



Digital Markets, Competition and Consumers Act 2024

2024 CHAPTER 13

PART 2

COMPETITION

PROSPECTIVE

CHAPTER 1

ANTI-TRUST

The Chapter 1 and 2 prohibitions

119 Removal of requirement for agreements etc to be implemented in the UK

(1) In Chapter 1 of Part 1 of CA 1998 (agreements), section 2 (agreements etc preventing, restricting or distorting competition) is amended as follows.

(2) For subsection (1) substitute—

“(1) Subject to section 3, agreements between undertakings, decisions by associations of undertakings or concerted practices which have as their object or effect the prevention, restriction or distortion of competition within the United Kingdom and which—

(a) in the case of agreements, decisions or practices implemented, or intended to be implemented in the United Kingdom, may affect trade in the United Kingdom, or

(b) in any other case, are likely to have an immediate, substantial and foreseeable effect on trade within the United Kingdom,

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are prohibited unless they are exempt in accordance with the provisions of this Part.”

- (3) Omit subsection (3).
- (4) The amendments made by this section do not have effect in relation to agreements between undertakings (within the meaning of CA 1998) made before the coming into force of [this section](#).
- (5) Subsection (5) of section 2 of CA 1998 applies for the purposes of [subsection \(4\)](#) as it applies for the purposes of Part 1 of that Act.

Commencement Information

- II** S. 119 not in force at Royal Assent, see [s. 339\(1\)](#)

120 Repeal of exclusions relating to the European Coal and Steel Community

- (1) Part 1 of CA 1998 (competition) is amended as follows.
- (2) In Schedule 3 (planning obligations and general exclusions) omit paragraph 8 (coal and steel).
- (3) In section 3 (Chapter 1: excluded agreements), in subsection (3)(b)(ii) omit “, 2, 8”.
- (4) In section 19 (Chapter 2: excluded cases) omit subsection (3).

Commencement Information

- II** S. 120 not in force at Royal Assent, see [s. 339\(1\)](#)

Investigations

121 Duty to preserve documents relevant to investigations

- (1) Chapter 3 of Part 1 of CA 1998 (competition: investigation and enforcement) is amended as follows.
- (2) After section 25A insert—

“25B Duty to preserve documents relevant to investigations

- (1) [Subsection \(2\)](#) applies where a person knows or suspects that an investigation by the CMA under section 25 is being or is likely to be carried out.
- (2) The person must not—
 - (a) falsify, conceal, destroy or otherwise dispose of, or
 - (b) cause or permit the falsification, concealment, destruction or disposal of,
 a document which the person knows or suspects is or would be relevant to the investigation.

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(3) In this section, the reference to concealing a document includes a reference to destroying the means of reproducing information recorded otherwise than in legible form.”

(3) In [section 40ZE](#) (enforcement of requirements: imposition of penalties) (inserted by [paragraph 8 of Schedule 10](#)), in [subsection \(1\)](#), in [paragraph \(a\)](#), after “imposed on the person” insert “by section 25B or”.

Commencement Information

I3 S. 121 not in force at Royal Assent, see [s. 339\(1\)](#)

122 Production of information authorised by warrant

(1) Section 28 of CA 1998 (power to enter business premises under a warrant) is amended as follows.

(2) In subsection (1)—

- (a) in paragraph (a), in the words before sub-paragraph (i), after “there are on” insert “or accessible from”;
- (b) in paragraph (b), in sub-paragraph (i), after “there are on” insert “or accessible from”;
- (c) in paragraph (c), after “there are on” insert “or accessible from”.

(3) In subsection (2)—

- (a) in paragraph (f) omit “and which the named officer considers relates to any matter relevant to the investigation,”;
- (b) after that paragraph insert—
 - “(g) to operate any equipment found on the premises for the purposes of producing such information in such a form;
 - (h) to require any person on the premises to give the named officer any assistance the named officer may reasonably require (including for the purposes of paragraphs (f) and (g));
 - (i) to take copies of, or take possession of, anything produced in accordance with paragraph (f) or (g) which the named officer considers relates to any matter relevant to the investigation.”

(4) Section 28A of CA 1998 (power to enter domestic premises under a warrant) is amended as follows.

(5) In subsection (1)—

- (a) in paragraph (a), in the words before sub-paragraph (i), after “there are on” insert “or accessible from”;
- (b) in paragraph (b), in sub-paragraph (i), after “there are on” insert “or accessible from”.

(6) In subsection (2)—

- (a) in paragraph (f) omit “and which the named officer considers relates to any matter relevant to the investigation,”;
- (b) after that paragraph insert—

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- “(g) to operate any equipment found on the premises for the purposes of producing such information in such a form;
- (h) to require any person on the premises to give the named officer any assistance the named officer may reasonably require (including for the purposes of paragraphs (f) and (g));
- (i) to take copies of, or take possession of, anything produced in accordance with paragraph (f) or (g) which the named officer considers relates to any matter relevant to the investigation.”

(7) In section 30 of CA 1998 (privileged communications), after subsection (1) insert—

“(1A) Nothing in section 28 or 28A authorises an officer to produce or take possession of, or make copies of or take extracts from, anything which, by virtue of subsection (1), a person could not be required to produce or disclose under this Part.”

Commencement Information

I4 S. 122 not in force at Royal Assent, see [s. 339\(1\)](#)

123 Additional powers of seizure from domestic premises

- (1) Part 2 of the Criminal Justice and Police Act 2001 (powers of seizure) is amended as follows.
- (2) In section 50 (additional powers of seizure from premises), in subsection (6), after “section 28(2)(b)” insert “or 28A(2)(b)”.
- (3) In section 57(1) (retention of seized items), in paragraph (n), for “section 28(7)” substitute “sections 28(7) and 28A(8)”.
- (4) In section 63(2) (powers of seizure: copies), in paragraph (h), after “section 28(2)(f)” insert “or (g) or 28A(2)(f) or (g)”.
- (5) In section 64(3) (meaning of “appropriate judicial authority”), in paragraph (a)(iii), for “section 28(2)” substitute “sections 28(2) and 28A(2)”.
- (6) In section 65(2) (meaning of “legal privilege”), in paragraph (a)—
 - (a) for “power” substitute “powers”;
 - (b) after “section 28(2)” insert “or 28A(2)”.
- (7) In section 66(5) (general interpretation of Part 2), in paragraph (h), for “section 28(2)(c)” substitute “sections 28(2)(c) and 28A(2)(c)”.
- (8) In Part 1 of Schedule 1 (powers of seizure: powers to which section 50 applies), in paragraph 67 (the Competition Act 1998), for “section 28(2)” substitute “sections 28(2) and 28A(2)”.

Commencement Information

I5 S. 123 not in force at Royal Assent, see [s. 339\(1\)](#)

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Proceedings before the Competition Appeal Tribunal

124 Standard of review on appeals against interim measures directions

- (1) In section 46 of CA 1998 (appealable decisions), in subsection (3)—
 - (a) after paragraph (h) insert—
 - “(ha) to make directions under section 35,
 - (hb) not to make directions under section 35,”;
 - (b) in the words after paragraph (i), for “, 33 or 35” substitute “or 33”.
- (2) Schedule 8 to CA 1998 (appeals) is amended as follows.
- (3) In paragraph 3 (decisions of the tribunal: merits-based appeals), in sub-paragraph (A1)—
 - (a) in paragraph (a), for “or (h)” substitute “, (h), (ha) or (hb)”;
 - (b) in paragraph (b), for “or (c)” substitute “, (c), (d) or (e)”.
- (4) In paragraph 3A (decisions of the tribunal: appeals on judicial review principles), in sub-paragraph (1)—
 - (a) in paragraph (a), for “or (h)” substitute “, (h), (ha) or (hb)”;
 - (b) in paragraph (b), for “or (c)” substitute “, (c), (d) or (e)”.

Commencement Information

I6 S. 124 not in force at Royal Assent, see [s. 339\(1\)](#)

125 Declaratory relief

Schedule 3 makes provision allowing the Competition Appeal Tribunal to grant declaratory relief.

Commencement Information

I7 S. 125 not in force at Royal Assent, see [s. 339\(1\)](#)

126 Exemplary damages

- (1) In section 47C of CA 1998 (collective proceedings: damages and costs), before subsection (2) insert—

“(1) The Tribunal may not award exemplary damages in collective proceedings.”
- (2) In Schedule 8A of CA 1998 (further provision about claims in respect of loss or damage before a court or the Tribunal)—
 - (a) in Part 4 (cartels), in paragraph 15 (liability of immunity recipients)—
 - (i) the existing text becomes sub-paragraph (1);
 - (ii) in sub-paragraph (1), in the words before paragraph (a), for “in respect of loss and damage suffered by” substitute “to”;
 - (iii) after that sub-paragraph insert—

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- “(2) But an immunity recipient is not liable (either alone or jointly) by virtue of sub-paragraph (1)(e) to pay exemplary damages.”;
- (b) omit Part 8 (exemplary damages);
 - (c) in Part 10 (application), in paragraph 42, in sub-paragraph (1) omit “, 8”.
- (3) The amendments made by this section have effect in relation to competition claims, competition proceedings, claims for contribution arising from competition claims and proceedings relating to such claims to the extent that—
- (a) the claims and proceedings relate to an infringement of competition law that takes place after the coming into force of this section, and
 - (b) the loss or damage (if any) to which the claims or proceedings relate is suffered after the coming into force of this section.
- (4) For the purposes of [subsection \(3\)](#), where an infringement of competition law takes place over a period of two or more days it is to be taken to have taken place on the first of those days.
- (5) Terms used in [subsection \(3\)](#) and in Schedule 8A to CA 1998 have the same meaning in [subsection \(3\)](#) as they do in that Schedule (see Part 1 of that Schedule).

Commencement Information

18 S. 126 not in force at Royal Assent, see [s. 339\(1\)](#)

Status:

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Changes to legislation:

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