

EU Consumer Law Acquis Compendium

Legislation

Ireland (IE) Nr. 7



Click on the blue text parts in order to retrieve information on the EC law background



Full name and/or number of the statute (in original language):

Protection of Consumers' Collective Interests Regulations

Translation of the name:

Protection of Consumers' Collective Interests Regulations

Reference in Official Journal (if appropriate):

S.I. No. 449 of 2001

Date of coming into force:

03.10.2001

Subsequent amendments:

none

Text:

STATUTORY INSTRUMENT

S.I. No. 449 of 2001

European Communities (Protection of Consumers' Collective Interests) Regulations, 2001

I, Mary Harney, Minister for Enterprise, Trade and Employment, in exercise of the powers conferred on me by section 3 of the European Communities Act, 1972 (No. 27 of 1972), and for the purpose of giving effect to Directive 98/27/EC of the European Parliament and of the Council of 19 May 1998 on injunctions for the protection of consumers' interests, hereby make the following regulations:

1 O.J. No. L166, 11.6.98, p.51

1. These Regulations may be cited as the European Communities (Protection of Consumers' Collective Interests) Regulations, 2001.

EU Consumer Law Acquis Compendium

Legislation

Ireland (IE) Nr. 7



Click on the blue text parts in order to retrieve information on the EC law background



2.

(1) In these Regulations, unless the context otherwise requires -

"Court" means the Circuit Court;

"Directive" means Directive 98/27/EC2 of the European Parliament and of the Council of 19 May 1998 on injunctions for the protection of consumers' interests.

2 O.J. No. L166, 11.6.98, p.51

(2) A reference in these Regulations to -

(a) a Regulation or a Schedule is a reference to a Regulation of, or a Schedule to, these Regulations, unless it is indicated that reference to some other provision is intended, and

(b) a paragraph or subparagraph is a reference to the paragraph or subparagraph of the provision in which the reference occurs, unless it is indicated that reference to some other provision is intended.

(3) A word or expression that is used in these Regulations and is also used in the Directive has, unless the contrary intention appears, the same meaning in these Regulations that it has in the Directive.

3.

(1) Where a qualified entity is of the opinion that a person is acting in a manner that constitutes an infringement, the qualified entity may, for the purpose of protecting the collective interests of consumers and subject to paragraphs (2), (3), (4) and, where appropriate, paragraph (5), apply to the Court for an Order under these Regulations

(2) Before applying for an order referred to in paragraph (1), the qualified entity concerned shall consult with that person for the purposes of protecting the collective interests of consumers concerned and, without prejudice to the generality of the foregoing, shall request that person not to infringe such interests.

(3) If, following such consultation, the qualified entity is of the opinion that the person has continued to act in a manner that constitutes an infringement the qualified entity (hereinafter referred to as the "applicant") may, 2 weeks after the commencement of such consultation, apply to the Court for an order requiring that person (hereinafter referred to as the "respondent") to -

(a) cease acting in such manner for the purposes of protecting the collective interests of consumers, or

EU Consumer Law Acquis Compendium

Legislation

Ireland (IE) Nr. 7



Click on the blue text parts in order to retrieve information on the EC law background



(b) not to act in such manner for the purposes of protecting the collective interests of consumers.

(4) When making an application for an order the applicant shall satisfy the Court that it has a statutory function in relation to the protection of consumer interests which are the subject of the infringement concerned.

(5) A qualified entity which -

(a) is specified in the list published, in accordance with Article 4.3 of the Directive, by the Commission in the Official Journal of the European Communities,

(b) protects the collective interest of consumers affected by the infringement concerned, and

(c) provides the Court with a copy of the Official Journal containing the most recent publication of the list referred to in subparagraph (a),

may make an application to the Court for an order under these Regulations.

(6) The Court may grant or refuse to grant the order and where it grants the order it shall provide for any other matter which appears to it to be appropriate having regard to the circumstances of the infringement and the protection of the collective interests of consumers including, if appropriate, the publication of the order.

(7) An order under this Regulation shall be made with all due expedience.

(8) Where it is satisfied that it is appropriate to do so the Court may make an interim order.

(9) The Court may make an order as to costs.

(10) These Regulations are without prejudice to the rights of consumers to rely on the Directives referred to in Article 1 of the Directive.

4. The onus of proving compliance with the requirements of these Regulations or any of the Directives referred to in Article 1 of the Directive shall be on the respondent.

5. Where the respondent fails to comply with the terms of an order made under these Regulations the applicant may apply to the Court to enforce that order.

6. A qualified entity that has a statutory function in relation to the consumers' interests which are the subject of the Directives referred to in Article 1 of the Directive may request

EU Consumer Law Acquis Compendium

Legislation

Ireland (IE) Nr. 7



Click on the blue text parts in order to retrieve information on the EC law background



the Minister for Enterprise, Trade and Employment to communicate to the Commission that it is a qualified entity for the purposes of the intra-Community infringements provided for in Article 4 of the Directive.

GIVEN under my Official Seal, 3rd October 2001.

MARY HARNEY, Minister for Enterprise, Trade and Employment

EXPLANATORY NOTE

These Regulations are intended to implement Directive 98/27/EC of the European Parliament and of the Council of 19 May 1998 on injunctions for the protection of consumers' interests. Under the Regulations, qualified entities will be entitled, for the purpose of protecting the collective interests of consumers, to apply to the Circuit Court for an order requiring the cessation or prohibition of an infringement of the national law which transposed specified Directives concerning misleading advertising; contracts negotiated away from business premises; consumer credit; television broadcasting activities; package travel; advertising of medicinal products; unfair terms in consumer contracts; timeshare; and distance contracts. As regards intra-Community infringements, the Minister for Enterprise, Trade and Employment will, at the request of national qualified entities, be required to inform the European Commission about them. Inclusion of a given entity in the list, to be drawn up by the Commission and published in the Official Journal of the European Communities, will serve as a basis for a court to decide that an entity enjoys locus standi.

Published by the Stationary Office, Dublin 2.