

2003 No. 1400

**COMPETITION
CONSUMER PROTECTION
DISCLOSURE OF INFORMATION**

The Enterprise Act 2002 (Part 9 Restrictions on
Disclosure of Information) (Amendment and Specification)
Order 2003

<i>Made</i> - - - - -	<i>28th May 2003</i>
<i>Laid before Parliament</i>	<i>29th May 2003</i>
<i>Coming into force</i> - -	<i>20th June 2003</i>

The Secretary of State, in exercise of the powers conferred upon her by sections 238(1)(c), 238(5), 238(6), 241(3)(c), 241(6), 241(7) and 277 of the Enterprise Act 2002^(a) hereby makes the following Order:

1. This Order may be cited as the Enterprise Act 2002 (Part 9 Restrictions on Disclosure of Information) (Amendment and Specification) Order 2003 and shall come into force on 20th June 2003.
2. In this Order, “the Act” means the Enterprise Act 2002.
3. Schedule 14 to the Act (specified functions) is amended in accordance with Schedule 1 to this Order.
4. Schedule 15 to the Act (enactments conferring functions) is amended in accordance with Schedule 2 to this Order.
5. The subordinate legislation in Schedule 3 to this Order is hereby specified for the purposes of subsection (1) of section 238 (information) of the Act.
6. The subordinate legislation in Schedule 4 to this Order is hereby specified for the purposes of subsection (3) of section 241 (statutory functions) of the Act.
7. Schedule 5 (which contains repeals and revocations) has effect.
8. Schedule 6 (which contains minor and consequential amendments) has effect.

28th May 2003

Stephen Timms,
Minister of State for E-Commerce and Competitiveness
Department of Trade and Industry

^(a) 2002 c. 40.

SCHEDULE 1

Article 3

1. Schedule 14 to the Act is amended as follows.
2. For the entry relating to the Fair Trading Act 1973 there is substituted—
“Parts 1, 2, 3, 4, 5, 6, 7, 8 and 11 of the Fair Trading Act 1973 (c. 41).”
3. After the entry relating to the Trade Descriptions Act 1968 there is inserted—
“Hallmarking Act 1973 (c. 43).”
4. After the entry relating to the Competition Act 1980 there is inserted—
“Video Recordings Act 1984 (c. 39).”
5. After the entry relating to the Consumer Protection Act 1987 there is inserted—
“Consumer Protection (Northern Ireland) Order 1987 (S.I. 1987/2049 (N.I. 20)).
Copyright, Designs and Patents Act 1988 (c. 48).”
6. After the entry relating to the Timeshare Act 1992 there is inserted—
“Clean Air Act 1993 (c. 11)
Trade Marks Act 1994 (c. 26).”

SCHEDULE 2

Article 4

1. Schedule 15 to the Act is amended as follows.
2. After the entry relating to the Prices Act 1974 there is inserted—
“the relevant statutory provisions within the meaning of Part I of the Health and Safety at Work etc. Act 1974 (c. 37).”
3. After the entry relating to the Consumer Credit Act 1974 there is inserted—
“Unsolicited Goods and Services (Northern Ireland) Order 1976 (S.I. 1976/57 (N.I. 1)).”
4. After the entry relating to the Gun Barrel Proof Act 1978 there is inserted—
“the relevant statutory provisions within the meaning of the Health and Safety at Work (Northern Ireland) Order 1978 (S.I. 1978/1039 (N.I. 9)).”
5. After the entry relating to the Competition Act 1980 there is inserted—
“Weights and Measures (Northern Ireland) Order 1981 (S.I. 1981/231 (N.I. 10)).”
6. After the entry relating to the Telecommunications Act 1984 there is inserted—
“Video Recordings Act 1984 (c. 39).”
7. After the entry relating to the Gas Act 1986 there is inserted—
“Insolvency Act 1986 (c. 45).
Company Directors Disqualification Act 1986 (c. 46).”
8. After the entry relating to the Financial Services Act 1986 there is inserted—
“Companies (Northern Ireland) Order 1986 (S.I. 1986/1032 (N.I. 6)).”
9. After the entry relating to the Consumer Protection Act 1987 there is inserted—
“Consumer Protection (Northern Ireland) Order 1987 (S.I. 1987/2049 (N.I. 20)).
Banking Act 1987 (c. 22).”
10. After the entry relating to the Consumer Protection Act 1987 there is inserted—
“Education Reform Act 1988 (c. 40).”
11. After the entry relating to the Copyright, Designs and Patents Act 1988 there is inserted—
“The Education (Unrecognised Degrees) (Northern Ireland) Order 1988 (S.I. 1988/1989 (N.I. 22)).”
12. After the entry relating to the Electricity Act 1989 there is inserted—
“Companies Act 1989 (c. 40).
Companies (Northern Ireland) Order 1989 (S.I. 1989/2404 (N.I. 18)).
Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)).
Companies (Northern Ireland) Order 1990 (S.I. 1990/593 (N.I. 5)).
Companies No. 2 (Northern Ireland) Order 1990 (S.I. 1990/1504 (N.I. 10)).”
13. After the entry relating to the Land Drainage Act 1991 there is inserted—
“Water Consolidation (Consequential Provisions) Act 1991 (c. 60).”

14. After the entry relating to the Timeshare Act 1992 there is inserted—
“Electricity (Northern Ireland) Order 1992 (S.I. 1992/231 (N.I. 1)).”
“Clean Air Act 1993 (c. 11).”
15. After the entry relating to the Trade Marks Act 1994 there is inserted—
“Part IV of the Airports (Northern Ireland) Order 1994 (S.I. 1994/426 (N.I. 1)).”
16. After the entry relating to the Broadcasting Act 1996 there is inserted—
“Gas (Northern Ireland) Order 1996 (S.I. 1996/275 (N.I. 2)).”
17. For the entry relating to the Transport Act 2000 there is substituted—
“Transport Act 2000 (c. 38).”
18. After the entry relating to the Transport Act 2000 there is inserted—
“Company Directors Disqualification (Northern Ireland) Order 2002 (S.I. 2002/3150 (N.I. 4)).”

SCHEDULE 3

Article 5

Crystal Glass (Descriptions) Regulations 1973**(a)**.

Textile Products (Indications of Fibre Content) Regulations 1986**(b)**.

Consumer Protection (Cancellation of Contracts Concluded away from Business Premises) Regulations 1987**(c)**.

Control of Misleading Advertisements Regulations 1988**(d)**.

Paragraph 3 of Schedule 5 to the Simple Pressure Vessels (Safety) Regulations 1991**(e)**.

Package Travel, Package Holidays and Package Tours Regulations 1992**(f)**.

General Product Safety Regulations 1994**(g)**.

Footwear (Indication of Composition) Labelling Regulations 1995**(h)**.

EC Competition Law (Articles 84 and 85) Enforcement Regulations 2001**(i)**.

(a) S.I. 1973/1952.

(b) S.I. 1986/26 as amended by S.I. 1994/450, 1998/1169, 1998/1350.

(c) S.I. 1987/2117 as amended by S.I. 1998/3050, 2001/3649.

(d) S.I. 1988/915 as amended by the Criminal Justice Act 1988 (c. 33), Broadcasting Act 1990 (c. 42), S.I. 2000/914, 2001/3649, Enterprise Act 2002 (c. 40).

(e) S.I. 1991/2749.

(f) S.I. 1992/3288 as amended by S.I. 1995/1648, 1998/1208, Enterprise Act 2002.

(g) S.I. 1994/2328 as amended by S.I. 1994/3144, 1994/3142.

(h) S.I. 1995/2489.

(i) S.I. 2001/2916 as amended by S.I. 2002/42.

Crystal Glass (Descriptions) Regulations 1973.
Measuring Container Bottles (EEC Requirements) Regulations 1977(a).
Textile Products (Indications of Fibre Content) Regulations 1986.
Insolvency Rules 1986(b).
Consumer Protection (Cancellation of Contracts Concluded away from Business Premises) Regulations 1987.
Control of Misleading Advertisements Regulations 1988.
Paragraph 3 of Schedule 5 to the Simple Pressure Vessels (Safety) Regulations 1991.
Insolvency Rules (Northern Ireland) 1991(c).
Package Travel, Package Holidays and Package Tours Regulations 1992.
Licensing of Air Carriers Regulations 1992(d).
General Product Safety Regulations 1994.
Footwear (Indication of Composition) Labelling Regulations 1995.
Open-Ended Investment Companies (Investment Companies with Variable Capital) Regulations (Northern Ireland) 1997(e).
Railways Regulations 1998(f).
Unfair Terms in Consumer Contracts Regulations 1999(g).
Consumer Protection (Distance Selling) Regulations 2000(h).
Railways (Safety Case) Regulations 2000(i).
Open-Ended Investment Companies Regulations 2001(j).
EC Competition Law (Articles 84 and 85) Enforcement Regulations 2001.
Transport (Scotland) Act 2001 (Conditions attached to PSV Operator's Licence and Competition Test for Exercise of Bus Functions) Order 2001(k).

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- (a) S.I. 1977/932 as amended by S.I. 1985/306.
(b) S.I. 1986/1925 as amended by S.I. 1987/1919, 1989/397, 1991/495, 1993/602, 1995/586, 1998/1129, 1999/359, 1999/1022, 2001/3649, 2002/1307, 2002/2712.
(c) S.R. 1991/364 as amended by S.R. 1994/26, 1995/291, 2000/247, 2002/261.
(d) S.I. 1992/2992 as amended by S.I. 1993/101, 1993/3039, 1994/1732, 1998/1751.
(e) S.R. 1997/251.
(f) S.I. 1998/1340 as amended by S.I. 1998/1519, 2001/3219, British Overseas Territories Act 2002 (c. 8).
(g) S.I. 1999/2083 as amended by S.I. 2001/1186, Enterprise Act 2002.
(h) S.I. 2000/2334 as amended by Enterprise Act 2002.
(i) S.I. 2000/2688 as amended by S.I. 2001/2626, 2001/3291, 2002/2099.
(j) S.I. 2001/1228 as amended by S.I. 2001/3755.
(k) S.I. 2001/2748 (s. 14) as amended by Enterprise Act 2002.

Repeals and Revocations	
Estate Agents (Appeals) Regulations 1981(a)	Regulation 22.
Consumer Protection (Northern Ireland) Order 1987	Article 29.
Consumer Protection (Cancellation of Contracts Concluded away from Business Premises) Regulations 1987	Regulation 4G.
Control of Misleading Advertisements Regulations 1988	Regulation 7(7).
Simple Pressure Vessels (Safety) Regulations 1991	In Schedule 5, in paragraph 3, in sub-paragraph (c), the reference to section 38 of the Consumer Protection Act 1987 and subparagraph (vii).
Property Misdescriptions Act 1991(b)	In section 5, in subsection (1), the words “or 7”.
Package Travel, Package Holidays and Package Tours Regulations 1992	In Schedule 3, paragraph 7.
Timeshare Act 1992(c)	In section 11, in subsection (1), the words “or 5(1) of Schedule 2”.
Consumer Credit Licensing (Appeals) Regulations 1998(d)	In regulation 23, in paragraph 1, the words “but in doing so must have regard to the confidentiality of any evidence heard in private or of any confidential material supplied to her.” In regulation 23, paragraph 2.
Transport Act 2000	In Schedule 8, paragraph 15. In Schedule 16, paragraph 57.
EC Competition Law (Articles 84 and 85) Enforcement Regulations 2001	Regulation 29. In Regulation 33, in paragraph (1), the words “or 29(5).”
Financial Services and Markets Act 2000 (Consequential Amendments and Repeals) Order 2001(e)	Article 285
Medical Devices Regulations 2002(f)	In section 61, in subsection (1), the words “and for the purposes of section 38 of that Act (disclosure of information)”.

(a) S.I. 1981/1518.

(b) c. 29.

(c) c. 35.

(d) S.I. 1998/1203.

(e) S.I. 2001/3649.

(f) S.I. 2002/618.

Minor and consequential amendments	
Electricity (Northern Ireland) Order 1992	In Article 61 (general restrictions on disclosure of information)— in paragraph (3), at the end of the list of enactments, there is inserted “(v) Enterprise Act 2002”, in paragraph (7), for the words “sections 55 and 56 of that Act (disclosure)” are substituted the words “Part 9 of the Enterprise Act 2002 (Information)”.
Gas (Northern Ireland) Order 1996	In Article 44 (general restrictions on disclosure of information)— in paragraph (4), at the end of the list of enactments, there is inserted “(w) Enterprise Act 2002”, in paragraph (8), for the words “sections 55 and 56 of that Act (disclosure)” are substituted the words “Part 9 of the Enterprise Act 2002 (Information)”.
Transport Act 2000	In Schedule 9 (Air Traffic: Information)— in paragraph 5, in subparagraph (3), for the words “sections 55 and 56 of that Act (disclosure)” are substituted the words “Part 9 of the Enterprise Act 2002 (Information)”.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the list of enactments in Schedules 14 and 15 to the Enterprise Act 2002 (“the Act”), in particular to include Northern Ireland legislation. It adds to Schedule 14 enactments which refer to disclosure provisions repealed and replaced by Part 9, and thereby brings such enactments within the provisions of Part 9. An enactment specified in Schedule 14 or 15 is taken to include subordinate legislation made under that enactment whether made solely under that enactment or jointly under that enactment and another enactment.

The Order also specifies subordinate legislation for the purposes of sections 238 and 241 of the Act.

Section 238 defines “specified information” for the purposes of Part 9 of the Act. “Specified information” is information which comes to a public authority in connection with the exercise of any function it has under or by virtue of, amongst other things, enactments specified in Schedule 14 and such subordinate legislation as specified by Order of the Secretary of State.

“Specified Information” is subject to the restrictions and permitted disclosures set out in Part 9 of the Act.

Section 241 of the Act provides that a public authority may disclose “specified information” to another person for the purposes of facilitating the exercise of any function he has under or by virtue of the Act itself, enactments specified in Schedule 15 or such subordinate legislation as specified by Order of the Secretary of State.

In addition, this Order makes various consequential amendments under section 277 of the Act, including the repeal of existing disclosure provisions, or provisions which import disclosure provisions in other legislation, which have been repealed and replaced by Part 9.

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