

Status: This version of this part contains provisions that are prospective.
Changes to legislation: There are currently no known outstanding effects for the Digital Markets,
Competition and Consumers Act 2024, Paragraph 18. (See end of Document for details)

SCHEDULES

SCHEDULE 10

CIVIL PENALTIES ETC IN CONNECTION WITH COMPETITION INVESTIGATIONS

PART 2

INVESTIGATIONS UNDER PART 3 OF EA 2002 (MERGERS)

PROSPECTIVE

- 18 (1) Section 112 (penalties: main procedural requirements) is amended as follows.
- (2) Before subsection (1) insert—
- “(A1) Before the appropriate authority imposes a penalty under section 110(1) or (1A), the authority must give the person concerned a provisional penalty notice.
- (A2) A provisional penalty notice must—
- contain a draft of the final penalty notice the appropriate authority is minded to give to the person under subsection (1),
 - invite the making of representations by the person to the authority about the proposed final penalty notice, and
 - specify the means by which, and the time by which, such representations must be made.
- (A3) The appropriate authority must have regard to any representations received in accordance with a provisional penalty notice before imposing a penalty under section 110(1) or (1A) (and accordingly may not impose such a penalty before the time for the person concerned to make representations to the authority in accordance with that notice has expired).”
- (3) In subsection (1)—
- for “(3)” substitute “(1A)”;
 - for “the CMA shall give notice of the penalty” substitute “the appropriate authority must give the person concerned a final penalty notice”.
- (4) In subsection (2)—
- in the words before paragraph (a), after “The” insert “final penalty”;
 - in paragraph (a), for “the CMA” substitute “the appropriate authority”;
 - in paragraph (d), for “failure (or as the case may be) the obstruction or delay which the CMA” substitute “act or omission in question which the appropriate authority”;
 - in paragraph (e), for “the CMA” substitute “the appropriate authority”;
 - in paragraph (f), for “the CMA” substitute “the appropriate authority”.

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(5) In subsection (3), for “the CMA” substitute “the appropriate authority”.

(6) After subsection (3) insert—

“(3A) A provisional penalty notice is given by serving a copy of the notice on the person on whom the appropriate authority is minded to impose the penalty.”

(7) In subsection (4), in the words before paragraph (a), for “notice under this section” substitute “final penalty notice”.

Commencement Information

II Sch. 10 para. 18 not in force at Royal Assent, see [s. 339\(1\)](#)

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