
STATUTORY INSTRUMENTS

2013 No. 2227 (C. 92)

**COMPANIES
COMPETITION
ESTATE AGENTS
EQUALITY
HEALTH AND SAFETY
INSOLVENCY
REGULATORY REFORM
TOWN AND COUNTRY PLANNING**

The Enterprise and Regulatory Reform Act
2013 (Commencement No. 3, Transitional
Provisions and Savings) Order 2013

Made - - - - 7th September 2013

The Secretary of State makes the following Order in exercise of the powers conferred by sections 100 and 103(3) and (4) of and paragraph 61(5) of Schedule 4 to the Enterprise and Regulatory Reform Act 2013⁽¹⁾.

Citation

1. This Order may be cited as the Enterprise and Regulatory Reform Act 2013 (Commencement No. 3, Transitional Provisions and Savings) Order 2013.

Provisions coming into force on 1st October 2013

2. The following provisions of the Enterprise and Regulatory Reform Act 2013 (“the Act”) come into force on 1st October 2013—

- (a) section 25(1), (2) and (4) (the Competition and Markets Authority);

- (b) section 27 (transfer schemes);
- (c) section 65 (third party harassment of employees);
- (d) section 67 (primary authorities);
- (e) section 68 (inspection plans);
- (f) section 69 (civil liability for health and safety duties);
- (g) section 70 (estate agency work);
- (h) sections 79 to 82 (payments to directors of quoted companies);
- (i) section 90(7) (supply of customer data: enforcement);
- (j) paragraphs 1 to 18, 20 to 28, 29(1), 31, 32, 34, 35, 59, 60, 61(1) to (4), 62 to 65 of Schedule 4 (the Competition and Markets Authority);
- (k) paragraphs 51 and 53 of Schedule 4, for the purposes of making and publishing rules of procedure;
- (l) paragraph 52 of Schedule 4, for the purposes of preparing and issuing guidance;
- (m) paragraphs 1 to 6, 10, 12 and 13 of Schedule 17 (abolition of conservation area consent for England and consequential provisions, listed building purchase notices) and section 63 so far as relating to those paragraphs; and
- (n) paragraph 5 of Schedule 21 (bankruptcy early discharge procedure) and section 73 so far as relating to that paragraph.

Transitional and saving provisions

3.—(1) —Any member of the Competition Commission whose term of office as such is not due to expire before the abolition of the Competition Commission under section 26 of the Act may be appointed to the Competition and Markets Authority (“CMA”) panel under paragraph 1(1)(b) of Schedule 4 to the Act for the purpose in paragraph (2).

(2) The purpose is to enable anything in the process of being done by that person immediately before the abolition of the Competition Commission, as a member of a group constituted under any enactment through which functions of the Competition Commission are being performed, to be completed on behalf of the CMA by that person after the abolition of the Competition Commission as a member of a group constituted (or treated as constituted) under Schedule 4 of the Act or any other enactment.

(3) An appointment made by virtue of this article may be made only for the purpose in paragraph (2).

4. Section 65 of the Act does not affect section 40(2) to (4) of the Equality Act 2010⁽²⁾ for the purposes of proceedings that relate to a contravention occurring before section 65 of the Act comes into force.

5.—(1) The amendments made by section 68(3) to (6) and (9) of the Act to section 30 (inspection plans) of the Regulatory Enforcement and Sanctions Act 2008⁽³⁾, except for the insertion of subsection (7E) in that section, do not have effect in relation to the exercise before 9th October 2013 of a function of inspection by a local authority.

(2) The amendment made by section 68(8) of the Act to section 30(10) of the Regulatory Enforcement and Sanctions Act 2008 has effect accordingly.

(2) 2010 c. 15.

(3) 2008 c. 13; section 30 was amended by paragraph 13 of Schedule 1 to the Local Better Regulation Office (Dissolution and Transfer of Functions, Etc.) Order 2012 (S.I. 2012/246) and by section 68 of the Enterprise and Regulatory Reform Act 2013 (c. 24).

6. The amendment made by section 73 and paragraph 5 of Schedule 21 to the Act applies only in relation to a bankruptcy order made on or after 1st October 2013.

7th September 2013

Jo Swinson
Parliamentary Under Secretary of State for
Employment Relations and Consumer Affairs
Department for Business, Innovation and Skills

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Order)

This is the third Commencement Order made under the Enterprise and Regulatory Reform Act 2013 (c. 24) (“the Act”). Certain provisions came into force on the passing of the Act, and the Enterprise and Regulatory Reform Act 2013 (Commencement No. 1, Transitional Provisions and Savings) Order 2013 (S.I. 2013/1455) and the Enterprise and Regulatory Reform Act 2013 (Commencement No. 2) Order 2013 (S.I. 2013/1648) brought further provisions into force.

This Order commences certain provisions of the Act on 1st October 2013.

Article 2(a), (j), (k) and (l) commences section 25 of the Act and provisions in Schedule 4 to the Act to allow the creation of the Competition and Markets Authority (the “CMA”).

Article 2(b) brings into force section 27 of the Act which allows the Secretary of State to make transfer schemes in connection with the establishment of the CMA, the transfer of functions under or by virtue of the Act from the Competition Commission or the Office of Fair Trading (“OFT”) to the CMA.

Article 3 makes transitional provision to allow members of the Competition Commission who are immediately prior to its abolition on a panel constituted under any enactment through which the functions of the Commission are being performed to become a CMA member for the purposes of allowing the CMA to complete the functions formerly performed by the Competition Commission.

Article 2(c) brings into force section 65 of the Act, which amends section 40 of the Equality Act 2010 (c. 15), removing provisions concerning third party harassment of employees. Article 4 of this Order saves the effect of section 40 of the Equality Act 2010 for contraventions of the provisions before 1 October 2013.

Article 2(d) and (e) commences sections 67 and 68 of the Act. Those sections amend Part 2 of the Regulatory Enforcement and Sanctions Act 2008 (c.13) which provides for the co-ordination of regulatory enforcement by local authorities by means of the Primary Authority Scheme.

Article 5 of this Order makes transitional provision in connection with the coming into force of section 68 of the Act. Section 68 amends section 30 of the Regulatory Enforcement and Sanctions Act 2008, which provides powers for a primary authority to make an inspection plan containing recommendations about how a local authority should exercise a function of inspection in relation to a regulated person. Section 30 is amended so that, among other things, a local authority may not exercise a function of inspection otherwise than in accordance with an inspection plan unless it has notified the primary authority in advance and has either received express consent or is entitled to regard the primary authority as having consented because the primary authority did not respond within five working days. The transitional provision made by article 5 has the effect that these new requirements for express or deemed consent do not apply in relation to the exercise of a function of inspection by a local authority before 9th October 2013. When exercising a function of inspection before that date, a local authority must have regard to any applicable inspection plan and must give prior notification to the primary authority if it proposes to exercise the function of inspection otherwise than in accordance with the plan; but the local authority is not required to have obtained actual or deemed consent from the primary authority. However, the new provisions about prior notification and consent do apply in relation to the exercise of a function of inspection on or after 9th October 2013.

Article 2(f) brings into force section 69 of the Act, which amends the Health and Safety at Work etc. Act 1974 (c. 37) to provide that there should be no civil right of action for breach of a duty

imposed by certain health and safety legislation, other than where such a right is specifically provided for.

Article 2(g) commences section 70 of the Act, which extends a current exemption to the definition of ‘estate agency work’ within the Estate Agents Act 1979 (c. 38) to update and clarify the scope of that legislation.

Article 2(h) brings into force sections 79 to 82 of the Act, which amend the Companies Act 2006 (c. 46) and make provision concerning payments to company directors.

Article 2(i) commences section 90(7) of the Act, which makes provision about payments to an enforcer of Regulations concerning supply of customer data.

Article 2(m) brings into force paragraphs 1 to 6, 10, 12 and 13 of Schedule 17 and section 63 of the Act so far as relating to those paragraphs. These provisions amend legislation concerning the abolition of conservation area consent for England and changes to listed building purchase notices.

Article 2(n) commences paragraph 5 of Schedule 21 and section 73 so far as relating to that paragraph, which amends the Insolvency Act 1986 (c. 45) to remove the procedure for discharging a bankrupt earlier than one year. Article 6 provides that this only applies to bankruptcy orders made on or after 1st October 2013.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provisions of the Act are brought into force by commencement orders made before the date of this Order:

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 14	29th July 2013	2013/1648
Section 19	25th July 2013	2013/1455
Section 23	29th July 2013	2013/1648
Section 63 (in so far as was not yet in force), paragraphs 9 and 20 of Schedule 17	25th July 2013	2013/1455
Section 72(1)	25th July 2013	2013/1455
Section 72(4), paragraph 2 of Schedule 20 (partially)	25th July 2013	2013/1455
Section 72(4), paragraph 1 of Schedule 20 (partially)	1st October 2013	2013/1455
Section 72(4), paragraph 2 of Schedule 20 (partially)	1st October 2013	2013/1455