



# Digital Markets, Competition and Consumers Act 2024

## 2024 CHAPTER 13

### PART 3

#### ENFORCEMENT OF CONSUMER PROTECTION LAW

### CHAPTER 3

#### CONSUMER PROTECTION ORDERS AND UNDERTAKINGS

##### *Powers of court on application under [section 153](#)*

#### **156 Enforcement orders and undertakings**

- (1) [This section](#) applies if, on an application under [section 153](#) for an enforcement order, the court finds that the person in respect of whom the application is made (“the respondent”)—
  - (a) has engaged, is engaging or is likely to engage in a commercial practice which constitutes a relevant infringement (“the infringing practice”), or
  - (b) is an accessory to the infringing practice.
- (2) The court may—
  - (a) make an enforcement order against the respondent, or
  - (b) accept an undertaking from the respondent given under [subsection \(5\)](#).
- (3) In considering whether to make an enforcement order the court must have regard to whether the respondent—
  - (a) has given an undertaking under [section 163](#) or [185](#) in respect of the infringing practice, and
  - (b) if so, whether the respondent has failed to comply with the undertaking.

---

*Status: This is the original version (as it was originally enacted).*

---

- (4) An enforcement order is an order that—
  - (a) indicates the nature of the infringing practice, and
  - (b) directs the respondent to comply with [subsection \(6\)](#).
- (5) The respondent gives an undertaking under [this subsection](#) by undertaking—
  - (a) to comply with [subsection \(6\)](#), or
  - (b) to take steps which the court believes will secure that the respondent complies with [subsection \(6\)](#).
- (6) The respondent complies with [this subsection](#) by—
  - (a) in the case of a respondent within [subsection \(1\)\(a\)](#), not continuing or repeating the infringing practice (where it is alleged that the person has engaged or is engaging in that practice);
  - (b) in the case of a respondent within [subsection \(1\)\(b\)](#), not consenting to or conniving in the infringing practice;
  - (c) in either case, not engaging in the infringing practice in the course of the respondent’s business or another business;
  - (d) in either case, not consenting to or conniving in the carrying out of the infringing practice by a body corporate with which the respondent has a special relationship (see [section 220](#)).
- (7) See also—
  - (a) [section 157](#) about the inclusion of enhanced consumer measures in an enforcement order or undertaking;
  - (b) [section 158](#) about the inclusion of a requirement to pay a monetary penalty in an enforcement order.
- (8) An enforcement order may require the respondent to publish—
  - (a) the order;
  - (b) a corrective statement.
- (9) An undertaking under [subsection \(5\)](#) may include a further undertaking by the respondent to publish—
  - (a) the terms of the undertaking;
  - (b) a corrective statement.
- (10) Publication under [subsection \(8\)](#) or [\(9\)](#)—
  - (a) must be made in such form and manner, and to such extent, as the court considers appropriate for the purpose of eliminating any continuing effects of the conduct in respect of which the order was made or undertaking given;
  - (b) is not an enhanced consumer measure for the purposes of [this Chapter](#).
- (11) Where the court has accepted from the respondent an undertaking under [subsection \(5\)](#)—
  - (a) the court may accept from the respondent any variation of the undertaking that the court considers appropriate for meeting the purposes for which the undertaking was given;
  - (b) the court may release the respondent from the undertaking (whether on its own initiative or at the respondent’s request) if the court considers that the undertaking is no longer necessary to further those purposes.

## **157 Enforcement orders and undertakings: enhanced consumer measures**

- (1) An enforcement order or undertaking may include a requirement to take such enhanced consumer measures as the court considers just and reasonable.
- (2) For this purpose, the court must in particular consider whether any proposed enhanced consumer measures are proportionate having regard to—
  - (a) the likely benefit of the measures to consumers,
  - (b) the costs likely to be incurred by the respondent, and
  - (c) the likely cost to consumers of obtaining the benefit of the measures.
- (3) The costs referred to in [subsection \(2\)\(b\)](#) are—
  - (a) the cost of the measures, and
  - (b) the reasonable administrative costs associated with taking the measures.
- (4) Where the respondent is required under an enforcement order or an undertaking to take enhanced consumer measures, the order or undertaking may include requirements for the respondent to provide information or documents to the court in order that the court may determine whether the respondent is taking those measures.
- (5) [Subsection \(6\)](#) applies if—
  - (a) an enforcement order or undertaking includes enhanced consumer measures offering compensation, and
  - (b) a settlement agreement is entered into in connection with the payment of compensation.
- (6) A waiver of a person’s rights in the settlement agreement is not valid if it is a waiver of the right to bring civil proceedings in respect of conduct other than conduct which has given rise to the enforcement order or undertaking.
- (7) [This section](#) is subject to [section 177](#) (private designated enforcers).
- (8) In [this section](#) “undertaking” means an undertaking given under [section 156\(5\)](#).
- (9) References in [this Part](#) to “enhanced consumer measures” are to be read in accordance with [section 221](#).

## **158 Enforcement orders: requirement to pay monetary penalty**

- (1) [This section](#) applies where the court makes an enforcement order against the respondent on an application made by a public designated enforcer.
- (2) The order may, subject to [subsection \(3\)](#), include a requirement for the respondent to pay a monetary penalty.
- (3) In the case of a respondent within [section 156\(1\)\(a\)](#), a requirement to pay a monetary penalty may be imposed only if the court finds that the respondent has engaged, or is engaging, in a commercial practice constituting a relevant infringement (and not in respect of a practice that the court finds that the person is likely to engage in).
- (4) Where the order includes a requirement under [subsection \(2\)](#), the order, or a notice accompanying service of the order, must set out the monetary penalty information (see [section 203](#)).
- (5) The amount of a monetary penalty must be a fixed amount not exceeding £300,000 or, if higher, 10% of the total value of the turnover (if any) of the respondent.

---

*Status: This is the original version (as it was originally enacted).*

---

- (6) A monetary penalty may not be imposed on the respondent by virtue of [this section](#) in respect of any conduct that constitutes an offence if the respondent has been found guilty of that offence.
- (7) The respondent does not commit an offence in relation to any conduct in respect of which a monetary penalty is imposed on the respondent by virtue of this section.
- (8) In addition to any right of appeal on a point of law, a person liable to pay a monetary penalty by virtue of [this section](#) may appeal in respect of—
  - (a) the decision to impose the penalty, or
  - (b) the nature or amount of the penalty.
- (9) In the application of [subsection \(4\)](#) to Scotland, “service of the order” includes service of an extract order in execution of or diligence on the order.

## 159 Interim enforcement orders and undertakings

- (1) [This section](#) applies if—
  - (a) it is alleged in an application under [section 153](#) for an interim enforcement order that a person (“the respondent”)—
    - (i) has engaged, is engaging or is likely to engage in a commercial practice which constitutes a relevant infringement (“the infringing practice”), or
    - (ii) is an accessory to the infringing practice,
  - (b) it appears to the court that if the application had been an application for an enforcement order it would be likely to be granted, and
  - (c) the court considers it is expedient that the infringing practice is prohibited or prevented immediately.
- (2) The court may—
  - (a) make an interim enforcement order against the respondent, or
  - (b) accept an undertaking from the respondent to comply with [subsection \(5\)](#) or to take steps which the court believes will secure such compliance.
- (3) If no notice of the application has been given to the respondent, the court may proceed under [subsection \(2\)\(a\)](#) only if it considers it appropriate to make an interim enforcement order without notice.
- (4) An interim enforcement order is an order that—
  - (a) indicates the nature of the infringing practice, and
  - (b) directs the respondent to comply with [subsection \(5\)](#).
- (5) The respondent complies with [this subsection](#) by—
  - (a) in the case of a respondent within [subsection \(1\)\(a\)\(i\)](#), not continuing or repeating the infringing practice (where it is alleged that the person has engaged or is engaging in that practice);
  - (b) in the case of a respondent within [subsection \(1\)\(a\)\(ii\)](#), not consenting to or conniving in the infringing practice;
  - (c) in either case, not engaging in the infringing practice in the course of the respondent’s business or another business;

---

*Status: This is the original version (as it was originally enacted).*

---

- (d) in either case, not consenting to or conniving in the carrying out of the infringing practice by a body corporate with which the respondent has a special relationship (see section 220).
- (6) An application for an interim enforcement order in respect of alleged conduct of the respondent may not be made at any time after—
  - (a) an application for an enforcement order against the respondent in respect of that conduct is determined, or
  - (b) a final infringement notice in respect of that conduct has been given to the respondent (see section 182).
- (7) An application for an interim enforcement order must—
  - (a) include all information known to the applicant that is material to the question of whether or not the application is granted;
  - (b) if made without notice, state why no notice has been given.
- (8) The court may vary or discharge an interim enforcement order on the application of the applicant or the respondent.
- (9) An interim enforcement order made in respect of conduct of the respondent is discharged—
  - (a) on the determination of an application for an enforcement order made against the respondent in respect of that conduct, or
  - (b) on the giving of a final infringement notice to the respondent in respect of that conduct.