



# Digital Markets, Competition and Consumers Act 2024

## 2024 CHAPTER 13

### PART 2

#### COMPETITION

#### CHAPTER 1

#### ANTI-TRUST

#### *The Chapter 1 and 2 prohibitions*

### **119 Removal of requirement for agreements etc to be implemented in the UK**

(1) In Chapter 1 of Part 1 of CA 1998 (agreements), section 2 (agreements etc preventing, restricting or distorting competition) is amended as follows.

(2) For subsection (1) substitute—

“(1) Subject to section 3, agreements between undertakings, decisions by associations of undertakings or concerted practices which have as their object or effect the prevention, restriction or distortion of competition within the United Kingdom and which—

(a) in the case of agreements, decisions or practices implemented, or intended to be implemented in the United Kingdom, may affect trade in the United Kingdom, or

(b) in any other case, are likely to have an immediate, substantial and foreseeable effect on trade within the United Kingdom,

are prohibited unless they are exempt in accordance with the provisions of this Part.”

- (3) Omit subsection (3).
- (4) The amendments made by this section do not have effect in relation to agreements between undertakings (within the meaning of CA 1998) made before the coming into force of [this section](#).
- (5) Subsection (5) of section 2 of CA 1998 applies for the purposes of [subsection \(4\)](#) as it applies for the purposes of Part 1 of that Act.

## **120 Repeal of exclusions relating to the European Coal and Steel Community**

- (1) Part 1 of CA 1998 (competition) is amended as follows.
- (2) In Schedule 3 (planning obligations and general exclusions) omit paragraph 8 (coal and steel).
- (3) In section 3 (Chapter 1: excluded agreements), in subsection (3)(b)(ii) omit “, 2, 8”.
- (4) In section 19 (Chapter 2: excluded cases) omit subsection (3).

### *Investigations*

## **121 Duty to preserve documents relevant to investigations**

- (1) Chapter 3 of Part 1 of CA 1998 (competition: investigation and enforcement) is amended as follows.
- (2) After section 25A insert—

### **“25B Duty to preserve documents relevant to investigations**

- (1) [Subsection \(2\)](#) applies where a person knows or suspects that an investigation by the CMA under section 25 is being or is likely to be carried out.
- (2) The person must not—
  - (a) falsify, conceal, destroy or otherwise dispose of, or
  - (b) cause or permit the falsification, concealment, destruction or disposal of,
    - a document which the person knows or suspects is or would be relevant to the investigation.
- (3) In this section, the reference to concealing a document includes a reference to destroying the means of reproducing information recorded otherwise than in legible form.”
- (3) In [section 40ZE](#) (enforcement of requirements: imposition of penalties) (inserted by [paragraph 8](#) of [Schedule 10](#)), in [subsection \(1\)](#), in [paragraph \(a\)](#), after “imposed on the person” insert “by section 25B or”.

## **122 Production of information authorised by warrant**

- (1) Section 28 of CA 1998 (power to enter business premises under a warrant) is amended as follows.

- (2) In subsection (1)—
- (a) in paragraph (a), in the words before sub-paragraph (i), after “there are on” insert “or accessible from”;
  - (b) in paragraph (b), in sub-paragraph (i), after “there are on” insert “or accessible from”;
  - (c) in paragraph (c), after “there are on” insert “or accessible from”.
- (3) In subsection (2)—
- (a) in paragraph (f) omit “and which the named officer considers relates to any matter relevant to the investigation,”;
  - (b) after that paragraph insert—
    - “(g) to operate any equipment found on the premises for the purposes of producing such information in such a form;
    - (h) to require any person on the premises to give the named officer any assistance the named officer may reasonably require (including for the purposes of paragraphs (f) and (g));
    - (i) to take copies of, or take possession of, anything produced in accordance with paragraph (f) or (g) which the named officer considers relates to any matter relevant to the investigation.”
- (4) Section 28A of CA 1998 (power to enter domestic premises under a warrant) is amended as follows.
- (5) In subsection (1)—
- (a) in paragraph (a), in the words before sub-paragraph (i), after “there are on” insert “or accessible from”;
  - (b) in paragraph (b), in sub-paragraph (i), after “there are on” insert “or accessible from”.
- (6) In subsection (2)—
- (a) in paragraph (f) omit “and which the named officer considers relates to any matter relevant to the investigation,”;
  - (b) after that paragraph insert—
    - “(g) to operate any equipment found on the premises for the purposes of producing such information in such a form;
    - (h) to require any person on the premises to give the named officer any assistance the named officer may reasonably require (including for the purposes of paragraphs (f) and (g));
    - (i) to take copies of, or take possession of, anything produced in accordance with paragraph (f) or (g) which the named officer considers relates to any matter relevant to the investigation.”
- (7) In section 30 of CA 1998 (privileged communications), after subsection (1) insert—
- “(1A) Nothing in section 28 or 28A authorises an officer to produce or take possession of, or make copies of or take extracts from, anything which, by virtue of subsection (1), a person could not be required to produce or disclose under this Part.”

**123 Additional powers of seizure from domestic premises**

- (1) Part 2 of the Criminal Justice and Police Act 2001 (powers of seizure) is amended as follows.
- (2) In section 50 (additional powers of seizure from premises), in subsection (6), after “section 28(2)(b)” insert “or 28A(2)(b)”.
- (3) In section 57(1) (retention of seized items), in paragraph (n), for “section 28(7)” substitute “sections 28(7) and 28A(8)”.
- (4) In section 63(2) (powers of seizure: copies), in paragraph (h), after “section 28(2)(f)” insert “or (g) or 28A(2)(f) or (g)”.
- (5) In section 64(3) (meaning of “appropriate judicial authority”), in paragraph (a)(iii), for “section 28(2)” substitute “sections 28(2) and 28A(2)”.
- (6) In section 65(2) (meaning of “legal privilege”), in paragraph (a)—
  - (a) for “power” substitute “powers”;
  - (b) after “section 28(2)” insert “or 28A(2)”.
- (7) In section 66(5) (general interpretation of Part 2), in paragraph (h), for “section 28(2)(c)” substitute “sections 28(2)(c) and 28A(2)(c)”.
- (8) In Part 1 of Schedule 1 (powers of seizure: powers to which section 50 applies), in paragraph 67 (the Competition Act 1998), for “section 28(2)” substitute “sections 28(2) and 28A(2)”.

*Proceedings before the Competition Appeal Tribunal***124 Standard of review on appeals against interim measures directions**

- (1) In section 46 of CA 1998 (appealable decisions), in subsection (3)—
  - (a) after paragraph (h) insert—
    - (ha) to make directions under section 35,
    - (hb) not to make directions under section 35,”;
  - (b) in the words after paragraph (i), for “, 33 or 35” substitute “or 33”.
- (2) Schedule 8 to CA 1998 (appeals) is amended as follows.
- (3) In paragraph 3 (decisions of the tribunal: merits-based appeals), in sub-paragraph (A1)—
  - (a) in paragraph (a), for “or (h)” substitute “, (h), (ha) or (hb)”;
  - (b) in paragraph (b), for “or (c)” substitute “, (c), (d) or (e)”.
- (4) In paragraph 3A (decisions of the tribunal: appeals on judicial review principles), in sub-paragraph (1)—
  - (a) in paragraph (a), for “or (h)” substitute “, (h), (ha) or (hb)”;
  - (b) in paragraph (b), for “or (c)” substitute “, (c), (d) or (e)”.

**125 Declaratory relief**

[Schedule 3](#) makes provision allowing the Competition Appeal Tribunal to grant declaratory relief.

**126 Exemplary damages**

- (1) In section 47C of CA 1998 (collective proceedings: damages and costs), before subsection (2) insert—

“(1) The Tribunal may not award exemplary damages in collective proceedings.”

- (2) In Schedule 8A of CA 1998 (further provision about claims in respect of loss or damage before a court or the Tribunal)—

- (a) in Part 4 (cartels), in paragraph 15 (liability of immunity recipients)—

- (i) the existing text becomes sub-paragraph (1);  
(ii) in sub-paragraph (1), in the words before paragraph (a), for “in respect of loss and damage suffered by” substitute “to”;  
(iii) after that sub-paragraph insert—

“(2) But an immunity recipient is not liable (either alone or jointly) by virtue of sub-paragraph (1)(e) to pay exemplary damages.”;

- (b) omit Part 8 (exemplary damages);

- (c) in Part 10 (application), in paragraph 42, in sub-paragraph (1) omit “, 8”.

- (3) The amendments made by this section have effect in relation to competition claims, competition proceedings, claims for contribution arising from competition claims and proceedings relating to such claims to the extent that—

- (a) the claims and proceedings relate to an infringement of competition law that takes place after the coming into force of this section, and  
(b) the loss or damage (if any) to which the claims or proceedings relate is suffered after the coming into force of this section.

- (4) For the purposes of [subsection \(3\)](#), where an infringement of competition law takes place over a period of two or more days it is to be taken to have taken place on the first of those days.

- (5) Terms used in [subsection \(3\)](#) and in Schedule 8A to CA 1998 have the same meaning in [subsection \(3\)](#) as they do in that Schedule (see Part 1 of that Schedule).

**CHAPTER 2****MERGERS****127 Relevant merger situations and special merger situations**

[Schedule 4](#) makes provision amending the thresholds in Part 3 of EA 2002 (mergers) for the creation of relevant merger situations and special merger situations.

**128 Fast-track references under sections 22 and 33 of EA 2002**

[Schedule 5](#) makes provision amending Part 3 of EA 2002 (mergers) to include provision about the making of fast-track references under section 22 or 33 of that Act.

**129 Mergers of energy network enterprises**

[Schedule 6](#) makes provision amending Part 3 of EA 2002 (mergers) and Schedule 16 to the Energy Act 2023 (mergers of energy network enterprises) in relation to mergers involving energy network enterprises.

**130 Mergers involving newspaper enterprises and foreign powers**

- (1) [Schedule 7](#) makes provision for the purposes of preventing foreign powers from gaining control or influence over newspaper enterprises.
- (2) The amendments made by that Schedule—
  - (a) apply in relation to enterprises ceasing to be distinct on or after the effective date, but not in relation to enterprises ceasing to be distinct before the effective date;
  - (b) apply in relation to arrangements in progress or in contemplation on or after the effective date which, if carried into effect, would result in the creation of a foreign state newspaper merger situation by virtue of enterprises ceasing to be distinct on or after the effective date.
- (3) In [subsection \(2\)](#), “the effective date” means 13 March 2024.

**131 Mutual agreements to extend time-limits: duty to make reference cases**

- (1) Chapter 1 of Part 3 of EA 2002 (mergers: duty to make references) is amended as follows.
- (2) In section 39 (time-limits for investigations and reports)—
  - (a) before subsection (3) insert—
 

“(2A) Where the CMA and the persons carrying on the enterprises concerned agree—

    - (a) that the period within which a report under section 38 is to be prepared and published (the “original period”) should be extended, and
    - (b) the duration of the period by which the original period should be extended (the “extension period”),

the CMA may extend the original period by the extension period.”;
  - (b) in subsection (7), after “subsection” insert “(2A),”;
  - (c) after that subsection insert—
 

“(7A) An extension under subsection (2A) continues in force until—

    - (a) the end of the extension period, or
    - (b) an earlier time if, before the end of that period—
      - (i) the CMA and the persons carrying on the enterprises concerned agree that the extension should be cancelled with effect from the earlier time, and
      - (ii) the CMA publishes its decision to cancel the extension with effect from that time.”
- (3) In section 40 (section 39: supplementary)—
  - (a) for subsection (3) substitute—

- “(3) A period extended under any subsection of section 39 may also be extended under any other subsection of that section.”;
- (b) in subsection (5), for “section 39(3)” substitute “section 39(2A), (3)”.
- (4) In Chapter 5 of Part 3 (mergers: supplementary), in section 107(2) (further publicity requirements), in paragraph (d), for “section 39(8)(b)” substitute “section 39(7A)(b) or (8)(b)”.

### 132 Mutual agreements to extend time-limits: public interest cases

- (1) Chapter 2 of Part 3 of EA 2002 (mergers: public interest cases) is amended as follows.
- (2) In section 51 (time-limits for investigations and reports by CMA)—
- (a) before subsection (3) insert—
- “(2A) Where —
- (a) the CMA and the persons carrying on the enterprises concerned agree—
- (i) that the period within which a report under section 50 is to be prepared and published (the “original period”) should be extended, and
- (ii) the duration of the period by which the original period should be extended (the “extension period”), and
- (b) the Secretary of State consents to the original period being extended by the extension period,
- the CMA may extend the original period by the extension period.”;
- (b) in subsection (7), after “subsection” insert “(2A),”;
- (c) after that subsection insert—
- “(7A) An extension under subsection (2A) continues in force until—
- (a) the end of the extension period, or
- (b) an earlier time if, before the end of that period—
- (i) the CMA and the persons carrying on the enterprises concerned agree that the extension should be cancelled with effect from the earlier time,
- (ii) the Secretary of State consents to the cancellation of the extension with effect from that time, and
- (iii) the CMA publishes its decision to cancel the extension with effect from that time.”
- (3) In section 52 (section 51: supplementary)—
- (a) for subsection (3) substitute—
- “(3) A period extended under any subsection of section 51 may also be extended under any other subsection of that section.”;
- (b) in subsection (5), for “section 51(3)” substitute “section 51(2A), (3)”.
- (4) In Chapter 5 of Part 3 (mergers: supplementary), in section 107(2)(j), for “section 51(8)(b)” substitute “section 51(7A)(b) or (8)(b)”.

**133 Publication of merger notices online**

In Chapter 5 of Part 3 of EA 2002 (mergers: supplementary), in section 96(5) (merger notices), for “in the London, Edinburgh and Belfast Gazettes” substitute “online”.

**CHAPTER 3****MARKETS****134 Market studies: removal of time-limit on pre-reference consultation**

- (1) Chapter 1 of Part 4 of EA 2002 (market studies and market investigations: references) is amended as follows.
- (2) In section 131B (market studies and the making of decisions to refer: time-limits) omit subsections (1) to (3).
- (3) In section 131C (time-limits under section 131B: supplementary)—
  - (a) in subsection (1) omit paragraph (a);
  - (b) in subsection (2) omit paragraph (a) and the “or” after it.

**135 Power to make a reference after previously deciding not to do so**

- (1) Section 131B of EA 2002 (market studies and the making of decisions to refer: time limits) is amended as follows.
- (2) In the heading, after “time-limits” insert “etc”.
- (3) In subsection (7), for “This section is” substitute “Subsections (4) to (6) are”.
- (4) After subsection (7) insert—
 

“(8) Where the CMA—

  - (a) has published a market study notice, and
  - (b) has decided not to make a reference under section 131 in relation to the matter specified in the notice,

the CMA may subsequently make a reference under section 131 in relation to the matter (without first publishing a market study notice in relation to the matter) only where [subsection \(9\)](#) applies.
- (9) This subsection applies where—
  - (a) the reference under section 131 is made two years or more after the publication of the market study report in relation to the market study notice, or
  - (b) there has been a material change in circumstances since the preparation of the report.”

**136 Scope of market investigations**

- (1) Chapter 1 of Part 4 of EA 2002 (market studies and market investigations: references) is amended as follows.
- (2) In section 133 (contents of market investigation references)—



- (a) after subsection (1) insert—
  - “(1A) A market investigation reference may be framed so as to require the group constituted by the chair of the CMA in respect of the reference to confine its investigation into the effects of features of markets in the United Kingdom for goods or services of a description specified in the reference to the effects of particular features of such markets.
  - (1B) For the purposes of [subsection \(1A\)](#), “particular features” means features specified in the reference.”;
- (b) in subsection (2), for the words before paragraph (a) substitute “For the purposes of [subsection \(1A\)](#), a reference may (for example) specify or describe features that exist in connection with—”.
- (3) In section 134 (questions to be decided on market investigation references)—
  - (a) in subsection (1), for “feature, or combination of features,” substitute “relevant feature”;
  - (b) in subsection (2), for “feature, or combination of features,” substitute “relevant feature”;
  - (c) after subsection (2A) insert—
    - “(2B) In subsections (1) and (2), “relevant feature” means—
      - (a) any feature of a relevant market which is not excluded from investigation by virtue of [section 133\(1A\)](#), or
      - (b) a combination of such features.”;
    - (d) in subsection (7), after “features” insert “concerned”.

### **137 Acceptance of undertakings at any stage of a market study or investigation**

[Schedule 8](#) makes provision allowing the CMA to accept undertakings under Part 4 of EA 2002 (market studies and market investigations) at any stage during a market study or investigation.

### **138 Final undertakings and orders: power to conduct trials**

- (1) [Schedule 9](#) makes provision amending Part 4 of EA 2002 allowing the CMA or the Secretary of State to conduct trials to assess the likely effectiveness of final undertakings and orders that the CMA or the Secretary of State is minded to accept or impose under that Part.
- (2) The Secretary of State may by regulations amend—
  - (a) any sectoral enactment, or
  - (b) section 168 of EA 2002 (regulated markets),
 in connection with provision made by [Schedule 9](#).
- (3) The power to make regulations under [subsection \(2\)](#) includes power to make provision for the CMA or Secretary of State to be able to modify, or request that another person modifies, any agreement, arrangement, condition, licence, statement (or anything of a similar nature) in connection with an implementation trial measure (within the meaning of Part 4 of EA 2002, as amended by [Schedule 9](#)).
- (4) But so far as the power to make regulations under [subsection \(2\)](#) is exercised to amend a sectoral enactment that is mentioned in section 168 of EA 2002 (regulated markets),

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the power may only make provision in connection with a relevant action mentioned in subsection (3) of that section.

- (5) For the purposes of this section the sectoral enactments are—
- (a) the Civil Aviation Act 2012;
  - (b) the Health and Social Care Act 2012;
  - (c) the Transport Act 2000;
  - (d) the Chiropractors Act 1994;
  - (e) the Railways Act 1993;
  - (f) the Osteopaths Act 1993;
  - (g) the Water Industry Act 1991;
  - (h) the Broadcasting Act 1990;
  - (i) the Electricity Act 1989;
  - (j) the Copyright, Designs and Patents Act 1988;
  - (k) the Gas Act 1986;
  - (l) the Patents Act 1977;
  - (m) the Registered Designs Act 1949;
  - (n) the Water and Sewerage Services (Northern Ireland) Order 2006 ([S.I. 2006/3336 \(N.I. 21\)](#));
  - (o) the Gas (Northern Ireland) Order 1996 ([S.I. 1996/275 \(N.I. 2\)](#));
  - (p) the Electricity (Northern Ireland) Order 1992 ([S.I. 1992/231 \(N.I. 1\)](#)).
- (6) The Secretary of State must, before making regulations under [subsection \(2\)](#) that—
- (a) amend a sectoral enactment, consult the relevant sectoral authority;
  - (b) amend section 168 of EA 2002, consult any relevant sectoral authority whom the Secretary of State considers is likely to have an interest in the amendment.
- (7) For the purposes of [subsection \(6\)](#) the relevant sectoral authorities are—
- (a) in relation to the Civil Aviation Act 2012, the Civil Aviation Authority;
  - (b) in relation to the Health and Social Care Act 2012, NHS England;
  - (c) in relation to the Transport Act 2000, the Civil Aviation Authority;
  - (d) in relation to the Chiropractors Act 1994, the General Chiropractic Council;
  - (e) in relation to the Railways Act 1993, the Office of Rail and Road;
  - (f) in relation to the Osteopaths Act 1993, the General Osteopathic Council;
  - (g) in relation to the Water Industry Act 1991, the Water Services Regulation Authority;
  - (h) in relation to the Broadcasting Act 1990, the Office of Communications;
  - (i) in relation to the Electricity Act 1989 and the Gas Act 1986, the Gas and Electricity Markets Authority;
  - (j) in relation to the Copyright, Designs and Patents Act 1988, the Patents Act 1977 and the Registered Designs Act 1949, the Comptroller-General of Patents, Designs and Trade Marks;
  - (k) in relation to the Water and Sewerage Services (Northern Ireland) Order 2006, the Gas (Northern Ireland) Order 1996 and the Electricity (Northern Ireland) Order 1992, the Northern Ireland Authority for Utility Regulation.
- (8) The Secretary of State may by regulations—
- (a) amend [subsection \(5\)](#) so as to add or remove an enactment;
  - (b) amend [subsection \(7\)](#) so as to add, vary or remove an entry.

(9) Regulations under this section are subject to the affirmative procedure.

### **139 Duty of CMA to monitor undertakings and orders**

- (1) Chapter 3 of Part 4 of EA 2002 (market studies and market investigations: enforcement) is amended as follows.
- (2) In section 161 (final orders: Part 4), in subsection (5)—
  - (a) after “advises” insert “, in accordance with section 162(3) or [section 162A\(8\)](#),”;
  - (b) omit “by reason of a change of circumstances”.
- (3) In section 162 (duty of CMA to monitor undertakings and orders: Part 4)—
  - (a) in the heading, after “monitor” insert “the carrying out of”;
  - (b) omit subsections (5) to (7).
- (4) After that section insert—

#### **“162A Duty of CMA to monitor effectiveness of undertakings and orders: Part 4**

- (1) The CMA must keep under review the effectiveness of enforcement undertakings accepted under this Part and enforcement orders made under this Part.
- (2) The CMA must, whenever requested to do so by the Secretary of State and otherwise from time to time, prepare a report of its findings under [subsection \(1\)](#).
- (3) The CMA must—
  - (a) give a copy of any report prepared by it under [subsection \(2\)](#) to the Secretary of State, and
  - (b) publish the report.
- (4) [Subsection \(5\)](#) applies, in relation to an adverse effect on competition identified in a report mentioned in section 138(1), where—
  - (a) the report was published within the previous 10 years,
  - (b) the CMA last took action in accordance with section 138(2) or [subsection \(5\)](#) of this section no less than two years ago, and
  - (c) the CMA concludes, as a result of a review under [subsection \(1\)](#), that the action mentioned in [paragraph \(b\)](#) has been ineffective for the purposes mentioned in that section.
- (5) The CMA must take such action as it considers appropriate for the purposes mentioned in section 138(2) in relation to—
  - (a) any possible variation or release by the CMA of an enforcement undertaking accepted by it;
  - (b) any possible new enforcement undertaking to be accepted by the CMA so as to supersede another enforcement undertaking given to it;
  - (c) any possible variation or revocation by the CMA of an enforcement order made by it;

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- (d) any possible enforcement undertaking to be accepted by the CMA instead of an enforcement order made by it, or any possible enforcement order to be made by the CMA instead of an enforcement undertaking accepted by it.
- (6) Where the CMA decides to take action under [subsection \(5\)](#), the CMA must take the action within the period of six months beginning with the date on which that decision is published under [section 172\(2\)\(h\)](#).
- (7) [Subsection \(8\)](#) applies, in relation to an adverse effect on competition or an effect adverse to the public interest identified in a report mentioned in [section 146\(1\)](#) or [146A\(1\)](#) (as the case may be), where—
  - (a) the report was laid before each House of Parliament in accordance with [section 172\(10\)](#) within the previous 10 years,
  - (b) the Secretary of State last took action in accordance with [section 142\(2\)](#) or [147A\(2\)](#) (as the case may be) no less than two years ago, and
  - (c) the CMA concludes, as a result of a review under [subsection \(1\)](#), that action taken in accordance with that section has been ineffective for the purposes mentioned in that section.
- (8) The CMA must give the Secretary of State such advice as it considers appropriate for the purposes mentioned in [section 147\(2\)](#) or [147A\(2\)](#) (as the case may be) in relation to—
  - (a) any possible variation or release by the Secretary of State of an enforcement undertaking accepted by the Secretary of State;
  - (b) any possible new enforcement undertaking to be accepted by the Secretary of State under that section so as to supersede another enforcement undertaking given to the Secretary of State;
  - (c) any possible variation or revocation by the Secretary of State of an enforcement order made by the Secretary of State;
  - (d) any possible enforcement undertaking to be accepted by the Secretary of State instead of an enforcement order, or any possible enforcement order to be made by the Secretary of State instead of an enforcement undertaking accepted under that section.”
- (5) Chapter 4 of Part 4 of EA 2002 (market studies and market investigations: supplementary) is amended as follows.
- (6) In [section 169](#) (certain duties of relevant authorities to consult: Part 4), in [subsection \(6\)](#), in paragraph (a) of the definition of “relevant decision”, after [sub-paragraph \(iv\)](#) (inserted by [paragraph 10\(3\)](#) of [Schedule 9](#)) insert—
 

“(v) to take action under [section 162A\(5\)](#); and”.
- (7) In [section 172](#) (further publicity requirements: Part 4)—
  - (a) in [subsection \(2\)](#)—
    - (i) omit the “and” at the end of paragraph (f);
    - (ii) at the end insert “; and
      - (h) any decision by it to take action under [section 162A\(5\)](#).”;
  - (b) after [subsection \(10\)](#) insert—

“(11) Where the Secretary of State has decided, in accordance with the CMA’s advice under section 162(3) or 162A(8), to accept or release an undertaking under section 159, or to make or revoke an order under section 161, the Secretary of State must, after the acceptance or release of the undertaking or (as the case may be) the making or revocation of the order, lay details of the Secretary of State’s decision and the reasons for it, and the CMA’s advice, before each House of Parliament.”

- (8) In section 177 (excisions from reports: Part 4)—
- (a) in the heading, after “reports” insert “etc”;
  - (b) in subsection (1)—
    - (i) the words from “the Secretary of State” to the end become paragraph (a);
    - (ii) after that paragraph insert “;
      - (b) the Secretary of State is under a duty to lay the CMA’s advice under section 162(3) or 162A(8) before each House of Parliament.”
  - (c) in subsection (2)—
    - (i) after “report” insert “or advice”;
    - (ii) after “publication of the matter” insert “, or the inclusion of it in the advice laid before Parliament,”.

#### **140 Taking action in relation to regulated markets**

- (1) In Chapter 4 of Part 4 of EA 2002 (market studies and market investigations: supplementary), section 168 (regulated markets) is amended as follows.
- (2) In subsection (3) omit paragraph (j).
- (3) In subsection (4)—
  - (a) in paragraph (g), for “the duty of the Director General of Electricity Supply for Northern Ireland under article 6 of that Order” substitute “the objective and duties of the Northern Ireland Authority for Utility Regulation under Article 12 of the Energy (Northern Ireland) Order 2003 (S.I. 2003/419 (N.I. 6))”;
  - (b) omit paragraph (l);
  - (c) in paragraph (m), for “the duties of the Director General of Gas for Northern Ireland under article 5 of that Order” substitute “the objective and duties of the Northern Ireland Authority for Utility Regulation under Article 14 of the Energy (Northern Ireland) Order 2003”;
  - (d) in paragraph (r), for “Monitor” substitute “NHS England”.
- (4) In subsection (5), in paragraph (ia), for “Monitor” substitute “NHS England”.

## CHAPTER 4

### CARTELS

#### 141 Production of information authorised by warrant

- (1) Section 194 of EA 2002 (power to enter premises under a warrant) is amended as follows.
- (2) In subsection (1), in paragraph (a), after “there are on” insert “or accessible from”.
- (3) In subsection (2)—
- (a) in paragraph (d) omit “and which the named officer considers relates to any matter relevant to the investigation,”;
  - (b) after that paragraph insert—
    - “(e) to operate any equipment found on the premises for the purposes of producing such information in such a form;
    - (f) to require any person on the premises to give the named officer any assistance the named officer may reasonably require (including for the purposes of paragraphs (d) and (e));
    - (g) to take copies of, or seize, anything produced in accordance with paragraph (d) or (e) which the named officer considers relates to any matter relevant to the investigation.”
- (4) In section 196 of EA 2002 (privileged information etc), after subsection (2) insert—
- “(2A) Nothing in section 194 authorises an officer to produce or take possession of, or make copies of or take extracts from, anything which, by virtue of subsections (1) or (2), a person could not be required to disclose or produce under section 193 or 194.”

## CHAPTER 5

### MISCELLANEOUS

#### 142 Attendance of witnesses etc

- (1) Section 26A of CA 1998 (investigations: power to ask questions) is amended as follows.
- (2) In subsection (1)—
- (a) in the words before paragraph (a) omit “who has a connection with a relevant undertaking”;
  - (b) in paragraph (a), after “at a place” insert “or in a manner (which may be remote)”.
- (3) In subsection (2), for “each” substitute “any”.
- (4) For subsection (6) substitute—
- “(6) For the purposes of this section, an individual has a current connection with an undertaking if, at the time in question, the individual is—
- (a) concerned in the management or control of the undertaking, or

(b) employed by, or otherwise working for, the undertaking.”

- (5) In section 109(1) of EA 2002 (attendance of witnesses and production of documents etc: Part 3), in paragraph (a) for “place” substitute “at a place, or in a manner (which may be remote),”.
- (6) In section 174(3) of EA 2002 (attendance of witnesses and production of documents etc: Part 4), in paragraph (a) for “place” substitute “at a place, or in a manner (which may be remote),”.

### **143 Civil penalties etc in connection with competition matters**

- (1) [Schedule 10](#) makes provision for, and in connection with, the imposition of civil penalties in relation to investigations under—
- (a) Part 1 of CA 1998 (competition);
  - (b) Parts 3 (mergers) and 4 (market studies and market investigations) of EA 2002.
- (2) [Schedule 11](#) makes provision for, and in connection with, the imposition of civil penalties in relation to breaches of—
- (a) commitments and directions under Part 1 of CA 1998;
  - (b) undertakings and orders under Parts 3 and 4 of EA 2002.
- (3) [Schedule 12](#) makes provision providing that certain functions being conferred on the CMA by Schedules [10](#) and [11](#) are not exercisable concurrently by sectoral regulators.

### **144 Service and extra-territoriality of notices under CA 1998 and EA 2002**

[Schedule 13](#) makes provision about—

- (a) the service of documents under Chapter 3 of Part 1 of CA 1998 (investigation and enforcement) and Parts 3 (mergers) and 4 (market studies and market investigations) of EA 2002;
- (b) the extra-territorial application of notices under sections 26 and 40ZD of CA 1998 and sections 109(2) and (3) and 174(4) and (5) of EA 2002.

### **145 Orders and regulations under CA 1998 and EA 2002**

[Schedule 14](#) makes provision about the making of orders and regulations under—

- (a) CA 1998, and
- (b) Parts 3 (mergers) and 4 (market studies and market investigations) of EA 2002.

### **146 Meaning of “working day” in Parts 3 and 4 of EA 2002**

- (1) Part 3 of EA 2002 (mergers) is amended as follows.
- (2) In Chapter 1 (duty to make references)—
- (a) in section 25 (extension of time limits)—
    - (i) in subsection (1), after “20” insert “working”;
    - (ii) in subsection (5), in paragraph (b), after “10” insert “working”;
  - (b) omit section 32 (supplementary provision for the purposes of section 25);



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

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- (c) in section 34ZA(3) (time limits for decisions about references) omit the definition of “working day”;
  - (d) in section 34ZB (extension of time limits) omit subsection (9);
  - (e) in section 34ZC (sections 34ZA and 34ZB: supplementary) omit subsection (9).
- (3) In Chapter 2 (public interest cases)—
- (a) in section 54 (decision of Secretary of State in public interest cases)—
    - (i) in subsection (5), after “30” insert “working”;
    - (ii) omit subsection (8);
  - (b) in section 56 (competition cases where intervention on public interest grounds ceases)—
    - (i) in subsection (4), in paragraph (b), after “20” insert “working”;
    - (ii) omit subsection (5).
- (4) In Chapter 4 (enforcement), in section 73A (time limits for consideration of undertakings) omit subsection (12).
- (5) In Chapter 5 (supplementary)—
- (a) in section 129(1) (other interpretative provisions), at the appropriate place insert—
    - ““working day” means any day other than—
      - (a) a Saturday or Sunday, or
      - (b) a day that is a bank holiday in any part of the United Kingdom under the Banking and Financial Dealings Act 1971.”;
  - (b) in section 130 (index of defined expressions), at the appropriate place insert—
- |              |                  |
|--------------|------------------|
| “Working day | Section 129(1)”. |
|--------------|------------------|
- (6) In Part 4 of EA 2002 (market studies and market investigations), in section 151 (public interest intervention cases: interaction with general procedure)—
- (a) in subsection (3), after “20” insert “working”;
  - (b) in subsection (5), after “20” insert “working”;
  - (c) omit subsection (6);
  - (d) at the end insert—
    - “(7) In this section, “working day” means any day other than—
      - (a) a Saturday or Sunday, or
      - (b) a day that is a bank holiday in any part of the United Kingdom under the Banking and Financial Dealings Act 1971.”
- (7) In regulation 2(1) of the Enterprise Act 2002 (Merger Prenotification) Regulations 2003 (S.I. 2003/1369), for the definition of “working day” substitute—
- ““working day” means any day other than—
    - (a) a Saturday or Sunday, or
    - (b) a day that is a bank holiday in any part of the United Kingdom under the Banking and Financial Dealings Act 1971.”