
STATUTORY INSTRUMENTS

2020 No. 484

**The Consumer Protection (Enforcement)
(Amendment etc.) Regulations 2020**

PART 1

Introduction

Citation and commencement

1.—(1) These Regulations may be cited as the Consumer Protection (Enforcement) (Amendment etc.) Regulations 2020.

(2) These Regulations come into force on 2nd June 2020.

PART 2

Amendment of primary legislation

Amendment of the Enterprise Act 2002

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

(2) In section 213 (enforcers), in subsection (5A)—

(a) in the words before paragraph (a), for “Article 4(1) or 4(2)” substitute “Article 5(1)”;

(b) at the end of paragraph (j), for the full stop substitute a semi-colon;

(c) after paragraph (j) insert—

“(k) the Department for Infrastructure;

(l) the Maritime and Coastguard Agency;

(m) the Office of Rail and Road;

(n) the Office for the Traffic Commissioner.”

(3) For the italic heading before section 214 substitute “Enforcement orders and interim enforcement orders”.

(4) After section 218 insert the italic heading “*Online interface orders and interim online interface orders*”.

(5) After the italic heading inserted by paragraph (4) insert—

“218ZA Applications

(1) The CMA may apply for an online interface order or an interim online interface order if the CMA thinks that there has been or is likely to be a Community infringement.

(2) An online interface order or an interim online interface order may be sought against the person the CMA thinks has engaged, is engaging or is likely to engage in conduct which constitutes the Community infringement or against another person.

(3) The following courts have jurisdiction to make an online interface order or an interim online interface order—

- (a) the High Court or the county court if the person against whom the order is sought carries on business or has a place of business in England and Wales;
- (b) the High Court or a county court if the person against whom the order is sought carries on business or has a place of business in Northern Ireland;
- (c) the Court of Session or the sheriff if the person against whom the order is sought carries on business or has a place of business in Scotland.

218ZB Online interface orders

(1) The court may make an online interface order on an application under section 218ZA if it finds that—

- (a) there has been or is likely to be a Community infringement,
- (b) there are no other available means of bringing about the cessation or prohibition of the infringement which, by themselves, would be wholly effective, and
- (c) it is necessary to make the order to avoid the risk of serious harm to the collective interests of consumers.

(2) An online interface order must direct the person against whom it is made to do, or to co-operate with another person so that other person may do, one or more of the following—

- (a) remove content from or modify content on an online interface;
- (b) disable or restrict access to an online interface;
- (c) display a warning to consumers accessing an online interface;
- (d) delete a fully qualified domain name and take any steps necessary to facilitate the registration of that domain name by the CMA.

(3) Where an online interface order is made, the CMA may publish in such form and manner as it thinks appropriate for the purpose of eliminating any continuing effects of the Community infringement to which the order relates—

- (a) the online interface order, and
- (b) where known, the identity of the person who has engaged, is engaging or is likely to engage in conduct which constitutes the infringement.

(4) An online interface order made by a court in one part of the United Kingdom has effect in any other part of the United Kingdom as if made by a court in that part.

218ZC Interim online interface orders

(1) The court may make an interim online interface order on an application under section 218ZA if it appears to the court—

- (a) that it is alleged that there has been or is likely to be a Community infringement,
- (b) that if the application had been an application for an online interface order it would be likely to be granted,
- (c) that it is expedient to bring about the cessation or prohibition of the Community infringement immediately, and

- (d) if no notice of the application has been given to the person against whom the order is sought that it is appropriate to make an interim online interface order without notice.
- (2) An interim online interface order must direct the person against whom it is made to do, or to co-operate with another person so that person may do, one or more of the following—
 - (a) remove content from or modify content on an online interface;
 - (b) disable or restrict access to an online interface;
 - (c) display a warning to consumers accessing an online interface;
 - (d) delete a fully qualified domain name and take any steps necessary to facilitate the registration of that domain name by the CMA.
- (3) An application for an interim online interface order against a person may be made at any time before an application for an online interface order against the person in respect of the same infringement is determined.
- (4) An application for an interim online interface order must refer to all matters—
 - (a) which are known to the CMA, and
 - (b) which are material to the question whether or not the application is granted.
- (5) If an application for an interim online interface order is made without notice the application must state why no notice has been given.
- (6) The court may vary or discharge an interim online interface order on the application of—
 - (a) the CMA;
 - (b) the person against whom it is made.
- (7) An interim online interface order against a person is discharged on the determination of an application for an online interface order made against the person in respect of the same infringement.
- (8) An interim online interface order made by a court in one part of the United Kingdom has effect in any other part of the United Kingdom as if made by a court in that part.

218ZD Online interface orders: supplementary

- (1) In sections 218ZA to 218ZC, “online interface” means any software, including a website, part of a website or an application, that is operated by or on behalf of a trader, and which serves to give consumers access to the trader’s goods and services.
- (2) In subsection (1), “trader” means a person acting for purposes relating to that person’s trade, business, craft or profession, whether acting personally or through another person acting in the trader’s name or on the trader’s behalf.
- (3) Nothing in sections 218ZA to 218ZC limits the operation of any provisions of this Part relating to—
 - (a) enforcement orders,
 - (b) interim enforcement orders, or
 - (c) undertakings,in respect of Community infringements.”
- (6) Before section 218A insert the italic heading “*Enforcement procedure: supplementary*”.
- (7) In section 218A (unfair commercial practices: substantiation of claims)—
 - (a) in subsection (1), for “an enforcement order or for an interim enforcement order” substitute “an enforcement order, an interim enforcement order, an online interface order or an interim online interface order”;

- (b) in subsection (2), for “the person named in the application” substitute “the relevant person”.
- (c) after subsection (2) insert—
- “(2A) In subsection (2), “the relevant person”, in relation to an application, means—
- (a) where the application is for an enforcement order or an interim enforcement order, the person named in the application under section 215(1);
 - (b) where the application is for an online interface order or an interim online interface order, the person alleged by the CMA to have engaged, be engaging or be likely to engage in conduct which constitutes the Community infringement, provided that person is either the person against whom the order is sought or otherwise a party to the proceedings.”
- (8) In section 219 (undertakings), in subsection (1), for “under section 215” substitute “for an enforcement order or an interim enforcement order under section 215 or for an online interface order or an interim online interface order under section 218ZA”.
- (9) In section 219A (definition of enhanced consumer measures), in subsection (2)—
- (a) for paragraph (a) substitute—
 - “(a) measures offering compensation or other redress to consumers—
 - (i) who have suffered loss as a result of the conduct which has given rise to the enforcement order or undertaking, or
 - (ii) where that conduct constitutes a Community infringement, who have been affected in any other way by that conduct.”;
 - (b) for paragraph (b) substitute—
 - “(b) where the conduct which has given rise to the enforcement order or undertaking relates to a contract, measures offering consumers falling within paragraph (a)(i) or (ii) the option to terminate (but not vary) that contract.”;
 - (c) in paragraph (c), for “such consumers” substitute “consumers falling within paragraph (a) (i) or (ii)”.
- (10) In section 219B (inclusion of enhanced consumer measures etc.)—
- (a) in subsection (4), for “An” substitute “Where the conduct which has given rise to an enforcement order or undertaking constitutes a domestic infringement and not a Community infringement, the”;
 - (b) after subsection (4) insert—
 - “(4A) Where the conduct which has given rise to an enforcement order or undertaking constitutes a Community infringement, the enforcement order or undertaking may include enhanced consumer measures in the redress category for the benefit of consumers who have been affected by that conduct.”
- (11) In section 220 (further proceedings)—
- (a) in subsection (1), in paragraph (b), at the end, omit “or”;
 - (b) in subsection (1), in paragraph (c), at the end, omit the full stop and insert “, or”;
 - (c) in subsection (1), after paragraph (c) insert—
 - “(d) makes an online interface order under section 218ZB or an interim online interface order under section 218ZC.”;
 - (d) in subsection (2), for “the order” in the first place it occurs substitute “an order (apart from an online interface order or an interim online interface order)”;

- (e) in subsection (3), for “an enforcement order or for an interim enforcement order” substitute “an enforcement order, an interim enforcement order, an online interface order or an interim online interface order”;
- (f) in subsection (4), for “an enforcement order or an interim enforcement order” substitute “an enforcement order, an interim enforcement order, an online interface order or an interim online interface order”;
- (g) after subsection (5) insert—
 - “(5A) In the case of an application for an online interface order or an interim online interface order as mentioned in subsection (3), section 218ZA applies subject to the following modifications—
 - (a) in section 218ZA(1), the words “or is likely to be” must be ignored;
 - (b) in section 218ZA(2), the reference to the person the CMA thinks has engaged, is engaging or is likely to engage in conduct which constitutes the Community infringement is to be read as a reference to the person the CMA thinks has engaged or is engaging in such conduct;
 - (c) section 218ZA(3) must be ignored and the application must be made to the court which accepted the undertaking.”
- (12) In section 222 (bodies corporate: accessories)—
 - (a) in subsection (5), for “An enforcement order or an interim enforcement order” substitute “An enforcement order, an interim enforcement order, an online interface order or an interim online interface order”;
 - (b) in subsection (8), in paragraph (a), for “an order” substitute “an enforcement order or an interim enforcement order”.
- (13) In section 223 (bodies corporate: orders), in subsection (1), for “an enforcement order or an interim enforcement order” substitute “an enforcement order, an interim enforcement order, an online interface order or an interim online interface order”.
- (14) For section 235A (CPC Regulation) substitute—

“235A CPC Regulation

In this Part, the CPC Regulation is Regulation (EU) 2017/2394 of the European Parliament and of the Council of 12 December 2017 on cooperation between national authorities responsible for the enforcement of consumer protection laws and repealing Regulation (EC) No 2006/2004.”

- (15) In Part 1 of Schedule 13 (listed Directives and Regulations)—
 - (a) after paragraph 9C insert—
 - “**9CA.** Regulation (EC) No 1107/2006 of the European Parliament and of the Council of 5 July 2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air(1).”;
 - (b) after paragraph 9D, in the first place it occurs (referring to [Directive 2006/123/EC](#)), insert—
 - “**9DA.** Regulation (EC) No 1371/2007 of the European Parliament and of the Council of 23 October 2007 on rail passengers’ rights and obligations(2).”;

(1) OJ No L 204, 26.7.2006, p. 1-9.

(2) OJ No L 315, 3.12.2007, p. 14-41.

- (c) re-number paragraph 9D in the second place it occurs (referring to [Directive 2008/48/EC](#)) as paragraph 9DB;
- (d) after paragraph 9E insert—
- “**9EA.** Regulation (EU) No 1177/2010 of the European Parliament and of the Council of 24 November 2010 concerning the rights of passengers when travelling by sea and inland waterway and amending Regulation ([EC](#)) No 2006/2004**(3)**.”
- “**9EB.** Regulation (EU) No 181/2011 of the European Parliament and of the Council of 16 February 2011 concerning the rights of passengers in bus and coach transport and amending Regulation ([EC](#)) No 2006/2004**(4)**.”;
- (e) after paragraph 9F insert—
- “**9FA.** Regulation (EU) 2017/1128 of the European Parliament and of the Council of 14 June 2017 on cross-border portability of online content services in the internal market**(5)**.”
- (16) In Part 2 (provisions of Directives and Regulations) of Schedule 13—
- (a) after paragraph 12 insert—
- “**12A.** Articles 1, 2(c) and 4 to 8 of [Directive 2006/114/EC](#) of the European Parliament and of the Council of 12 December 2006 concerning misleading and comparative advertising**(6)**.”
- “**12B.** Articles 22 to 24 of Regulation ([EC](#)) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community**(7)**.”
- “**12C.** Articles 9 to 11 and 19 to 26 of [Directive 2010/13/EU](#) of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services**(8)**.”;
- (b) after paragraph 14 insert—
- “**14A.** Articles 10, 11, 13 to 18 and 21 to 23, Chapter 10 and Annexes I and II of [Directive 2014/17/EU](#) of the European Parliament and of the Council of 4 February 2014 on credit agreements for consumers relating to residential immovable property and amending Directives [2008/48/EC](#) and [2013/36/EU](#) and Regulation (EU) No 1093/2010**(9)**.”
- “**14B.** Articles 3 to 18 and 20(2) of [Directive 2014/92/EU](#) of the European Parliament and of the Council of 23 July 2014 on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features**(10)**.”

Amendment of the Consumer Rights Act 2015

3.—(1) Schedule 5 (investigatory powers etc.) to the Consumer Rights Act 2015**(11)** is amended as follows.

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- (3) OJ No L 334, 17.12.2010, p. 1-16.
- (4) OJ No L 55, 28.2.2011, p. 1-12.
- (5) OJ No L 168, 30.6.2017, p. 1-11.
- (6) OJ No L 376, 27.12.2006, p. 21-27.
- (7) OJ No L 293, 31.10.2008, p. 3-20; amended by Regulation (EU) 2018/1139 (OJ No L 212, 22.8.2018, p. 1-122) and Regulation (EU) 2019/2 (OJ No L 11, 14.1.2019, p. 1-2).
- (8) OJ No L 95, 15.4.2010, p. 1-24; amended by Directive (EU) 2018/1808 (OJ No L 303, 28.11.2018, p. 69-92).
- (9) OJ No L 60, 28.2.2014, p. 34-85; amended by Regulation (EU) 2016/1011 (OJ No L 171, 29.6.2016, p. 1-65).
- (10) OJ No L 257, 28.8.2014, p. 214-246.
- (11) [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](#),

- (2) In paragraph 4 (EU enforcers)—
 - (a) at the end of sub-paragraph (i), omit “or”;
 - (b) at the end of sub-paragraph (j), omit the full stop and insert “,”;
 - (c) after sub-paragraph (j) insert—
 - “(k) the Department for Infrastructure,
 - (l) the Maritime and Coastguard Agency,
 - (m) the Office of Rail and Road, or
 - (n) the Office for the Traffic Commissioner.”
- (3) In paragraph 8 (interpretation of other terms), at the appropriate place, insert—
 - ““interim online interface order” means an order under section 218ZC of that Act;
 - “online interface order” means an order under section 218ZB of that Act;”
- (4) In paragraph 13 (exercise of powers in this Part), in sub-paragraph (2), in paragraph (d), for “an enforcement order or an interim enforcement order” substitute “an enforcement order, an interim enforcement order, an online interface order or an interim online interface order”.
- (5) In paragraph 20 (exercise of powers in this Part: EU enforcers)—
 - (a) in sub-paragraph (2), for “paragraphs 21 to 25” substitute “paragraphs 22 to 25”;
 - (b) in sub-paragraph (3), in paragraph (b), for “an enforcement order or an interim enforcement order” substitute “an enforcement order, an interim enforcement order, an online interface order or an interim online interface order”;
 - (c) after sub-paragraph (3) insert—
 - “(3A) An EU enforcer may exercise the power in paragraph 21 (power to purchase products) for either of the following purposes—
 - (a) the purpose mentioned in sub-paragraph (2), if the condition in sub-paragraph (3) is met, or
 - (b) to obtain a product for use as evidence in proceedings under Part 8 of the Enterprise Act 2002.”

PART 3

Specification of UK law for the purpose of section 212 of the Enterprise Act 2002

4. The law set out in the Schedule is specified for the purposes of section 212 of the Enterprise Act 2002.

PART 4

Consequential and transitional provision

Financial Conduct Authority

5.—(1) The functions of the Financial Conduct Authority which are exercisable by virtue of the CPC Regulation are to be treated as functions conferred on that Authority under provisions of the Financial Services and Markets Act 2000⁽¹²⁾.

(2) In paragraph (1), “the CPC Regulation” means Regulation (EU) 2017/2394 of the European Parliament and of the Council of 12 December 2017 on cooperation between national authorities responsible for the enforcement of consumer protection laws and repealing Regulation (EC) No 2006/2004⁽¹³⁾.

Consequential amendments

6.—(1) The Operation of Air Services in the Community (Pricing etc.) Regulations 2013⁽¹⁴⁾ are amended as follows.

(2) In regulation 3(1), omit the following definitions—

- (a) “electronic address”;
- (b) “electronic communication”;
- (c) “electronic communications network”;
- (d) “enforcement order”;
- (e) “enforcement subject”;
- (f) “interim enforcement order”.

(3) Omit regulation 3(2).

(4) Omit regulations 6 to 27.

(5) Omit regulations 29 to 31.

(6) Omit Part 4.

7.—(1) The Civil Aviation (Access to Air Travel for Disabled Persons and Persons with Reduced Mobility) Regulations 2014⁽¹⁵⁾ are amended as follows.

(2) In regulation 3(1), omit the following definitions—

- (a) “electronic address”;
- (b) “electronic communication”;
- (c) “electronic communications network”;
- (d) “enforcement order”;
- (e) “enforcement subject”;
- (f) “interim enforcement order”.

(3) Omit regulations 5 to 23.

⁽¹²⁾ 2000 c. 8.

⁽¹³⁾ OJ No L 345, 27.12.2017, p. 1-26; amended by Regulation (EU) 2018/302 (OJ No L 60I, 2.3.2018, p. 1-15).

⁽¹⁴⁾ S.I. 2013/486, amended by S.I. 2014/549; there is another amending instrument but it is not relevant.

⁽¹⁵⁾ S.I. 2014/2833, amended by S.I. 2016/729.

Transitional provision

8. These Regulations have effect only in respect of conduct to the extent that it occurs, or is likely to occur, after these Regulations come into force.

30th April 2020

Paul Scully
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Strategy