
Changes to legislation: There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Paragraph 9. (See end of Document for details)

SCHEDULES

SCHEDULE 10

CIVIL PENALTIES ETC IN CONNECTION WITH COMPETITION INVESTIGATIONS

PART 1

INVESTIGATIONS UNDER PART 1 OF CA 1998 (COMPETITION)

- 9 (1) Section 40A (penalties: failure to comply with requirements) is amended as follows.
- (2) In the heading, for “failure to comply with requirements” substitute “amount”.
- (3) For subsection (1) substitute—
- “(1A) A penalty imposed under [section 40ZE\(1\)](#) is to be of such amount as the CMA considers appropriate.”
- (4) In subsection (2), for the words before paragraph (a), substitute “A penalty imposed under [section 40ZE\(1\)\(a\)](#) may be—”.
- (5) After subsection (2) insert—
- “(2A) A penalty imposed under any of [section 40ZE\(1\)\(b\)](#) to [\(e\)](#) must be a fixed amount.”
- (6) In subsection (3)—
- (a) for the words before paragraph (a) substitute “A penalty imposed under [section 40ZE\(1\)](#) on a person who is not an undertaking must not—”;
- (b) in paragraph (a), for “such amount as the Secretary of State may by order specify” substitute “£30,000”;
- (c) in paragraph (b), for “such amount per day as the Secretary of State may so specify” substitute “£15,000 per day”;
- (d) in paragraph (c) omit “as the Secretary of State may so specify”.
- (7) After subsection (3) insert—
- “(3A) A penalty imposed under [section 40ZE\(1\)](#) on a person who is an undertaking must not—
- (a) in the case of a fixed amount, exceed 1% of the turnover of the undertaking;
- (b) in the case of an amount calculated by reference to a daily rate, for each day exceed 5% of the daily turnover of the undertaking;
- (c) in the case of a fixed amount and an amount calculated by reference to a daily rate, exceed such fixed amount and such amount per day.”
- (8) Omit subsections (4) and (5).
- (9) In subsection (6), in paragraph (a)—

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- (a) for “notice under section 112” substitute “provisional penalty notice under section 112(A1)”;
 - (b) for “subsection (9)” substitute “[section 40ZE\(5\)](#)”.
- (10) After subsection (7) insert—
- “(7A) The Secretary of State may by regulations amend subsection (3)(a) and (b) by substituting for either or both of the sums for the time being specified in those paragraphs such other sum or sums as the Secretary of State considers appropriate.”
- (11) In subsection (8), for “an order under subsection (3)” substitute “regulations under [subsection \(7A\)](#)”.
- (12) Omit subsection (9).
- (13) At the end insert—
- “(10) The Secretary of State may by regulations make provision for determining the turnover and daily turnover of an undertaking for the purposes of this section.
- (11) Regulations under [subsection \(10\)](#) may, in particular, make provision as to—
- (a) the amounts which are, or which are not, to be treated as an undertaking’s turnover or daily turnover;
 - (b) the date, or dates, by reference to which an undertaking’s turnover, or daily turnover, is to be determined.
- (12) Regulations under [subsection \(10\)](#) may, in particular, make provision enabling the CMA to determine matters of a description specified in the regulations (including any of the matters mentioned in paragraphs (a) and (b) of [subsection \(11\)](#)).”

Commencement Information

II Sch. 10 para. 9 in force at Royal Assent for specified purposes, see [s. 339\(2\)\(c\)](#)

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