

SCHEDULE

AMENDMENTS, REPEALS AND REVOCATIONS

Uncertificated Securities Regulations 2001

43.—(1) The Uncertificated Securities Regulations 2001⁽¹⁾ are amended as follows.

(2) In Schedule 2 (prevention of restrictive practices)—

(a) in paragraph 3—

- (i) in sub-paragraph (1) for the words “Director General of Fair Trading (in this Schedule referred to as “the Director”); are substituted the words “Office of Fair Trading (in this Schedule referred to as “the OFT”) and for the word “his” is substituted the word “its”;
- (ii) in sub-paragraphs (2) to (8) for the word “Director” or (as the case may be) “Director’s” (in each place) is substituted the word “OFT” or (as the case may be) “OFT’s”
- (iii) in sub-paragraphs (2) to (6) and (8) for the word “his” (in each place) is substituted the word “its”;
- (iv) in sub-paragraphs (2) and (4)(b) for the word “him” is substituted the word “it”;
- (v) in sub-paragraphs (4)(b), (6) and (8) for the word “he” (in each place) is substituted the word “it”; and
- (vi) in the cross-heading before paragraph 3, for the words “Director General of Fair Trading” are substituted the words “Office of Fair Trading”.

(b) in paragraph 4—

- (i) in sub-paragraph (1), (1)(a) and (b) for the word “Director” (in each place) is substituted the word “OFT”;
- (ii) in sub-paragraph (1) for the word “his” is substituted the word “its”;
- (iii) in sub-paragraph (1)(a) for the word “him” is substituted the word “it”;
- (iv) sub-paragraph (3) is revoked; and
- (v) in the cross-heading before paragraph 4, for the words “*Director General of Fair Trading*” are substituted the words “*Office of Fair Trading*”.

(c) after paragraph 4 there is inserted—

“Enforcement

4A.—(1) The court may, on an application by the OFT, enquire into whether any person (“the defaulter”) has refused or otherwise failed, without reasonable excuse, to comply with a notice under paragraph 4(1).

(2) An application under sub-paragraph (1) shall include details of the possible failure which the OFT considers has occurred.

(3) In enquiring into a case under sub-paragraph (1), the court shall hear any witness who may be produced against or on behalf of the defaulter and any statement which may be offered in defence.

(4) Sub-paragraphs (5) and (6) apply where the court is satisfied, after hearing any witnesses and statements as mentioned in sub-paragraph (3), that the defaulter has refused

(1) S.I. 2001/3755.

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or otherwise failed, without reasonable excuse, to comply with a notice under paragraph 4(1).

(5) The court may punish the defaulter as it would have been able to punish him had he been guilty of contempt of court.

(6) Where the defaulter is a body corporate or is a partnership constituted under the law of Scotland, the court may punish any director, officer or (as the case may be) partner of the defaulter as it would have been able to punish that director, officer or partner had he been guilty of contempt of court.

(7) In this paragraph “the court”—

- (a) in relation to England and Wales or Northern Ireland, means the High Court, and
- (b) in relation to Scotland, means the Court of Session.

4B.—(1) A person commits an offence if he intentionally alters, suppresses or destroys a document which he has been required to produce by a notice under paragraph 4(1).

(2) A person who commits an offence under sub-paragraph (1) shall be liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum;
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.”; and

(c) paragraph 5 (exemptions from the Fair Trading Act 1973) is revoked.