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SCHEDULES

SCHEDULE 5

Section 81(4)

ENFORCEMENT OF MARKETING RESTRICTIONS

Duty to enforce

- 1 (1) It is the duty of the Secretary of State to enforce sections 78 and 79.
(See Part 3 of Schedule 5 to the Consumer Rights Act 2015 for investigatory powers in connection with that duty.)
- (2) Sub-paragraph (1) does not authorise the Secretary of State to bring criminal proceedings in Scotland.

Application of consumer enforcement powers

- 2 In paragraph 10 of Schedule 5 to the Consumer Rights Act 2015 (enforcement responsibilities attracting investigatory powers under that Schedule), at the appropriate place insert—
“paragraph 1 of Schedule 5 to the Automated Vehicles Act 2024;”.

Out-of-court undertakings

- 3 (1) This paragraph applies if the Secretary of State considers that a person has committed, or is likely to commit, an offence under section 78 or 79.
- (2) The Secretary of State may accept an undertaking from the person as to the person’s future activity, if the Secretary of State considers that compliance with the undertaking would tend to avoid the commission by the person of an offence (or further offence) under section 78 or 79.
- (3) The Secretary of State must publish details of any undertaking accepted under this paragraph.

Civil injunctions

- 4 (1) This paragraph applies if the Secretary of State considers that a person has committed, or is likely to commit, an offence under section 78 or 79.
- (2) The Secretary of State may bring proceedings for an injunction (and in those proceedings may apply for an interim injunction) against any person appearing to the Secretary of State to be concerned, or likely to be concerned, with the offence.
- (3) In proceedings under this paragraph, the court may grant an injunction (or interim injunction) on such terms as it thinks fit to secure against offending under section 78 or 79.

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- (4) Before granting an injunction, the court must have regard to all the interests involved and, in particular, the public interest.
- (5) The power in sub-paragraph (6) is exercisable if the court—
 - (a) finds that a person against whom proceedings under this section are brought has committed an offence under section 78 or 79, and
 - (b) grants an injunction (other than an interim injunction) against the person, and is so exercisable for the purpose of eliminating any continuing effect of the communication that gave rise to the offence.
- (6) The court may require the person to publish, in such form and manner and to such extent as the court thinks appropriate—
 - (a) the injunction, and
 - (b) a corrective statement.
- (7) The court may grant an injunction under this paragraph even where there is no evidence of proof of actual loss or damage or of intention or negligence on the part of the person against whom the proceedings are brought.
- (8) The Secretary of State must publish details of—
 - (a) any proceedings brought under this paragraph, and
 - (b) any order made, or undertaking accepted, by the court in the course of those proceedings.
- (9) In this paragraph—
 - “the court” means—
 - (a) the county court or the High Court, in England and Wales, or
 - (b) a sheriff or the Court of Session, in Scotland;
 - “injunction” is to be read, in the application of this paragraph in Scotland, as “interdict”.

Time limit for prosecution

- 5 (1) No proceedings for an offence under section 78 or 79 may be commenced after the earlier of—
 - (a) the end of the period of 3 years beginning with the date of the commission of the offence, and
 - (b) the end of the period of 12 months beginning with the date of the discovery of the offence by the prosecutor.
- (2) For the purposes of sub-paragraph (1)(b)—
 - (a) a certificate signed by or on behalf of the prosecutor and stating the date on which the offence was discovered by the prosecutor is conclusive evidence of that fact, and
 - (b) a certificate stating that matter and purporting to be so signed shall be treated as so signed unless the contrary is proved.