

Status: This version of this schedule contains provisions that are prospective.
Changes to legislation: There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Schedule 13. (See end of Document for details)

SCHEDULES

PROSPECTIVE

SCHEDULE 13

Section 144

SERVICE AND EXTRA-TERRITORIALITY OF NOTICES UNDER CA 1998 AND EA 2002

Service of documents etc

1 In Part 3 of EA 2002 (mergers), in Chapter 5 (supplementary), for section 126 (service of documents) substitute—

“126 Service of documents by the CMA, OFCOM or the Secretary of State

- (1) This section applies in relation to any document required or authorised under this Part to be served on a person by the CMA, OFCOM or the Secretary of State.
- (2) The document may be served by—
 - (a) delivering it to the person,
 - (b) leaving it at the person’s proper address,
 - (c) sending it by post to the person at that address, or
 - (d) sending it to the person by email to their email address.
- (3) A document may be served on a body corporate by giving it to any officer of that body.
- (4) A document may be served on a partnership by giving it to any partner or a person who has the control or management of the partnership business.
- (5) A document may be served on an unincorporated body or association (other than a partnership) by giving it to any member of the governing body of the association.
- (6) A person’s proper address is—
 - (a) in a case where the person has specified an address as one at which the person, or someone acting on the person’s behalf, will accept service of documents, that address;
 - (b) in any other case, the address determined in accordance with [subsection \(7\)](#).
- (7) A person’s “proper address” is (if [subsection \(6\)\(a\)](#) does not apply)—
 - (a) in the case of a body corporate, its registered or principal office;
 - (b) in the case of a partnership, the principal office of the partnership;
 - (c) in the case of an unincorporated body or association, the principal office of the body or association;

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- (d) in a case where none of paragraphs (a) to (c) apply, any address at which the CMA, OFCOM or the Secretary of State believes, on reasonable grounds, that the document will come to the attention of the person.
- (8) A person’s email address is—
- (a) any email address published for the time being by that person as an address for contacting that person, or
- (b) if there is no such published address, any email address by means of which the CMA, OFCOM or the Secretary of State believes, on reasonable grounds, that the document will come to the attention of that person.
- (9) In the case of—
- (a) a body corporate registered outside the United Kingdom,
- (b) a partnership carrying on business outside the United Kingdom, or
- (c) any other body with offices outside the United Kingdom,
- references to its principal office include references to its principal office in the United Kingdom or, if it has no principal office in the United Kingdom, any place in the United Kingdom where it carries on business or conducts activities.
- (10) In this section “officer”, in relation to any body corporate, means a director, manager, secretary or other similar officer of the body.
- (11) This section does not limit any other lawful means of serving a document on a person.”

Commencement Information

I1 Sch. 13 para. 1 not in force at Royal Assent, see [s. 339\(1\)](#)

- 2 In Part 1 of CA 1998, in Chapter 3 (investigation and enforcement), after section 44 insert—

“Supplementary

44A Giving of notices under Chapter 3

Section 126 of the Enterprise Act 2002 (service of documents) applies to the giving of notices under this Chapter as it applies to the service of documents under Part 3 of that Act.”

Commencement Information

I2 Sch. 13 para. 2 not in force at Royal Assent, see [s. 339\(1\)](#)

- 3 In section 61(4) of the Financial Services (Banking Reform) Act 2013 (functions of the Payment Systems Regulator under CA 1998), after “Part 1 of the Competition Act 1998” insert “(including references in provisions of the Enterprise Act 2002 applied by that Part)”.

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Commencement Information

I3 Sch. 13 para. 3 not in force at Royal Assent, see [s. 339\(1\)](#)

- 4 In section 62(4) of the Civil Aviation Act 2012 (functions of the Civil Aviation Authority under CA 1998), after “Part 1 of the Competition Act 1998” insert “(including references in provisions of the Enterprise Act 2002 applied by that Part)”.

Commencement Information

I4 Sch. 13 para. 4 not in force at Royal Assent, see [s. 339\(1\)](#)

- 5 In section 371(3) of the Communications Act 2002 (functions of OFCOM under CA 1998), in the words before paragraph (a), after “Part 1 of the Competition Act 1998” insert “(including references in provisions of the Enterprise Act 2002 applied by that Part)”.

Commencement Information

I5 Sch. 13 para. 5 not in force at Royal Assent, see [s. 339\(1\)](#)

- 6 In section 86(4)(b) of the Transport Act 2000 (functions of the Civil Aviation Authority with respect to competition), after “and 54” insert “but including references in provisions of the Enterprise Act 2002 applied by that Part”.

Commencement Information

I6 Sch. 13 para. 6 not in force at Royal Assent, see [s. 339\(1\)](#)

- 7 In section 234J(4) of the Financial Services and Markets Act 2000 (functions of the FCA under CA 1998), after “Part 1 of the Competition Act 1998” insert “(including references in provisions of the Enterprise Act 2002 applied by that Part)”.

Commencement Information

I7 Sch. 13 para. 7 not in force at Royal Assent, see [s. 339\(1\)](#)

- 8 In section 67(3A) of the Railways Act 1993 (functions of the Office of Rail and Road with respect to competition), after “Part 1 of the Competition Act 1998” insert “(including references in provisions of the Enterprise Act 2002 applied by that Part)”.

Commencement Information

I8 Sch. 13 para. 8 not in force at Royal Assent, see [s. 339\(1\)](#)

- 9 In section 31(4A) of the Water Industry Act 1991 (functions of Ofwat with respect to competition), after “Part 1 of the Competition Act 1998” insert “(including references in provisions of the Enterprise Act 2002 applied by that Part)”.

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Commencement Information

I9 Sch. 13 para. 9 not in force at Royal Assent, see [s. 339\(1\)](#)

- 10 In section 43(3A) of the Electricity Act 1989 (functions of Ofgem with respect to competition), after “Part 1 of the Competition Act 1998” insert “(including references in provisions of the Enterprise Act 2002 applied by that Part)”.

Commencement Information

I10 Sch. 13 para. 10 not in force at Royal Assent, see [s. 339\(1\)](#)

- 11 In section 36A(3A) of the Gas Act 1986 (functions of Ofgem with respect to competition), after “Part 1 of the Competition Act 1998” insert “(including references in provisions of the Enterprise Act 2002 applied by that Part)”.

Commencement Information

I11 Sch. 13 para. 11 not in force at Royal Assent, see [s. 339\(1\)](#)

- 12 In Article 29(5) of the Water and Sewerage Services (Northern Ireland) Order 2006 ([S.I. 2006/3336 \(N.I. 21\)](#)) (functions of the Northern Ireland Authority for Utility Regulation with respect to competition), after “Part 1 of the Competition Act 1998” insert “(including references in provisions of the Enterprise Act 2002 applied by that Part)”.

Commencement Information

I12 Sch. 13 para. 12 not in force at Royal Assent, see [s. 339\(1\)](#)

- 13 In Article 23(3A) of the Gas (Northern Ireland) Order 1996 ([S.I. 1996/275 \(N.I. 2\)](#)) (functions of the Northern Ireland Authority for Utility Regulation with respect to competition), after “Part 1 of the Competition Act 1998” insert “(including references in provisions of the Enterprise Act 2002 applied by that Part)”.

Commencement Information

I13 Sch. 13 para. 13 not in force at Royal Assent, see [s. 339\(1\)](#)

- 14 In Article 46(3A) of the Electricity (Northern Ireland) Order 1992 ([S.I. 1992/231 \(N.I. 1\)](#)) (functions of the Northern Ireland Authority for Utility Regulation with respect to competition), after “Part 1 of the Competition Act 1998” insert “(including references in provisions of the Enterprise Act 2002 applied by that Part)”.

Commencement Information

I14 Sch. 13 para. 14 not in force at Royal Assent, see [s. 339\(1\)](#)

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- I1 Sch. 13 para. 1 not in force at Royal Assent, see [s. 339\(1\)](#)
- I2 Sch. 13 para. 2 not in force at Royal Assent, see [s. 339\(1\)](#)
- I3 Sch. 13 para. 3 not in force at Royal Assent, see [s. 339\(1\)](#)
- I4 Sch. 13 para. 4 not in force at Royal Assent, see [s. 339\(1\)](#)
- I5 Sch. 13 para. 5 not in force at Royal Assent, see [s. 339\(1\)](#)
- I6 Sch. 13 para. 6 not in force at Royal Assent, see [s. 339\(1\)](#)
- I7 Sch. 13 para. 7 not in force at Royal Assent, see [s. 339\(1\)](#)
- I8 Sch. 13 para. 8 not in force at Royal Assent, see [s. 339\(1\)](#)
- I9 Sch. 13 para. 9 not in force at Royal Assent, see [s. 339\(1\)](#)
- I10 Sch. 13 para. 10 not in force at Royal Assent, see [s. 339\(1\)](#)
- I11 Sch. 13 para. 11 not in force at Royal Assent, see [s. 339\(1\)](#)
- I12 Sch. 13 para. 12 not in force at Royal Assent, see [s. 339\(1\)](#)
- I13 Sch. 13 para. 13 not in force at Royal Assent, see [s. 339\(1\)](#)
- I14 Sch. 13 para. 14 not in force at Royal Assent, see [s. 339\(1\)](#)

Extra-territoriality of notices under CA 1998 and EA 2002

- 15 In Chapter 3 of Part 1 of CA 1998 (investigation and enforcement), after section 44A (inserted by [paragraph 2](#)) insert—

“44B Extra-territorial application of notices under sections 26 and 40ZD

- (1) This section applies to the exercise of the CMA’s power to give a person a notice under section 26 or 40ZD.
- (2) The power is exercisable so as to—
 - (a) give the notice to a person who is outside the United Kingdom (subject to subsections (3) and (4));
 - (b) require the production of a specified document, or the provision of specified information, held outside the United Kingdom.
- (3) The CMA’s power to give a notice under section 26 to a person outside the United Kingdom by virtue of [subsection \(2\)\(a\)](#) is exercisable only if—
 - (a) the person’s activities are being investigated as part of an investigation under section 25, or
 - (b) the person has a UK connection.
- (4) The CMA’s power to give a notice under section 40ZD to a person outside the United Kingdom by virtue of [subsection \(2\)\(a\)](#) is exercisable only if—
 - (a) the person is bound by transferred EU anti-trust commitments (within the meaning of section 40ZA), or
 - (b) the person is subject to a transferred EU anti-trust direction (within the meaning of that section).
- (5) For the purposes of [subsection \(3\)\(b\)](#), a person has a UK connection if the person—
 - (a) is a United Kingdom national;
 - (b) is an individual who is habitually resident in the United Kingdom;

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- (c) is a body incorporated under the law of any part of the United Kingdom;
 - (d) carries on business in the United Kingdom.
- (6) In [subsection \(5\)\(a\)](#) “United Kingdom national” means—
- (a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen;
 - (b) a person who is a British subject under the British Nationality Act 1981;
 - (c) a British protected person within the meaning of that Act.
- (7) Nothing in this section is to be taken to limit any other power of the CMA to give a notice under section 26 or 40ZD to a person outside the United Kingdom.”

Commencement Information

I15 Sch. 13 para. 15 not in force at Royal Assent, see [s. 339\(1\)](#)

- 16 In Chapter 5 of Part 3 of EA 2002 (mergers: supplementary: investigation powers), after section 109A insert—

“109B Extra-territorial application of notices under section 109

- (1) This section applies to the exercise of the CMA’s power to give a person a notice under section 109(2) or (3).
- (2) The power is exercisable so as to—
 - (a) give the notice to a person who is outside the United Kingdom (subject to [subsection \(3\)](#));
 - (b) require the production of documents, or the supply of information, held outside the United Kingdom.
- (3) The CMA’s power to give a notice under section 109(2) or (3) to a person outside the United Kingdom by virtue of [subsection \(2\)\(a\)](#) is exercisable only if—
 - (a) the person is, or was, part of, or involved with or carrying on, an enterprise which has or may have ceased, or may cease, to be a distinct enterprise in circumstances where a reference has been, or may be, made under section 22, 33, 45, 62, 62B or 68C, or a foreign state intervention notice has been given under section 70A(1), in relation to the enterprise, or
 - (b) the person has a UK connection.
- (4) For the purposes of [subsection \(3\)\(b\)](#), a person has a UK connection if the person—
 - (a) is a United Kingdom national;
 - (b) is an individual who is habitually resident in the United Kingdom;
 - (c) is a body incorporated under the law of any part of the United Kingdom;
 - (d) carries on business in the United Kingdom.

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- (5) Nothing in this section is to be taken to limit any other power of the CMA to give a notice under section 109(2) or (3) to a person outside the United Kingdom.”

Commencement Information

I16 Sch. 13 para. 16 not in force at Royal Assent, see [s. 339\(1\)](#)

- 17 In Chapter 4 of Part 4 of EA 2002 (market studies and market investigations: supplementary: investigation powers), after section 174 insert—

“174ZA Extra-territorial application of notices under section 174

- (1) This section applies to the exercise of the CMA’s power to give a person a notice under section 174(4) or (5).
- (2) The power is exercisable so as to—
- (a) give the notice to a person who is outside the United Kingdom (subject to [subsection \(3\)](#));
 - (b) require the production of documents, or the supply of information, held outside the United Kingdom.
- (3) The CMA’s power to give a notice under section 174(4) or (5) to a person outside the United Kingdom by virtue of [subsection \(2\)\(a\)](#) is exercisable only if the person—
- (a) is a United Kingdom national;
 - (b) is an individual who is habitually resident in the United Kingdom;
 - (c) is a body incorporated under the law of any part of the United Kingdom;
 - (d) carries on business in the United Kingdom.
- (4) In [subsection \(3\)\(a\)](#) “United Kingdom national” has the same meaning as in Part 3 (see section 129(1)).
- (5) Nothing in this section is to be taken to limit any other power of the CMA to give a notice under section 174(4) or (5) to a person outside the United Kingdom.”

Commencement Information

I17 Sch. 13 para. 17 not in force at Royal Assent, see [s. 339\(1\)](#)

Commencement Information

I15 Sch. 13 para. 15 not in force at Royal Assent, see [s. 339\(1\)](#)

I16 Sch. 13 para. 16 not in force at Royal Assent, see [s. 339\(1\)](#)

I17 Sch. 13 para. 17 not in force at Royal Assent, see [s. 339\(1\)](#)

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