

SCHEDULES

SCHEDULE 5

Section 10

NEW SCHEDULE B1 TO THE TRANSPORT ACT 2000

This Schedule sets out the new Schedule B1 to the Transport Act 2000, to be inserted after Schedule A1 to that Act (inserted by section 9 above)—

“SCHEDULE B1

Section 20

ENFORCEMENT OF DUTIES UNDER SECTION 8 AND LICENCE CONDITIONS

PART 1

ENFORCEMENT

Contravention notices

- 1 (1) The CAA may give a notice under this paragraph (a “contravention notice”) to a licence holder if it has reasonable grounds for believing that the licence holder is contravening, or has contravened, a Chapter 1 requirement.
- (2) In this Schedule “Chapter 1 requirement”, in relation to a licence holder, means—
 - (a) a duty imposed on the licence holder by section 8, or
 - (b) a licence condition of the licence holder’s licence.
- (3) A contravention notice must—
 - (a) specify the Chapter 1 requirement and contravention in respect of which it is given;
 - (b) explain the action that the CAA may take under this Schedule in connection with the contravention;
 - (c) explain that representations may be made about the matters in the notice before the end of the period specified in the notice.
- (4) The CAA must specify a period of not less than 30 days beginning with the day on which the contravention notice is given, subject to sub-paragraph (5).
- (5) The CAA may specify a shorter period in a contravention notice given in respect of a repeated contravention.
- (6) A contravention notice is given to a licence holder in respect of a repeated contravention if, in the period of two years ending with the day on which the notice is given, the CAA did one or more of the following in respect of a contravention by the licence holder of the same Chapter 1 requirement—
 - (a) gave the licence holder a contravention notice;
 - (b) gave the licence holder an enforcement order;

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- (c) gave the licence holder an urgent enforcement order;
 - (d) imposed a penalty on the licence holder under paragraph 9 or 10.
- (7) The CAA may extend the period specified in a contravention notice given to a licence holder on one or more occasions by giving a notice to that licence holder.
- (8) The CAA may withdraw a contravention notice given to a licence holder at any time by giving a notice to the licence holder that includes its reasons for doing so.
- (9) As soon as practicable after giving a notice under sub-paragraph (1), (7) or (8), the CAA must—
- (a) publish the notice;
 - (b) send a copy of the notice to—
 - (i) any owners or operators of aircraft, or any bodies representing them, that the CAA considers appropriate;
 - (ii) any owners or managers of aerodromes, or any bodies representing them, that the CAA considers appropriate;
 - (iii) the Secretary of State.
- (10) A contravention notice given in respect of a contravention that is or was a continuing contravention must specify the period of contravention in respect of which it is given.
- (11) In this Schedule “representation period”, in relation to a contravention notice, means—
- (a) the period specified in the contravention notice for making representations;
 - (b) where the period has been extended in accordance with sub-paragraph (7), the extended period.

Restrictions on giving contravention notices

- 2
- (1) If the CAA gives a licence holder a contravention notice or an urgent enforcement order (see paragraph 5) in respect of a contravention, it may not subsequently give the licence holder a contravention notice in respect of the same contravention.
 - (2) Sub-paragraph (1) does not apply if—
 - (a) the CAA withdraws the first contravention notice without imposing a penalty on the person under paragraph 9, or
 - (b) the CAA revokes the urgent enforcement order without imposing a penalty on the licence holder under paragraph 10.
 - (3) Sub-paragraph (1) does not prevent the CAA giving a licence holder more than one contravention notice, or a contravention notice and urgent enforcement order, in respect of—
 - (a) contraventions of the same Chapter 1 requirement in different ways, or
 - (b) contraventions of the same Chapter 1 requirement at different times or during different periods.

Enforcement order

- 3
- (1) The CAA may give an order under this paragraph (an “enforcement order”) to a licence holder if—

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- (a) it has given the licence holder a contravention notice (and has not withdrawn it),
 - (b) the representation period has ended,
 - (c) it has considered any representations made about the matters in the contravention notice before the end of that period (and not withdrawn), and
 - (d) sub-paragraph (2) or (3) is satisfied.
- (2) This sub-paragraph is satisfied if the CAA has determined that the licence holder is contravening a Chapter 1 requirement specified in the contravention notice in one or more of the ways specified in the notice.
- (3) This sub-paragraph is satisfied if the CAA has determined that the licence holder—
- (a) has contravened a Chapter 1 requirement specified in the contravention notice in one or more of the ways specified in the notice, and
 - (b) did not, before the end of the representation period, take all of the appropriate steps mentioned in sub-paragraph (6)(b).
- (4) An enforcement order must—
- (a) specify the Chapter 1 requirement and contravention in respect of which it is given;
 - (b) require the licence holder to take any appropriate steps that are specified in the order;
 - (c) specify a reasonable period within which the steps must be taken;
 - (d) give the CAA’s reasons for giving the order.
- (5) As soon as practicable after giving an enforcement order, the CAA must—
- (a) publish the order;
 - (b) send a copy of the order to—
 - (i) any owners or operators of aircraft, or any bodies representing them, that the CAA considers appropriate;
 - (ii) any owners or managers of aerodromes, or any bodies representing them, that the CAA considers appropriate;
 - (iii) the Secretary of State.
- (6) In this paragraph “appropriate steps”, in relation to a contravention of a Chapter 1 requirement, means steps that the CAA has determined are appropriate—
- (a) for complying with the requirement, and
 - (b) for remedying the consequences of the contravention.

Enforcement order: modification and revocation

- 4 (1) The CAA may—
- (a) modify an enforcement order with the agreement of the licence holder to whom it was given, or
 - (b) revoke an enforcement order.
- (2) Before modifying or revoking the order, the CAA must—
- (a) publish a notice in relation to the proposed modification or revocation;
 - (b) send a copy of the notice to the licence holder to whom the order was given;
 - (c) consider any representations made about the proposal in the period specified in the notice (and not withdrawn).

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- (3) The notice under sub-paragraph (2) must—
 - (a) state that the CAA proposes to modify or revoke the order;
 - (b) specify the proposed modification (if relevant);
 - (c) give the CAA’s reasons for the modification or revocation;
 - (d) specify a reasonable period for making representations.
- (4) As soon as practicable after modifying or revoking an enforcement order, the CAA must—
 - (a) publish a notice giving details of the modification or revocation;
 - (b) send a copy of the notice to the persons listed in sub-paragraph (5).
- (5) The persons are—
 - (a) the licence holder to whom the enforcement order was given;
 - (b) any owners or operators of aircraft, or any bodies representing them, that the CAA considers appropriate;
 - (c) any owners or managers of aerodromes, or any bodies representing them, that the CAA considers appropriate;
 - (d) the Secretary of State.

Urgent enforcement order

- 5 (1) The CAA may give an order under this paragraph (an “urgent enforcement order”) to a licence holder if sub-paragraph (2) or (3) is satisfied.
- (2) This sub-paragraph is satisfied if the CAA has reasonable grounds for believing that—
 - (a) the licence holder is contravening, or has contravened, a Chapter 1 requirement,
 - (b) the contravention has resulted in, or creates an immediate risk of, a serious economic or operational problem—
 - (i) for owners or operators of aircraft, or
 - (ii) for owners or managers of aerodromes, and
 - (c) it is appropriate to give an urgent enforcement order to prevent, remove or reduce that problem or risk.
- (3) This sub-paragraph is satisfied if the CAA has reasonable grounds for believing that—
 - (a) the licence holder is likely to contravene a Chapter 1 requirement,
 - (b) the contravention is likely to result in, or create an immediate risk of, a problem described in sub-paragraph (2)(b), and
 - (c) it is appropriate to give the urgent enforcement order to prevent, or reduce the likelihood of, that problem or risk arising.
- (4) An urgent enforcement order must—
 - (a) specify the Chapter 1 requirement and the contravention in respect of which it is given;
 - (b) require the licence holder to take any appropriate steps that are specified in the order;
 - (c) specify a reasonable period within which the steps must be taken;
 - (d) give the CAA’s reasons for giving the order.

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- (5) As soon as practicable after giving an urgent enforcement order, the CAA must—
- (a) publish the order;
 - (b) send a copy of the order to—
 - (i) any owners or operators of aircraft, or any bodies representing them, that the CAA considers appropriate;
 - (ii) any owners or managers of aerodromes, or any bodies representing them, that the CAA considers appropriate;
 - (iii) the Secretary of State.
- (6) In this paragraph “appropriate steps”—
- (a) in relation to a contravention of a Chapter 1 requirement that has occurred or is occurring, means steps that the CAA has determined are appropriate—
 - (i) for complying with the requirement, and
 - (ii) for remedying the consequences of the contravention;
 - (b) in relation to a contravention of a Chapter 1 requirement that is likely to occur, means steps that the CAA has determined are appropriate for securing that the contravention does not occur.

Urgent enforcement order: confirmation

- 6 (1) As soon as practicable after giving an urgent enforcement order, the CAA must—
- (a) confirm the order, or
 - (b) revoke the order (see paragraph 7).
- (2) The CAA may confirm an urgent enforcement order with or without modifications.
- (3) The CAA may confirm an urgent enforcement order given in reliance on paragraph 5(2) only if it has determined that—
- (a) the licence holder is contravening, or has contravened, a Chapter 1 requirement specified in the order in one or more of the ways specified in the order,
 - (b) the contravention has resulted in, or creates an immediate risk of, a problem described in paragraph 5(2)(b), and
 - (c) it is appropriate to confirm the urgent enforcement order, with any modifications, to prevent, remove or reduce that problem or risk.
- (4) The CAA may confirm an urgent enforcement order given in reliance on paragraph 5(3) only if—
- (a) it has determined that paragraphs (a) to (c) of sub-paragraph (3) of this paragraph are satisfied, or
 - (b) it has determined that—
 - (i) the licence holder is likely to contravene a Chapter 1 requirement specified in the order in one or more of the ways specified in the order,
 - (ii) the contravention is likely to result in, or create an immediate risk of, a problem described in paragraph 5(2)(b), and
 - (iii) it is appropriate to confirm the urgent enforcement order, with any modifications, in order to prevent, or reduce the likelihood of, that problem or risk arising.
- (5) Before confirming an urgent enforcement order, the CAA must—

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- (a) publish a notice in relation to the proposal to confirm the order;
 - (b) send a copy of the notice to the licence holder to whom the order was given;
 - (c) consider any representations made about the proposal in the period specified in the notice (and not withdrawn).
- (6) The notice under sub-paragraph (5) must—
- (a) state that the CAA proposes to confirm the order;
 - (b) specify any proposed modifications of the order;
 - (c) give the CAA’s reasons for confirming the order and for any modifications;
 - (d) specify a reasonable period for making representations.
- (7) As soon as practicable after confirming an urgent enforcement order, the CAA must—
- (a) publish a notice giving details of the confirmation, including any modifications of the order;
 - (b) send a copy of the notice to the persons listed in sub-paragraph (8).
- (8) Those persons are—
- (a) the licence holder to whom the urgent enforcement order was given;
 - (b) any owners or operators of aircraft, or any bodies representing them, that the CAA considers appropriate;
 - (c) any owners or managers of aerodromes, or any bodies representing them, that the CAA considers appropriate;
 - (d) the Secretary of State.

Urgent enforcement order: modification and revocation

- 7 (1) The CAA may—
- (a) modify an urgent enforcement order with the agreement of the licence holder to whom it was given, or
 - (b) revoke an urgent enforcement order.
- (2) Before modifying or revoking the order, the CAA must—
- (a) publish a notice in relation to the proposed modification or revocation;
 - (b) send a copy of the notice to the licence holder;
 - (c) consider any representations made about the proposal in the period specified in the notice (and not withdrawn).
- (3) The notice under sub-paragraph (2) must—
- (a) state that the CAA proposes to modify or revoke the order;
 - (b) specify the proposed modification (if relevant);
 - (c) give the CAA’s reasons for the modification or revocation;
 - (d) specify a reasonable period for making representations.
- (4) As soon as practicable after modifying or revoking an urgent enforcement order, the CAA must—
- (a) publish a notice giving details of the modification or revocation;
 - (b) send a copy of the notice to the persons listed in sub-paragraph (5).
- (5) Those persons are—
- (a) the licence holder to whom the urgent enforcement order was given;

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- (b) any owners or operators of aircraft, or any bodies representing them, that the CAA considers appropriate;
 - (c) any owners or managers of aerodromes, or any bodies representing them, that the CAA considers appropriate;
 - (d) the Secretary of State.
- (6) Nothing in this paragraph restricts, or applies in relation to the exercise of, the CAA's power under paragraph 6 to modify an urgent enforcement order when confirming the order.

Civil proceedings

- 8
- (1) A licence holder who is given an enforcement order must comply with it (unless it is revoked).
 - (2) The obligation to comply with an enforcement order is a duty owed to every person who may be affected by a contravention of a requirement of the order.
 - (3) A licence holder who is given an urgent enforcement order must comply with it, whether or not it has been confirmed (unless it is revoked).
 - (4) The obligation to comply with an urgent enforcement order that has been confirmed is a duty owed to every person who may be affected by a contravention of a requirement of the order.
 - (5) Where a duty is owed to a person under sub-paragraph (2) or (4), the following are actionable by the person—
 - (a) a breach of the duty that causes the person to sustain loss or damage;
 - (b) an act that—
 - (i) by inducing a breach of the duty or interfering with its performance, causes that person to sustain loss or damage, and
 - (ii) is done entirely or partly for achieving that result.
 - (6) In proceedings brought against a licence holder by virtue of sub-paragraph (5), it is a defence for the licence holder to show that it took all reasonable steps and exercised all due diligence to avoid contravening the requirements of the order.
 - (7) The CAA may enforce the duties under sub-paragraphs (1) and (3)—
 - (a) in civil proceedings for an injunction,
 - (b) in civil proceedings in Scotland for an interdict or for specific performance of a statutory duty under section 45 of the Court of Session Act 1988, or
 - (c) in civil proceedings for any other appropriate remedy or relief.
 - (8) Enforcement of a duty under sub-paragraph (1) or (3) by the CAA does not prejudice any rights a person may have by virtue of sub-paragraph (5).

Penalty for contravention of Chapter 1 requirement

- 9
- (1) The CAA may impose a penalty on a licence holder if—
 - (a) it has given the licence holder a contravention notice (and has not withdrawn it),
 - (b) the representation period has ended,

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- (c) it has considered any representations made about the matters in the contravention notice before the end of that period (and not withdrawn), and
 - (d) it has determined that the licence holder is contravening, or has contravened, a Chapter 1 requirement specified in the notice in one or more of the ways specified in the notice.
- (2) If the contravention notice specifies more than one contravention, the CAA may impose a separate penalty under this paragraph for each contravention.
- (3) If the contravention notice specifies more than one period of contravention, the CAA may impose a separate penalty under this paragraph for each period.

Penalty for contravention of order

- 10 The CAA may impose a penalty on a licence holder if it has determined that the licence holder is contravening, or has contravened, a requirement of—
- (a) an enforcement order, or
 - (b) an urgent enforcement order that has been confirmed.

Procedure before imposing penalty

- 11 (1) Before imposing a penalty on a licence holder under paragraph 9 or 10 the CAA must—
- (a) give the licence holder a notice about the proposed penalty;
 - (b) publish the notice as soon as practicable;
 - (c) send a copy of the notice to the persons listed in sub-paragraph (3);
 - (d) consider any representations made about the proposed penalty in the period specified in the notice (and not withdrawn).
- (2) A notice under sub-paragraph (1) must—
- (a) state that the CAA proposes to impose a penalty;
 - (b) state the proposed amount of the penalty;
 - (c) specify the requirement that the CAA has determined is being or has been contravened;
 - (d) specify the act or omission that the CAA has determined constitutes a contravention of the requirement;
 - (e) where the penalty would be imposed under paragraph 10, specify the Chapter 1 requirement in respect of which the enforcement order or urgent enforcement order (as the case may be) was given.
- (3) The persons are—
- (a) any owners or operators of aircraft, or any bodies representing them, that the CAA considers appropriate;
 - (b) any owners or managers of aerodromes, or any bodies representing them, that the CAA considers appropriate;
 - (c) the Secretary of State.
- (4) In the case of a penalty calculated entirely or partly by reference to a daily amount (see paragraph 13(2)), a notice must specify—
- (a) the day on which daily amounts would begin to accumulate;

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- (b) the day on which, or the circumstances in which, they would cease to accumulate.
- (5) The period specified in a notice under sub-paragraph (1) for making representations must be a period of not less than 21 days beginning with the day on which the notice is given to the licence holder.
- (6) Before varying the proposed amount of a penalty, the CAA must—
 - (a) give the licence holder on whom the penalty is to be imposed a notice about the proposed variation;
 - (b) publish the notice as soon as practicable;
 - (c) send a copy of the notice to the persons listed in sub-paragraph (3);
 - (d) consider any representations made about the proposed variation in the period specified in the notice (and not withdrawn).
- (7) In the case of a penalty calculated entirely or partly by reference to a daily amount (see paragraph 13(2)), the reference in sub-paragraph (6) to varying the proposed amount includes—
 - (a) varying the day on which daily amounts would begin to accumulate;
 - (b) varying the day on which, or the circumstances in which, they would cease to accumulate.
- (8) The notice under sub-paragraph (6) must—
 - (a) specify the proposed variation;
 - (b) give the CAA's reasons for the proposed variation.
- (9) The period specified in a notice under sub-paragraph (6) for making representations must be a period of not less than 21 days beginning with the day on which the notice is given to the licence holder.
- (10) The CAA may withdraw a notice under sub-paragraph (1) or (6) at any time by giving notice to the licence holder on whom it proposed to impose the penalty.
- (11) As soon as practicable after giving a notice under sub-paragraph (10), the CAA must—
 - (a) publish the notice;
 - (b) send a copy of the notice to the persons listed in sub-paragraph (3).

Procedure after imposing a penalty

- 12 (1) As soon as practicable after imposing a penalty under paragraph 9 or 10 the CAA must—
 - (a) give a notice to the licence holder on whom the penalty is imposed;
 - (b) publish the notice;
 - (c) send a copy of the notice to the persons listed in sub-paragraph (3).
- (2) The notice must—
 - (a) state that the CAA has imposed a penalty;
 - (b) state the amount of the penalty;
 - (c) specify the requirement that the CAA has determined is being or has been contravened;

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- (d) specify the act or omission that the CAA has determined constitutes a contravention of the requirement;
 - (e) where the penalty is imposed under paragraph 10, specify the Chapter 1 requirement in respect of which the enforcement order or urgent enforcement order (as the case may be) was given;
 - (f) specify a reasonable period within which the penalty must be paid or reasonable periods within which different portions of the penalty must be paid.
- (3) The persons are—
- (a) any owners or operators of aircraft, or any bodies representing them, that the CAA considers appropriate;
 - (b) any owners or managers of aerodromes, or any bodies representing them, that the CAA considers appropriate;
 - (c) the Secretary of State.
- (4) In the case of a penalty calculated entirely or partly by reference to a daily amount (see paragraph 13(2)), the notice must specify—
- (a) the day on which the daily amounts begin to accumulate;
 - (b) the day on which, or the circumstances in which, they cease to accumulate.
- (5) As soon as practicable after daily amounts cease to accumulate, the CAA must—
- (a) give a notice to the licence holder on whom the penalty was imposed confirming the day on which they ceased to accumulate;
 - (b) publish the notice;
 - (c) send a copy of the notice to the persons listed in sub-paragraph (3).

Amount of penalty

- 13 (1) The amount of a penalty imposed on a person under paragraph 9 or 10 must be the amount that the CAA determines to be—
- (a) appropriate, and
 - (b) proportionate to the contravention for which it is imposed.
- (2) The penalty may consist of either or both of the following—
- (a) a fixed amount (see paragraph 14);
 - (b) a daily amount (see paragraph 15).
- (3) In determining the amount of a penalty, the CAA must have regard, in particular, to—
- (a) any representations made to it in a period specified in a notice proposing to give a penalty under paragraph 11(1) or (6) (and not withdrawn);
 - (b) any steps taken by the licence holder on whom the penalty is to be imposed towards complying with—
 - (i) the requirement specified in the notice under paragraph 11(1) by virtue of paragraph 11(2)(c), and
 - (ii) where the penalty is to be imposed under paragraph 10, the Chapter 1 requirement specified in the notice under paragraph 11(1) by virtue of paragraph 11(2)(e);

- (c) any steps taken by that licence holder towards remedying the consequences of the contravention of the requirement mentioned in paragraph (b)(i) and, where relevant, paragraph (b)(ii).

Amount of penalty: fixed amount

- 14
- (1) A penalty imposed on a licence holder under paragraph 9 or 10 for a contravention may not consist of or include a fixed amount exceeding 10% of the licence holder’s qualifying turnover for the qualifying period.
 - (2) A licence holder’s qualifying turnover is the licence holder’s turnover from its provision of air traffic services.
 - (3) The qualifying period is the last regulatory year ending on or before the day on which the notice proposing the penalty is given under paragraph 11(1) (“the notice day”), except in the cases described in sub-paragraph (4).
 - (4) Those cases are—
 - (a) where a licence holder was not authorised to provide air traffic services in respect of a managed area throughout the last regulatory year that ends on or before the notice day;
 - (b) where there is no regulatory year or the last regulatory year ended more than 12 months before the notice day;
 - (c) where a licence holder has not provided the CAA with accounts prepared in accordance with the licence for the last regulatory year that ends on or before the notice day.
 - (5) In those cases—
 - (a) if the licence holder was authorised to provide air traffic services in respect of a managed area on the notice day, the qualifying period is the year ending with the notice day (or, if shorter, the period ending with the notice day during which the licence holder was authorised to provide such services in respect of such an area);
 - (b) otherwise, the qualifying period is the year ending with the last day before the notice day on which the licence holder was authorised to provide air traffic services in respect of a managed area (or, if shorter, the period ending with the last day before the notice day during which the licence holder was authorised to provide such services in respect of such an area).
 - (6) A licence holder’s qualifying turnover for a qualifying period is to be taken to be the qualifying turnover for that period as reported in accounts that the licence holder is required to prepare by a licence condition, unless regulations under sub-paragraph (7) provide otherwise.
 - (7) The Secretary of State may by regulations—
 - (a) amend or otherwise modify the definition of qualifying turnover;
 - (b) make provision about how a licence holder’s qualifying turnover for a qualifying period is to be calculated.
 - (8) The regulations may in particular—
 - (a) make provision about cases in which turnover is or is not to be treated as qualifying turnover for a qualifying period;

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- (b) provide that a licence holder’s qualifying turnover for a qualifying period is to be taken to be the qualifying turnover reported in accounts specified or described in the regulations;
- (c) provide that a licence holder’s qualifying turnover is to be calculated entirely or partly using accounting rules specified or described in the regulations.

(9) In this paragraph “regulatory year”, in relation to a licence holder, means a year for which the licence holder was required to prepare accounts by a licence condition for air traffic services provided in respect of a managed area.

Amount of penalty: daily amount

- 15
- (1) In relation to a penalty under paragraph 9 or 10, a daily amount is an amount payable where the contravention in respect of which the penalty is imposed continues after it is imposed.
 - (2) A penalty under paragraph 9 may not consist of or include a daily amount unless that contravention has been continuous since the end of the representation period for the contravention notice in which the contravention was specified.
 - (3) A daily amount must not exceed 0.1% of the licence holder’s qualifying turnover for the qualifying period.
 - (4) A daily amount is payable in respect of each day in a period specified by the CAA in the notice under paragraph 12 stating that it has imposed the penalty.
 - (5) A specified period during which daily amounts accumulate must be the period that the CAA considers appropriate, subject to sub-paragraphs (6) and (7).
 - (6) The period must begin after the day on which the CAA gives the notice under paragraph 12.
 - (7) The period must end before—
 - (a) the day on which the contravention specified in the notice under paragraph 12 ceases, or
 - (b) if more than one contravention is specified in that notice, the day on which the last of those contraventions ceases.
 - (8) In this paragraph “qualifying turnover” and “qualifying period” have the same meaning as in paragraph 14.

Use of powers under Competition Act 1998

- 16
- (1) Before exercising a power listed in sub-paragraph (3), the CAA must consider whether it would be more appropriate to proceed under the Competition Act 1998.
 - (2) The CAA must not exercise such a power to the extent that it considers it would be more appropriate to proceed under that Act.
 - (3) Those powers are—
 - (a) the power to give a contravention notice under paragraph 1;
 - (b) the power to give an enforcement order under paragraph 3;
 - (c) the power to give and confirm an urgent enforcement order under paragraphs 5 and 6;

- (d) the power to impose penalties under paragraphs 9 and 10.

PART 2

APPEALS AGAINST ORDERS AND PENALTIES

Appeals against enforcement orders and urgent enforcement orders

- 17 (1) A licence holder may appeal to the Competition Appeal Tribunal (referred to in this Schedule as “the Tribunal”) against—
- (a) an enforcement order given to the licence holder, or
 - (b) an urgent enforcement order given to the licence holder that has been confirmed.
- (2) The appeal may be against one or more of the following—
- (a) the decision to give the order or, in the case of an urgent enforcement order, to confirm the order;
 - (b) the decision as to the steps specified in the order;
 - (c) the decision as to the period allowed for taking those steps.
- (3) The making of an appeal under this paragraph against an enforcement order suspends the effect of the order until the appeal is decided or withdrawn, unless the Tribunal orders otherwise.
- (4) The making of an appeal under this paragraph against an urgent enforcement order does not suspend the effect of the order, unless the Tribunal orders otherwise.

Appeals against modifications or revocations of existing orders

- 18 (1) A person may appeal to the Tribunal against—
- (a) a decision to modify or revoke an enforcement order, or
 - (b) a decision to modify or revoke an urgent enforcement order that has been confirmed.
- (2) An appeal under this paragraph may be made only by a person—
- (a) who is not the person to whom the order was given, but
 - (b) who appears to the Tribunal to have sufficient interest in the decision.
- (3) The making of an appeal under this paragraph against a modification or revocation of an order suspends the modification or revocation until the appeal is decided or withdrawn, unless the Tribunal orders otherwise.

Appeals against penalties

- 19 (1) A licence holder may appeal to the Tribunal against a penalty imposed on the licence holder under paragraph 9 or 10.
- (2) The appeal may be against one or more of the following—
- (a) the decision to impose the penalty;
 - (b) the decision as to the amount of the penalty;

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- (c) in the case of a penalty calculated entirely or partly by reference to a daily amount, the decision as to the period during which the daily amounts accumulate;
 - (d) the decision as to the period allowed for payment of the penalty.
- (3) Where a licence holder appeals under this paragraph against a penalty, the CAA may not require the licence holder to pay the penalty until the appeal is decided or withdrawn.

Decisions on appeal

- 20 (1) The Tribunal may allow an appeal under paragraph 17, 18 or 19 only to the extent that it is satisfied that the decision appealed against was wrong on one or more of the following grounds—
- (a) that the decision was based on an error of fact;
 - (b) that the decision was wrong in law;
 - (c) that an error was made in the exercise of a discretion.
- (2) It may—
- (a) confirm or set aside the order, modification, revocation or penalty;
 - (b) give the CAA any directions it considers appropriate, including directions about the time within which the CAA must act.
- (3) It may not direct the CAA to do anything that the CAA would not have the power to do apart from the direction.
- (4) When deciding an appeal under paragraph 17, 18 or 19 (including giving directions) the Tribunal must have regard to the matters in respect of which duties are imposed on the CAA by section 2.

Further appeals

- 21 (1) An appeal lies to the appropriate court on a point of law arising from a decision of the Tribunal under paragraph 20, including a direction.
- (2) An appeal under this paragraph may be brought by a party to the proceedings before the Tribunal.
- (3) An appeal may not be brought without the permission of—
- (a) the Tribunal, or
 - (b) the appropriate court.
- (4) “The appropriate court”—
- (a) in the case of an appeal from proceedings in England and Wales or Northern Ireland, means the Court of Appeal;
 - (b) in the case of an appeal from proceedings in Scotland, means the Court of Session.

PART 3

INTERPRETATION

- 22 References in this Schedule to remedying the consequences of a contravention of a Chapter 1 requirement, or a requirement of an enforcement order or an urgent enforcement order, include paying an amount to a person—
- (a) by way of compensation for loss or damage suffered by the person, or
 - (b) in respect of annoyance, inconvenience or anxiety suffered by the person.”