Draft Order laid before Parliament under section 96(3) of, and paragraph 12(6) of Schedule 5 to, the Consumer Rights Act 2015, for approval by resolution of each House of Parliament.

D R A F T S T A T U T O R Y I N S T R U M E N T S

2016 No. 000

CONSUMER PROTECTION

The Consumer Rights (Enforcement and Amendments) Order 2016

Made - - - - 2016

Coming into force in accordance with article 1

The Secretary of State makes this Order in exercise of the powers conferred by section 96(1) and (2) of, and paragraph 12(1)(a) and (b) of Schedule 5 to, the Consumer Rights Act 2015(**a**) ("the Act").

In accordance with paragraph 12(2) of Schedule 5 to the Act, the Secretary of State thinks that on and after the changes made by the Schedule to this Order (where a power of entry in legislation other than the Act is replaced by a power of entry in the Act), the condition in paragraph 12(3) of Schedule 5, that the safeguards applicable to the new power of entry, taken together, provide a greater level of protection than any safeguards applicable to the old power of entry, is met.

In accordance with section 96(3) of, and paragraph 12(6) of Schedule 5 to, the Act, a draft of this statutory instrument was laid before, and approved by a resolution of, each House of Parliament.

Citation and commencement

1. This Order may be cited as the Consumer Rights (Enforcement and Amendments) Order 2016 and comes into force 21 days after the day on which it is made.

Interpretation

2. In this Order "the Act" means the Consumer Rights Act 2015.

Consequential and other amendments

3. The Schedule to this Order (amendments consequential on Schedules 5 and 6 to the Act, and amendments to Schedule 5 to the Act) has effect.

Transitional and saving provisions in respect of investigatory powers

4.—(1) In this article—

(**a**) 2015 c.15.

(a) an "old enforcement provision" means a provision of Article 41 of the Weights and Measures (Northern Ireland) Order 1981(**a**), and

(b) a "new enforcement provision" means a provision of Schedule 5 to the Act which applies in place of an old enforcement provision.

(2) The replacement of an old enforcement provision by a new enforcement provision does not affect the continuity of the law.

(3) Paragraph (2) does not apply to any change in the law made by Schedule 5 to the Act.

(4) A reference, express or implied, in an enactment, instrument or document to a new enforcement provision is, subject to its context, to be read as being or including a reference to the old enforcement provision which corresponds to it, in relation to times, circumstances or purposes in relation to which the old enforcement provision had effect.

(5) A reference, express or implied, in an enactment, instrument or document to an old enforcement provision is, subject to its context, to be read as being or including a reference to the new enforcement provision which corresponds to it, in relation to times, circumstances or purposes in relation to which the new enforcement provision has effect.

(6) Anything done, or having effect as if done, under (or for the purposes of or in reliance on) an old enforcement provision, and in force or effective immediately before the day this Order comes into force, has effect on and after the day this Order comes into force as if done under (or for the purposes of or in reliance on) the new enforcement provision which corresponds to it.

(7) Paragraphs (2) to (6) have effect in place of section 17(2) of the Interpretation Act 1978; but nothing in this Order affects any other provision of that Act.

Signed by authority of the Secretary of State for Health

Name
Parliamentary Under-Secretary of State,
Department of Health

Date

SCHEDULE

Article 3

Amendments consequential on Schedules 5 and 6 to the Act, and amendment to Schedule 5 to the Act

Weights and Measures (Northern Ireland) Order 1981

1.—(1) The Weights and Measures (Northern Ireland) Order 1981 is amended as follows.

(2) In Article 26(1) (special powers of inspector with respect to certain goods), for "Article 41" substitute "Schedule 5 to the Consumer Rights Act 2015".

(3) In Article 39 (function of Department)—

(a) the existing text becomes paragraph (1), and

(b) after paragraph (1) insert—

"(2) For the investigatory powers available to the Department for the purposes of the duty in paragraph (1) see Schedule 5 to the Consumer Rights Act 2015."

(4) Omit Article 41 (general powers of inspection and entry)(**b**).

(**a**) S.I.1981/231 (N.I.10).
(**b**) Amended by the Weights and Measures (Amendment) Act (Northern Ireland) 2000 (c.5).

(5) In Article 42(1)(a) and (c) (obstruction of inspectors), omit "or the packaged goods regulations"(**a**).

(6) In Article 47 (penalties)—

(a) after paragraph (2) insert—

"(2A) A person guilty of an offence under Article 42(1) or (2) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.",

(b) omit paragraph (4), and

(c) in paragraph (5) for "(4)" substitute "(2A)"(**b**).

Consumer Rights Act 2015

2.—(1) Schedule 5 to the Consumer Rights Act 2015 (investigatory powers) is amended as follows.

(2) In paragraph 10 (enforcer's legislation: duties and powers mentioned in paragraph 9(1)(a))—

(a) in the entry for section 27(1) of the Consumer Protection Act 1987, after "under that Act" insert "and by regulation 18 of the Standardised Packaging of Tobacco Products Regulations 2015 (S.I. 2015/829) to those Regulations"; and

(b) at the appropriate place, insert "regulation 53 of the Tobacco and Related Products Regulations 2016 (S.I. 2016/507)."

(3) In paragraph 11 (enforcer's legislation: legislation mentioned in paragraph 9(1)(b)), in the table, after the last entry insert—

"A London borough council	Section 75 of the London Local Authorities Act 2007"

London Local Authorities Act 2007

3. In section 75 of the London Local Authorities Act 2007(**c**) (mail forwarding businesses: enforcement provisions), for subsection (12) substitute—

"(12) For the investigatory powers available to a borough council in relation to enforcement of this section see Schedule 5 to the Consumer Rights Act 2015."

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes various amendments to specified primary legislation.

Article 3 gives effect to the Schedule to the Order which specifies amendments to primary legislation.

In the Schedule, paragraph 1 specifies amendments made in consequence of the conferring of Schedule 5 investigatory and enforcement powers (which replace existing powers) on the Department of Enterprise, Trade and Investment in Northern Ireland.

Paragraph 2 specifies amendments to Schedule 5 to the Act. Paragraph 2(2) amends paragraph 10 so as to include two sets of regulations on tobacco to the list of legislation to which the investigatory powers in Schedule 5 apply. Paragraph 2(3) amends paragraph 11 in order to specify legislation as enforcer's legislation.

(**a**) Amended by the Weights and Measures (Packaged Goods) Regulations (Northern Ireland) 2011 (S.R. (N.I.) No 2011/331).
(**b**) Amended by the Fines and Penalties (Northern Ireland) Order 1984 (S.I.1985/703 (N.I. 3)).
(**c**) 2007 c.ii.

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