

**THIRD SUPPLEMENT TO THE GIBRALTAR  
GAZETTE**

**No. 3,595 of 26th April, 2007**

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**B. 26/07**

**BILL**

**FOR**

**AN ACT** to facilitate the implementation in Gibraltar of Regulation (EC) No. 2006/2004 of the European Parliament and of the Council of 27 October 2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws as amended by Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market, and matters connected thereto.

**ENACTED** by the Legislature of Gibraltar.

**Title and commencement.**

1. This Act may be cited as the Consumer Protection (EU Cooperation) Act 2007 and comes into operation on the day of publication.

**Interpretation.**

2.(1) In this Act and unless the context otherwise requires—

“CPC Regulation” means Regulation (EC) No. 2006/2004 of the European Parliament and of the Council of 27 October 2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws as amended by Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market;

“Minister” means the Minister responsible for consumer affairs.

(2) Any term used but not defined shall be interpreted in accordance with the provisions of the CPC Regulation.

(3) A reference to an article, without further, constitutes a reference to an article of the CPC regulation.

**Competent authority and single liaison office.**

3.(1) The competent authority for all purposes connected with the operation of the CPC Regulation is the Minister or such other person as the Minister may, from time to time, appoint.

(2) The single liaison office for all purposes connected with the operation of the CPC Regulation is the office of the Chief Secretary.

**Enforcement powers.**

4.(1) Where the competent authority is of the opinion that a reasonable suspicion exists of an intra-Community infringement contrary to the CPC Regulation, it may apply to the Justice of the Peace for an order that an officer of the competent authority or a named police officer exercise such investigative or enforcement power as may be appropriate pursuant to article 46(a) to (g).

(2) The Justice of the Peace may issue an order pursuant to subsection (1) where reasonably suspects that an intra-Community infringement exists contrary to the CPC Regulation.

(3) Where an officer of the competent authority or a police officer enters premises pursuant to an order issued under this section, he may take with him such persons and equipment as he considers appropriate.

(4) An officer of the competent authority or a police officer who enters premises by virtue of this section shall, if the premises are unoccupied or the occupier is temporarily absent, take reasonable steps to ensure that when he leaves the premises they are as secure as they were before he entered.

**Obstruction and failure to cooperate.**

5.(1) A person commits an offence if, without reasonable excuse he intentionally obstructs, or fails to cooperate with, an officer of the competent

authority or a police officer who is exercising or seeking to exercise a power under this section.

(2) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

**Retention of documents and goods.**

6. Documents or goods seized pursuant to a order issued under section 4 may be retained for such period as the Justice of the Peace may order.

**Data protection.**

7. Nothing in the Data Protection Act 2004 shall oblige the competent authority or the Royal Gibraltar Police to disclose personal data processed by it for the purpose of discharging any function conferred on it by or under this Act or the CPC Regulation where disclosure would be likely to prejudice the proper discharge of that function.

**Regulations.**

8.(1) The Minister may, by regulations, make such provision for the enforcement of this Act as he may deem appropriate.

(2) Regulations made under subsection (1) may provide for such offences and penalties therefor as the Minister may deem appropriate.

**Rules of court.**

9. The Chief Justice may make rules of court in respect of any matter connected with the application for, and grant of, an order under this Act.

### **EXPLANATORY MEMORANDUM**

This Bill facilitates the implementation in Gibraltar of Regulation (EC) No. 2006/2004 of the European Parliament and of the Council of 27 October 2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws as amended by Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market.

The CPC Regulation creates a network of enforcers which are responsible for taking action to stamp out cross border infringements of the EC consumer protection legislation set out in the Annex to the Regulation. The further implementation required by articles 4 and 13 of the Regulation are effected by this Bill.

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