be deemed for all purposes to have been done in relation to an appeal to the Tribunal and is not to be invalidated by the commencement of any of the provisions brought into force by this Order.

(2) Without prejudice to the generality of paragraph (1), for the purposes of any existing appeal, anything done by the President of the Competition Commission Appeal Tribunals, the Registrar of Appeal Tribunals, and an appeal tribunal shall be deemed for all purposes to have been done by the President of the Competition Appeal Tribunal, the Registrar of the Competition Appeal Tribunal, and the Tribunal, respectively, and the members of any tribunal constituted by the President of the Competition Commission Appeal Tribunals in relation to an existing appeal in accordance with paragraph 27 of Schedule 7 to the Competition Act 1998 shall be treated as being the members of the Tribunal constituted in accordance with section 14 of the Act for the purposes of the relevant appeal.

Melanie Johnson,
Parliamentary Under-Secretary of State for
Competition, Consumers and Markets,
Department of Trade and Industry

18th March 2003

SCHEDULE

Article 2

PROVISIONS OF THE ACT COMING INTO FORCE ON 1st APRIL 2003

| <i>Provisions of the Act</i> | <i>Purpose</i> |
|--|---|
| Section 1 (the Office of Fair Trading) | For all purposes |
| Section 2 (the Director General of Fair Trading) | For all purposes |
| Section 3 (annual plan) | For all purposes |
| Section 4 (annual and other reports) | For all purposes |
| Section 8 (promoting good consumer practice) | For all purposes |
| Section 9 (repeal of certain powers of direction) | For all purposes |
| Section 10 (part 2 of the 1973 Act) | For all purposes |
| Section 12 (the Competition Appeals Tribunal) | For all purposes |
| Section 13 (the Competition Service) | For all purposes |
| Section 14(1) to 14(5) (constitution of tribunal for particular proceedings and decisions) | For all purposes |
| Section 14(6) | For the purpose of the provisions of Schedule 4 brought into force |
| Section 15 (tribunal rules) | For all purposes |
| Section 21 (amendments of 1998 Act) | For all purposes |
| Section 185 (the Commission) | For the purpose of the provisions of Schedule 11 brought into force |
| Section 186 (annual report of Commission) | For all purposes |
| Section 207 (repeal of Schedule 4 to the 1998 Act) | For all purposes |
| Section 274 (provision of financial assistance for consumer purposes) | For all purposes |
| Section 276(1) (transitional or transitory provision and savings) | For the purpose of the provisions of Schedule 24 brought into force |
| Section 278 (minor and consequential amendments and repeals) | For the purpose of the provisions of Schedules 25 and 26 brought into force |
| Schedule 1 (the Office of Fair Trading) | For all purposes |
| Schedule 2 (the Competition Appeal Tribunal) | For all purposes |
| Schedule 3 (the Competition Service) | For all remaining purposes |
| In Schedule 4 (tribunal: procedure)—paragraph 1 | For all purposes |
| Schedule 5 (proceedings under Part 1 of the 1998 Act)— paragraph 1 | For all purposes |
| paragraph 2(a) and (b) | For all purposes |

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

| <i>Provisions of the Act</i> | <i>Purpose</i> |
|--|---|
| paragraph 3 | For all purposes |
| paragraph 4 | For all purposes except in relation to the decisions of the Competition Appeal Tribunal referred to in section 49(1)(b) as substituted by paragraph 4 |
| paragraphs 5 to 8 | For all purposes |
| In Schedule 11 (the Competition Commission) — paragraph 1 | For the purpose of the other entries in Schedule 11 referred to in this Order |
| paragraph 2 | For all purposes |
| paragraph 3 (except paragraph 3(c)) | For all purposes save in relation to paragraph 3(c) |
| paragraph 4 (except paragraph 4(d)) | For all purposes save in relation to paragraph 4(d) |
| paragraph 5 | For all purposes other than the re-appointment as a member of any person who is a member on the commencement date |
| paragraphs 6 to 8 | For all purposes |
| paragraph 10(1) | For the purposes of paragraph 10(3) |
| paragraph 10(3) | For all purposes |
| paragraph 12 | For all purposes |
| In Schedule 24 (transitional and transitory provisions and savings)— | |
| paragraphs 2 to 12, 20 and 22 | For all purposes |
| In Schedule 25 (minor and consequential amendments)— | |
| paragraphs 2(1), 5(1), 13(1), 14(1), 15(1), 20(1), 21(1), 24(1), 25(1), 28(1), 30(1), 33(1), 36(1), 38(1), 40(1), 42(1), 43(1), 44(1) | For the purpose of the other entries in the relevant provisions of Schedule 25 referred to in this Order. |
| For all purposes paragraphs 2(4), 3, 4, 5(2), 5(4)(a)(i), 6, 7, 9, 11, 13(2), 13(6), 13(8)(b) to 13(8)(d), 13(9)(a), 13(9)(b), 13(9)(c)(i), 14(5), 14(6), 15(2), 15(7) to 15(10), 15(4), 16, 17, 19, 20(2), 20(7) to 20(9), 20(10)(a), 21(2), 21(3), 21(4)(a) to 21(4)(f), 22, 23, 24(2) to 24(8), 24(9)(a) to 24(9)(d)(i), 24(9)(f)(i), 24(9)(g), 24(9)(h), 24(9)(i)(i), 24(9)(i)(ii), 24(9)(k), 24(9)(l), 25(2), 25(7), 25(8), 25(10)(a), 25(11), 25(12), 26, 27, 28(5), 28(6), 28(7)(a), 30(2)(b), 30(7), 30(9), 30(10), 30(11)(a), 30(12) to 30(14), 32, 33(5), 33(6), 34, 35, 36(5), 36(6), 36(8), 37, 38(3) to 38(34), 38(36) to 38(48), 38(51) to 38(55), 39, 40(2) to 40(20) | |

| <i>Provisions of the Act</i> | <i>Purpose</i> |
|--|------------------|
| (a), 40(21), 41, 42(6), 42(7), 43(2) to 43(3)(c) (i) and 44(6) to 44(12). | |
| In Schedule 26 (repeals and revocations) the entries relating to the— | For all purposes |
| Public Records Act 1958(4) | |
| Parliamentary Commissioner Act 1967(5) | |
| Fair Trading Act 1973(6), sections 1, 12 to 22 and Schedules 1 and 2 | |
| Consumer Credit Act 1974(7), section 189(1) | |
| House of Commons Disqualification Act 1975(8) | |
| Northern Ireland Assembly Disqualification Act 1975(9) | |
| Estate Agents Act 1979(10), section 33(1) | |
| Competition Act 1980(11), section 13 | |
| Gas Act 1986(12), section 36A(1) | |
| Electricity Act 1989(13), section 43(1) | |
| Companies Act 1989(14), paragraph 4(5) in Schedule 14 | |
| Courts and Legal Services Act 1990(15), sections 46(3) and 119(1) | |
| Broadcasting Act 1990(16), sections 187(3) and 194A(9) | |
| Electricity (Northern Ireland) Order 1992(17), paragraph (1) of Article 46 | |
| Railways Act 1993(18), section 83(1) | |
| Gas (Northern Ireland) Order 1996(19), Article 23(1) | |
| Competition Act 1998(20), sections 3(1), 48, 59(1), 61(1) and Schedules 4 to 6, paragraphs 1, 2, 4 to 7 and 9 of Schedule 7, and Schedule 8. | |

(4) 1958 c. 51.
(5) 1967 c. 13.
(6) 1973 c. 41.
(7) 1974 c. 39.
(8) 1975 c. 24.
(9) 1975 c. 25.
(10) 1979 c. 38.
(11) 1980 c. 21.
(12) 1986 c. 44.
(13) 1989 c. 29.
(14) 1989 c. 40.
(15) 1990 c. 41.
(16) 1990 c. 42.
(17) S.I. 1992/231 (N.I.1.).
(18) 1993 c. 43.
(19) S.I. 1996/275 (N.I.2.).
(20) 1998 c. 41.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force on 1st April 2003 certain provisions of the Enterprise Act 2002. In particular, those provisions (a) create the Office of Fair Trading (OFT) and transfer the existing functions of the Director General of Fair Trading to the OFT (sections 1 and 2); (b) provide the OFT with the function of promoting good consumer practice (section 8); (c) create the Competition Appeal Tribunal (“the Tribunal”) (section 12), provide for its constitution for certain proceedings (section 14 and schedule 2) and its rules (section 15 and schedule 4), and enable it to perform the functions formerly performed by the appeal tribunals of the Competition Commission (schedule 5); (d) create the Competition Service (section 13 and schedule 3); (e) repeal the exclusion from the Chapter 1 prohibition under the Competition Act 1998 for designated professional rules (section 207); and (f) make various related transitional, transitory and consequential provisions and repeals.

Article 3 of this Order also makes transitional and transitory provision in connection with the coming into force of the provisions relating to the Tribunal which supplement the transitional and transitory provisions in paragraphs 7 to 12 of Schedule 24 to the Act.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

| <i>Provision</i> | <i>Date of Commencement</i> | <i>S.I. No.</i> |
|-----------------------------|-----------------------------|--------------------------|
| Section 13(6) (partially) | 18.03.03 | 2003/765 |
| Section 250(1) (partially) | 18.03.03 | 2003/765 |
| Section 273 | 18.03.03 | 2003/765 |
| Section 275 | 18.03.03 | 2003/765 |
| Section 276(1) (partially) | 18.03.03 | 2003/765 |
| Section 276(2) to (4) | 18.03.03 | 2003/765 |
| Section 277 | 18.03.03 | 2003/765 |
| In Schedule 3, Part 2 | 18.03.03 | 2003/765 |
| In Schedule 24, paragraph 1 | 18.03.03 | 2003/765 |