

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 19. (See end of Document for details)

SCHEDULES

PROSPECTIVE

SCHEDULE 19

Section 215

PART 3: TRANSITIONAL AND SAVING PROVISIONS

Interpretation

- 1 In this Schedule—
- “commencement date” means the date on which [section 153](#) comes into force;
 - “continuing conduct” means an act or omission of a person that—
 - (a) takes place before the commencement date, and
 - (b) is repeated, or continues to take place, on or after that date;
 - “enforcement action”—
 - (a) in relation to the new law, means proceedings or other steps taken by virtue of a power conferred under the new law, and
 - (b) in relation to the old law, means proceedings or other steps taken by virtue of a power conferred under the old law;
 - “the new law” means [Chapters 3 and 4 of Part 3](#) (and any provisions of law relating to those Chapters, including Schedule 5 to CRA 2015 as amended by this Act);
 - “the old law” means—
 - (a) Part 8 of EA 2002, as that Part had effect immediately before the commencement date, and
 - (b) any provisions of law (including in particular Schedule 5 to CRA 2015) relating to Part 8 of EA 2002, as those provisions had effect immediately before the commencement date.

Commencement Information

II Sch. 19 para. 1 not in force at Royal Assent, see [s. 339\(1\)](#)

General rules

- 2 (1) The old law continues to apply—
- (a) in respect of conduct of a person that takes place before the commencement date;
 - (b) for the purposes of the taking of enforcement action relating to a breach of an order made by, or undertaking given to, the court under the old law;
 - (c) in a case where proceedings before a court under the old law have been started against a person before the commencement date, for the purposes of

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the continuation and completion of those proceedings (including any appeals relating to the proceedings).

- (2) In [sub-paragraph \(1\)\(c\)](#) the reference to proceedings being started against a person is a reference to an application being made against the person under section 215 or 218ZA of EA 2002.
- (3) This paragraph is subject to—
- (a) [paragraph 3](#), which makes rules for cases involving continuing conduct, and
 - (b) [paragraph 4](#), which makes rules for cases involving breach of undertakings given to enforcers.

Commencement Information

I2 Sch. 19 para. 2 not in force at Royal Assent, see [s. 339\(1\)](#)

Rules applicable to continuing conduct

- 3 (1) [This paragraph](#) applies where conduct of a person is continuing conduct.
- (2) The new law applies in respect of the person’s post-commencement conduct.
- (3) The new law also applies in respect of the person’s pre-commencement conduct for the purposes of enabling the taking of enforcement action under Chapter 3 or 4 of [Part 3](#) in relation to that conduct.
- (4) Where the new law applies by virtue of [sub-paragraph \(3\)](#), a requirement under Chapter 3 or (as the case may be) Chapter 4 may be imposed on a person in respect of the relevant infringement in relation to which the enforcement action is taken only if a requirement of a corresponding kind could have been imposed on the person under the old law (and accordingly a monetary penalty, in particular, may not be imposed on the person).
- (5) In applying the new law in accordance with [this paragraph](#) in respect of a person’s post-commencement conduct, regard may be had to, and findings of fact or law may be made in respect of, the person’s pre-commencement conduct so far as necessary or appropriate for the purposes of determining any matter that falls to be determined in the application of the new law.
- (6) In [this paragraph](#)—
- “post commencement conduct” means so much of a person’s continuing conduct as takes place on or after the commencement date;
- “pre-commencement conduct” means so much of a person’s continuing conduct as takes place before the commencement date.

Commencement Information

I3 Sch. 19 para. 3 not in force at Royal Assent, see [s. 339\(1\)](#)

Rules applicable to undertakings given to enforcers under the old law

- 4 (1) [This paragraph](#) applies where an enforcer has accepted an undertaking from a person under the old law.

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- (2) Enforcement action in respect of a person’s breach of the undertaking, whether the breach takes place before, on or after the commencement date, may be taken only under the old law.
- (3) Sub-paragraph (4) applies where a breach of the undertaking—
 - (a) takes place (to any extent) on or after the commencement date, and
 - (b) it appears to an enforcer that the act or omission comprising the breach, so far as taking place on or after that date—
 - (i) is also a commercial practice which constitutes a relevant infringement under the new law, or
 - (ii) is carried out by a person who is an accessory under the new law to such a commercial practice.
- (4) Enforcement action in respect of the act or omission may be taken—
 - (a) under the new law, or
 - (b) if the act or omission would also be a domestic or Schedule 13 infringement for the purposes of the old law, under the old law.
- (5) It is for the enforcer concerned to determine whether to take enforcement action under the new law or the old law in accordance with sub-paragraph (4).
- (6) A breach of an undertaking that first takes place before the commencement date is to be treated for the purposes of this paragraph as also taking place on or after that date if the act or omission comprising the breach is repeated or continued on or after that date.

Commencement Information

I4 Sch. 19 para. 4 not in force at Royal Assent, see [s. 339\(1\)](#)

Information notices under Schedule 5 to CRA 2015

- 5 (1) The amendments made by [paragraph 2\(3\)](#) of [Schedule 17](#) (which insert new paragraphs [16A](#) to [16J](#) into Schedule 5 to CRA 2015) have effect only in relation to an information notice given on or after the commencement date.
- (2) In [sub-paragraph \(1\)](#) “information notice” means a notice given under paragraph 14 of Schedule 5 to CRA 2015.

Commencement Information

I5 Sch. 19 para. 5 not in force at Royal Assent, see [s. 339\(1\)](#)

Further provision

- 6 Nothing in [this Schedule](#) limits the power under [section 339\(5\)](#) to make further transitional and saving provision in connection with the coming into force of the new law.

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Commencement Information

I6 Sch. 19 para. 6 not in force at Royal Assent, see [s. 339\(1\)](#)

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