
Changes to legislation: There are currently no known outstanding effects for the Enterprise Act 2002, Paragraph 21. (See end of Document for details)

SCHEDULES

SCHEDULE 25 **U.K.**

MINOR AND CONSEQUENTIAL AMENDMENTS

Companies Act 1989 (c. 40)

- 21 (1) The Companies Act 1989 is amended as follows.
- (2) In section 47 (restrictive practices), in subsection (3)(c), for “Director General of Fair Trading” there is substituted “the Office of Fair Trading”.
- (3) In section 87 (exceptions from restrictions on disclosure), in subsection (4), for the entry relating to the Director General of Fair Trading there is substituted—
- “The Office of Fair Trading.”
- (4) In Schedule 14 (supervisory and qualifying bodies: restrictive practices)—
- (a) in paragraph 1—
- (i) in sub-paragraph (1), for “the Director General of Fair Trading (in this Schedule referred to as “the Director”)” there is substituted “the Office of Fair Trading (in this Schedule referred to as “the OFT”)” and for “Director” there is substituted “OFT”;
- (ii) in sub-paragraph (2), for “Director” and “his” there is substituted “OFT” and “its” respectively;
- (b) in paragraph 3—
- (i) for “Director” (in each place) there is substituted “OFT”;
- (ii) in sub-paragraph (1), for “he” (in both places) and “his” (in both places) there is substituted “it” and “its” respectively;
- (iii) in sub-paragraph (3), for “his” there is substituted “its”;
- (iv) in sub-paragraph (4), for “he” (in both places) and “his” there is substituted “it” and “its” respectively;
- and in the cross-heading before that paragraph, for “*Director General of Fair Trading*” there is substituted “*Office of Fair Trading*”;
- (c) in paragraph 4—
- (i) for “Director” (in each place) there is substituted “OFT”;
- (ii) in sub-paragraph (1), for “his” there is substituted “its”;
- (iii) in sub-paragraph (2), for “him” there is substituted “it”;
- (iv) sub-paragraph (5) shall cease to have effect;
- and in the cross-heading before that paragraph, for “*Director*” there is substituted “*OFT*”;
- (d) after paragraph 4 there is inserted—

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“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.
- (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 or otherwise failed, without reasonable excuse, to comply with the notice under paragraph 4.
- (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, the court may punish any director or officer of the defaulter as it would have been able to punish that director or officer had the director or officer been guilty of contempt of court.
- (7) In this section “the court”—
- (a) in relation to England and Wales, 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.
- (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.”;
- (e) in paragraph 5, for “Director”, “he” (in both places), “him” and “his” there is substituted “OFT”, “it”, “it” and “its” respectively, and, in the cross-heading before paragraph 5, for “*Director’s*” there is substituted “*OFT’s*”;
- (f) in paragraphs 6 and 7, for “Director” (in each place) there is substituted “OFT”;
- (g) paragraph 8 (exemption from monopoly provisions) shall cease to have effect.

Commencement Information

- II** Sch. 25 para. 21 wholly in force at 20.6.2003; Sch. 25 para. 21 not in force at Royal Assent see s. 279; Sch. 25 para. 21(1) in force for certain purposes and Sch. 25 para. 21(2)(3)(4)(a)-(f) in force at 1.4.2003

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by S.I. 2003/766, **art. 2**, Sch., Sch. 25 para. 21(1)(4)(g) in force at 20.6.2003 by S.I. 2003/1397, **art. 2(1)**, Sch.

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