

**EXPLANATORY MEMORANDUM TO**  
**THE ENTERPRISE ACT 2002 (PART 9 RESTRICTIONS ON DISCLOSURE**  
**OF INFORMATION)(AMENDMENT AND SPECIFICATION) ORDER 2007**

**2007 No. 2977**

1. This explanatory memorandum has been prepared by the Department for Business, Enterprise and Regulatory Reform and is laid before Parliament by Command of Her Majesty.
2. **Description**
  - 2.1 This instrument adds the Compensation Act 2006 to Schedules 14 and 15 of the Enterprise Act 2002.
  - 2.2 It adds the Wireless Telegraphy Act 2006 to Schedule 15 of the Enterprise Act 2002.
  - 2.3 It specifies the Unfair Terms in Consumer Contracts Regulations 1999 as subordinate legislation for the purposes of section 238(1)(c) of the Enterprise Act 2002.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
  - 3.1 None.
4. **Legislative Background**
  - 4.1 Part 9 of the Enterprise Act brought together a number of statutory regimes for the protection of information obtained by public bodies under specified legislation in their dealings with individuals and businesses. It protects such specified information from misuse. Part 9 balances that protection with functions and considerations, which allow the use of the information for other public purposes.
  - 4.2 Sections 237 and 238 and Schedule 14 of the Enterprise Act provide for the protection of specified information received by a public authority in connection with the exercise of its functions under Parts 1,3,4,6,7 or 8 of the Enterprise Act, an enactment in Schedule 14 or subordinate legislation specified by the Secretary of State by order. Specified information is information which relates to the affairs of an individual or the business of an undertaking. The information may be disclosed by a public authority to any person including another public authority, for the purposes of facilitating the exercise of its own functions or their functions under an enactment specified in the Enterprise Act 2002, Schedule 15 or subordinate legislation specified by order of the Secretary of State.

4.3 So by adding the Compensation Act 2006 and the Wireless Telegraphy Act 2006 to Schedule 15 public authorities with information that is subject to Part 9 (such as the Office of Fair Trading, a regulator or the Claims Management Services Tribunal under the Compensation Act) will be able to disclose that information under the Part 9 provisions.

## **5. Territorial Extent and Application**

5.1 This instrument applies to the United Kingdom.

## **6. European Convention on Human Rights**

6.1 Gareth Thomas MP has made the following statement regarding Human Rights:

In my view the provisions of the Enterprise Act 2002 (Part 9 Restrictions on Disclosure of Information)(Amendment and Specification) Order 2007 is compatible with the Convention rights.

## **7. Policy background**

7.1 Part 9 of the Enterprise Act reflects the Government strategy of widening and harmonising the gateways through which information can be disclosed in the UK and overseas and at the same time introduces appropriate safeguards in respect of permitted disclosures of information.

7.2 This Order will enable the regulator established under the Compensation Act 2006 to obtain information from trading standards departments or the OFT as public authorities for the purposes of Part 9 of the Enterprise Act about the activities of those providing a claims management service. It will also protect information received by the regulator which can only be disclosed by him under the provisions of Part 9 of the Enterprise Act.

7.3 Adding the Wireless Telegraphy Act 2006 (WTA06) to Schedule 15 will allow the Office of Communications (Ofcom) to access specified information from other regulators. The WTA06 consolidates Telecommunications and Broadcasting Acts that are included in Schedule 15 as well as earlier Wireless Telegraphy Acts. Section 111 of the WTA06 allows Ofcom to pass to specified regulators information relating to spectrum management that it obtains through use of its powers under that Act; adding the WTA06 to schedule 15 will allow those other regulators to reciprocate.

7.4 The Unfair Terms in Consumer Contracts Regulations 1999 (UTCCR) are added at the request of the OFT. UTCCR are already specified for the purposes of section 241(3) which allows the OFT to obtain specified information from public authorities for the purposes of facilitating its functions under the UTCCR. Currently the OFT obtains information which is not afforded the disclosure protection of Part 9. Specifying the UTCCR for the purposes of section 238(1) of the Enterprise Act 2002 will protect information received by the OFT in the exercise of its functions under the Regulations and

will give business the re-assurance they need to co-operate with OFT enquiries. It will allow OFT to treat UTCCR information in the same way as all other specified information it obtains and not have to consider it separately.

## **8. Impact**

8.1 An Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

8.2 The impact on the public sector is that other public bodies such as the OFT and trading standards authorities will be able to provide information to the regulator established under the Compensation Act 2006 to carry out its functions.

## **9. Contact**

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