
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 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.