

*Status: Point in time view as at 30/06/2010.*

*Changes to legislation: Financial Services and Markets Act 2000, SCHEDULE 14 is up to date with all changes known to be in force on or before 03 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## SCHEDULES<sup>F1F 1</sup>

### SCHEDULE 14 U.K.

Section 162.

#### ROLE OF THE COMPETITION COMMISSION

##### *Provision of information by Treasury*

- 1 (1) The Treasury's powers under this paragraph are to be exercised only for the purpose of assisting the Commission in carrying out an investigation under section 162.
- (2) The Treasury may give to the Commission—
  - (a) any information in their possession which relates to matters falling within the scope of the investigation; and
  - (b) other assistance in relation to any such matters.
- (3) In carrying out an investigation under section 162, the Commission must have regard to any information given to it under this paragraph.

##### *Consideration of matters arising on a report*

- 2 In considering any matter arising from a report made by the [<sup>F1</sup>OFT] under section 160, the Commission must have regard to—
  - (a) any representations made to [<sup>F2</sup>the Commission] in connection with the matter by any person appearing to the Commission to have a substantial interest in the matter; and
  - (b) any cost benefit analysis prepared by the Authority (at any time) in connection with the regulatory provision or practice, or any of the regulatory provisions or practices, which are the subject of the report.

#### Textual Amendments

- F1** Words in Sch. 14 para. 2(a) substituted (1.4.2003) by virtue of Enterprise Act 2002 (c. 40), ss. 278(1), 279, Sch. 25 para. 40(20)(a); S.I. 2003/766, art. 2, Sch. (with art. 3)
- F2** Words in Sch. 14 para. 2(a) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), ss. 278(1), 279, Sch. 25 para. 40(20)(a); S.I. 2003/766, art. 2, Sch. (with art. 3)

<sup>F3</sup>Investigations under section 162: application of Enterprise Act 2002

#### Textual Amendments

- F3** Sch. 14 paras. 2A-2C inserted (20.6.2003) by Enterprise Act 2002 (c. 40), ss. 278(1), 279, Sch. 25 para. 40(20)(b); S.I. 2003/1397, art. 2(1), Sch. (with art. 8)

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- 2A (1) The following sections of Part 3 of the Enterprise Act 2002 shall apply, with the modifications mentioned in sub-paragraphs (2) and (3), for the purposes of any investigation by the Commission under section 162 of this Act as they apply for the purposes of references under that Part—
- (a) section 109 (attendance of witnesses and production of documents etc.);
  - (b) section 110 (enforcement of powers under section 109: general);
  - (c) section 111 (penalties);
  - (d) section 112 (penalties: main procedural requirements);
  - (e) section 113 (payments and interest by instalments);
  - (f) section 114 (appeals in relation to penalties);
  - (g) section 115 (recovery of penalties); and
  - (h) section 116 (statement of policy).
- (2) Section 110 shall, in its application by virtue of sub-paragraph (1), have effect as if—
- (a) subsection (2) were omitted; and
  - (b) in subsection (9) the words from “or section” to “section 65(3)” were omitted.
- (3) Section 111(5)(b) shall, in its application by virtue of sub-paragraph (1), have effect as if for sub-paragraph (ii) there were substituted—
- (“ if earlier, the day on which the report of the Commission on the investigation concerned is made or, if the Commission decides not to make a report, the day on which the Commission makes the statement required by section 162(3) of the Financial Services and Markets Act 2000. ”
- (4) Section 117 of the Enterprise Act 2002 (false or misleading information) shall apply in relation to functions of the Commission in connection with an investigation under section 162 of this Act as it applies in relation to its functions under Part 3 of that Act but as if, in subsections (1)(a) and (2), the words [<sup>F4</sup> “the OFT, OFCOM,”] and “or the Secretary of State” were omitted.
- (5) Provisions of Part 3 of the Enterprise Act 2002 which have effect for the purposes of sections 109 to 117 of that Act (including, in particular, provisions relating to offences and the making of orders) shall, for the purposes of the application of those sections by virtue of sub-paragraph (1) or (4) above, have effect in relation to those sections as applied by virtue of those sub-paragraphs.
- (6) Accordingly, corresponding provisions of this Act shall not have effect in relation to those sections as applied by virtue of those sub-paragraphs.

#### Textual Amendments

- F3** Sch. 14 paras. 2A-2C inserted (20.6.2003) by Enterprise Act 2002 (c. 40), ss. 278(1), 279, **Sch. 25 para. 40(20)(b)**; S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- F4** Words in Sch. 14 para. 2A(4) substituted (29.12.2003) by Communications Act 2003 (c. 21), ss. 389(1), 411(2), **Sch. 16 para. 5** (with transitional provisions in Sch. 18); S.I. 2003/3142, **art. 3(1)**, Sch. 1 (subject to art. 3(3) and with art. 11)

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- 2B For the purposes of its application in relation to the function of the Commission of deciding in accordance with section 162(2) of this Act not to make a report, paragraph 15(7) of Schedule 7 to the Competition Act 1998 (power of the Chairman to act on his own while a group is being constituted) has effect as if, after paragraph (a), there were inserted “; or
- (aa) in the case of an investigation under section 162 of the Financial Services and Markets Act 2000, decide not to make a report in accordance with subsection (2) of that section (decision not to make a report where no useful purpose would be served).”

**Textual Amendments**

- F3** Sch. 14 paras. 2A-2C inserted (20.6.2003) by Enterprise Act 2002 (c. 40), ss. 278(1), 279, Sch. 25 para. 40(20)(b); S.I. 2003/1397, art. 2(1), Sch. (with art. 8)

*Reports under section 162: further provision*

- 2C (1) For the purposes of section 163 of this Act, a conclusion contained in a report of the Commission is to be disregarded if the conclusion is not that of at least two-thirds of the members of the group constituted in connection with the investigation concerned in pursuance of paragraph 15 of Schedule 7 to the Competition Act 1998.
- (2) If a member of a group so constituted disagrees with any conclusions contained in a report made under section 162 of this Act as the conclusions of the Commission, the report shall, if the member so wishes, include a statement of his disagreement and of his reasons for disagreeing.
- (3) For the purposes of the law relating to defamation, absolute privilege attaches to any report made by the Commission under section 162.]

**Textual Amendments**

- F3** Sch. 14 paras. 2A-2C inserted (20.6.2003) by Enterprise Act 2002 (c. 40), ss. 278(1), 279, Sch. 25 para. 40(20)(b); S.I. 2003/1397, art. 2(1), Sch. (with art. 8)

*Applied provisions*

- 3 **F5** .....

**Textual Amendments**

- F5** Sch. 14 para. 3 repealed (20.6.2003) by Enterprise Act 2002 (c. 40), ss. 278(1)(2), 279, Sch. 25 para. 40(20)(c), Sch. 26; S.I. 2003/1397, art. 2(1), Sch. (with art. 8)

*Publication of reports*

- 4 (1) If the Commission makes a report under section 162, it must publish it in such a way as appears to it to be best calculated to bring it to the attention of the public.

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- (2) Before publishing the report the Commission must, so far as practicable, exclude any matter which relates to the private affairs of a particular individual the publication of which, in the opinion of the Commission, would or might seriously and prejudicially affect his interests.
- (3) Before publishing the report the Commission must, so far as practicable, also exclude any matter which relates to the affairs of a particular body the publication of which, in the opinion of the Commission, would or might seriously and prejudicially affect its interests.
- (4) Sub-paragraphs (2) and (3) do not apply in relation to copies of a report which the Commission is required to send under section 162(10).

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