

## SCHEDULES

### SCHEDULE 1

Section 36

#### PROCEDURE RELATING TO COMMITMENTS

##### *Application of Schedule*

- 1 This Schedule applies for the purposes of Chapters 3 and 4 in relation to—
- (a) accepting a commitment,
  - (b) accepting a variation of a commitment (a “requested variation”), or
  - (c) releasing an undertaking from the requirement to comply with a commitment.

##### *Procedure for accepting a commitment or requested variation*

- 2 (1) Before accepting a commitment or a requested variation the CMA must—
- (a) publish a notice under this paragraph, and
  - (b) consider any representations made in accordance with the notice and not withdrawn.
- (2) The notice must include—
- (a) the commitment or requested variation that the CMA proposes to accept,
  - (b) the conduct requirement or, as the case may be, actual or suspected adverse effect on competition to which the commitment or variation relates,
  - (c) the CMA’s reasons for its proposed decision, and
  - (d) the period within which representations may be made in relation to the proposed commitment or requested variation.
- 3 (1) Before accepting a modification of a commitment or requested variation, of which notice has been given under paragraph 2(1), the CMA must—
- (a) publish a notice under this paragraph, and
  - (b) consider any representations made in accordance with the notice and not withdrawn.
- (2) The notice must include—
- (a) the proposed modifications,
  - (b) the reasons for them, and
  - (c) the period within which representations may be made in relation to them.
- 4 The CMA must publish notice of its decision on whether to, and the form in which it will, accept a commitment or a requested variation as soon as reasonably practicable.
- 5 The requirements of paragraphs 2 and 3 do not apply in relation to a proposed modification which the CMA does not consider material.

*Procedure for releasing an undertaking from a commitment*

- 6 (1) Before releasing an undertaking from a commitment the CMA must—
- (a) publish a notice under this paragraph, and
  - (b) consider any representations made in accordance with the notice and not withdrawn.
- (2) The notice must include—
- (a) that the CMA proposes to release the undertaking from the commitment,
  - (b) the reasons for the CMA’s proposal, and
  - (c) the period within which representations may be made in relation to the proposal.
- 7 The CMA must publish a notice of its decision on whether to release an undertaking from a commitment as soon as reasonably practicable.

## SCHEDULE 2

Section 58

## MERGERS: HOLDING OF INTERESTS AND RIGHTS

*Joint interests*

- 1 If two or more persons each hold an interest or right jointly, each of them is treated as holding that interest or right.

*Joint arrangements*

- 2 (1) If interests or rights held by a person and interests or rights held by another person are the subject of a joint arrangement between those persons, each of them is treated as holding the combined interests or rights of both of them.
- (2) A “joint arrangement” is an arrangement between the holders of interests or rights that they will exercise all or substantially all the rights conferred by their respective interests, or their respective rights, jointly in a way that is pre-determined by the arrangement.

*Interests held by nominees*

- 3 An interest held by a person as nominee for another is to be treated as held by the other (and not by the nominee).

*Rights treated as held by person who controls their exercise*

- 4 (1) Where a person controls a right, the right is to be treated as held by that person (and not by the person who in fact holds the right, unless that person also controls it).
- (2) A person “controls” a right if, by virtue of any arrangement between that person and others, the right is exercisable only—
- (a) by that person,
  - (b) in accordance with that person’s directions or instructions, or
  - (c) with that person’s consent or concurrence.

*Rights exercisable only in certain circumstances etc*

- 5 (1) Rights that are exercisable by a person only in certain circumstances are to be treated as held by the person only—
- (a) when the circumstances have arisen, and for so long as they continue to obtain, or
  - (b) when the circumstances are within the control of the person.
- (2) But rights that are exercisable by an administrator or by creditors while an entity is in relevant insolvency proceedings are not to be regarded as held by the administrator or creditors even while the entity is in those proceedings.
- (3) “Relevant insolvency proceedings” means—
- (a) administration within the meaning of the Insolvency Act 1986,
  - (b) administration within the meaning of the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)), or
  - (c) proceedings under the insolvency law of another country or territory during which an entity’s assets and affairs are subject to the control or supervision of a third party or creditor.
- (4) Rights that are normally exercisable but are temporarily incapable of exercise are not for that reason to be treated as not being held.

*Rights attached to shares held by way of security*

- 6 Rights attached to shares held by way of security provided by a person are to be treated as held by that person—
- (a) where apart from the right to exercise them for the purpose of preserving the value of the security, or of realising it, the rights are exercisable only in accordance with that person’s instructions, and
  - (b) where the shares are held in connection with the granting of loans as part of normal business activities and apart from the right to exercise them for the purpose of preserving the value of the security, or of realising it, the rights are exercisable only in that person’s interests.

*Arrangements*

- 7 (1) In this Schedule “arrangement” includes—
- (a) any scheme, agreement or understanding, whether or not it is legally enforceable, and
  - (b) any convention, custom or practice of any kind.
- (2) But something does not count as an arrangement unless there is at least some degree of stability about it (whether by its nature or terms, the time it has been in existence or otherwise).

SCHEDULE 3

Section 125

POWER OF COMPETITION APPEAL TRIBUNAL TO GRANT DECLARATORY RELIEF

- 1 Chapter 4 of Part 1 of CA 1998 (appeals before the Competition Appeal Tribunal etc) is amended as follows.

2 In the italic heading before section 47A, after “damage” insert “, or for declaratory relief”.

3 In section 47A (proceedings before the Tribunal: claims for damages etc), after subsection (3) insert—

“(3A) This section also applies to a claim for a declaration or, in relation to Scotland, for a declarator which a person may make in respect of an infringement decision or an alleged infringement of the Chapter 1 prohibition or the Chapter 2 prohibition.”

4 After section 47D insert—

**“47DA Proceedings under section 47A or collective proceedings: declaratory relief**

(1) A declaration granted by the Tribunal in proceedings under section 47A or collective proceedings has the same effect as a declaration granted by the High Court.

(2) A declarator granted by the Tribunal in proceedings under section 47A or collective proceedings has the same effect as a declarator granted by the Court of Session.

(3) In deciding whether to grant a declaration in proceedings under section 47A or collective proceedings, the Tribunal must apply the principles that the High Court would apply in deciding whether to grant a declaration.

(4) In deciding whether to grant a declarator in proceedings under section 47A or collective proceedings, the Tribunal must apply the principles that the Court of Session would apply in deciding whether to grant a declarator.

(5) The Tribunal may grant a declaration or declarator in proceedings under section 47A or collective proceedings whether or not any other remedy is claimed.”

5 In the italic heading before section 47F, after “damage” insert “, or for declaratory relief”.

6 (1) Section 47F (further provision about claims in respect of loss or damage before a court or the Tribunal) is amended as follows.

(2) In the heading, after “damage” insert “, or for declaratory relief”.

(3) In the text, after “damage” insert “, or for declarations or declarators”.

7 (1) In section 49 (further appeals from the Tribunal), subsection (1A) is amended as follows.

(2) Omit the “or” at the end of paragraph (a).

(3) After paragraph (b) insert “, or  
(c) as to the grant of a declaration or a declarator.”

8 (1) Schedule 8A (further provision about claims in respect of loss or damage before a court or the Tribunal) is amended as follows.

(2) In the heading, after “damage” insert “, or for declaratory relief”.

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- (3) In paragraph 2 (competition law etc), for sub-paragraph (2) substitute—
- “(2) “Competition claim” means—
- (a) a claim in respect of loss or damage arising from an infringement of competition law (whatever the legal basis of the claim) which is made by or on behalf of—
    - (i) the person who suffered the loss or damage, or
    - (ii) a person who has acquired that person’s right to make the claim (whether by operation of law or otherwise), or
  - (b) a claim for a declaration or a declarator in respect of an infringement of competition law.”
- (4) In paragraph 9 (burden of proof where an overcharge is passed on to an indirect purchaser), for sub-paragraph (1) substitute—
- “(1) Sub-paragraph (2) applies where there is an overcharge as a result of an infringement of competition law and—
- (a) a competition claim within paragraph 2(2)(a) is made in respect of loss or damage which—
    - (i) arises, directly or indirectly, from the overcharge, and
    - (ii) was suffered by a person who acquired a product or service indirectly from the infringer (“the injured person”), or
  - (b) a competition claim within paragraph 2(2)(b) is made in respect of the overcharge.”
- (5) In paragraph 10 (burden of proof where an underpayment is passed on to an indirect provider), for sub-paragraph (1) substitute—
- “(1) Sub-paragraph (2) applies where there is an underpayment as a result of an infringement of competition law and—
- (a) a competition claim within paragraph 2(2)(a) is made in respect of loss or damage which—
    - (i) arises, directly or indirectly, from the underpayment, and
    - (ii) was suffered by a person who provided a product or service indirectly to the infringer (“the injured person”), or
  - (b) a competition claim within paragraph 2(2)(b) is made in respect of the underpayment.”
- (6) In paragraph 11 (burden of proof where an overcharge or underpayment is passed on by the claimant)—
- (a) in sub-paragraph (1), in paragraph (b) omit “loss or damage which arises, directly or indirectly, from”;
  - (b) in sub-paragraph (3), for “the person who suffered the loss or damage” substitute “a person who suffered loss or damage arising directly or indirectly from the overcharge or underpayment”.
- (7) In paragraph 17 (time limits for bringing competition proceedings), in sub-paragraph (2), in paragraph (b), for “the”, in the first place it occurs, substitute “any”.

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- (8) In paragraph 19 (beginning of limitation or prescriptive period), after sub-paragraph (6) insert—
- “(6A) This paragraph applies in respect of a competition claim within paragraph 2(2)(b) as if—
- (a) in sub-paragraph (2), paragraph (c) (but not the “, and” at the end of it) were omitted;
- (b) in sub-paragraph (3), paragraph (b) (and the “and” before it) were omitted;
- (c) sub-paragraph (4) were omitted.”
- (9) In paragraph 21 (suspension during investigation by competition authority), in sub-paragraph (1) omit “in respect of loss or damage”.
- (10) In paragraph 24 (suspension of prescriptive period during period of disability: Scotland)—
- (a) in sub-paragraphs (1) and (2) for “injured person” substitute “relevant person”;
- (b) for sub-paragraph (4) substitute—
- “(4) In this paragraph, “relevant person” means—
- (a) in relation to a competition claim within paragraph 2(2)(a), a person who suffered the loss or damages that is the subject of the claim;
- (b) in relation to a competition claim within paragraph 2(2)(b), the pursuer.”
- (11) In paragraph 42 (application of Schedule 8A), in sub-paragraph (1), for the words from “the claims and proceedings relate” to the end substitute “—
- (a) in respect of competition claims within paragraph 2(2)(a), the claim and proceedings relate to loss or damage suffered on or after 8 March 2017 as a result of an infringement of competition law that takes place on or after that date;
- (b) in respect of competition claims within paragraph 2(2)(b), the claim and proceedings relate to an infringement of competition law that takes place on or after 8 March 2017.”
- (12) In paragraph 43 (application of Schedule 8A), in the words before paragraph (a), for “the relevant day” substitute “8 March 2017”.
- (13) Omit paragraph 44 (definition of “relevant day”).
- 9 In Schedule 4 to EA 2002 (Competition Appeal Tribunal: procedure), after paragraph 21A insert—

*“Declarations and declarators*

- 21B Tribunal rules may make provision in relation to the grant of declarations or declarators (including interim declarations or interim declarators) in proceedings under section 47A or 47B of the 1998 Act.”

## SCHEDULE 4

Section 127

### RELEVANT AND SPECIAL MERGER SITUATIONS

- 1 Chapter 1 of Part 3 of EA 2002 (mergers: duty to make references) is amended as follows.
- 2 (1) Section 23 (relevant merger situations) is amended as follows.
  - (2) In subsection (1), in paragraph (b), for “£70 million” substitute “£100 million”.
  - (3) In subsection (2)—
    - (a) omit the “and” at the end of paragraph (a);
    - (b) at the end insert “; and
    - (c) the value of the turnover in the United Kingdom of—
      - (i) the enterprise being taken over, or
      - (ii) any other enterprise concerned,exceeds £10 million.”
  - (4) Before subsection (3) insert—

“(2B) For the purposes of subsection (2)(c)(ii), any turnover of any other enterprise concerned that is also turnover of the enterprise being taken over is to be ignored.”
  - (5) Before subsection (5) insert—

“(4C) For the purposes of this Part, a relevant merger situation has also been created if—

    - (a) two or more enterprises have ceased to be distinct enterprises at a time or in circumstances falling within section 24; and
    - (b) each of the conditions mentioned in [subsections \(4D\) to \(4F\)](#) is satisfied.

(4D) The condition mentioned in this subsection is that, were it not for the enterprises concerned ceasing to be distinct enterprises, in relation to the supply of goods or services of any description, at least 33 per cent of all the goods or (as the case may be) services of that description which are supplied in the United Kingdom, or in a substantial part of the United Kingdom, would be supplied—

    - (a) by the person or persons by whom one of the enterprises concerned (“E”) would be carried on, or
    - (b) to that person or those persons,

in connection with E or any other enterprise concerned with which E is under common ownership or common control.

(4E) The condition mentioned in this subsection is that the total value of the turnover in the United Kingdom of E exceeds £350 million.

(4F) The condition mentioned in this subsection is that, were it not for the enterprises concerned ceasing to be distinct enterprises, an enterprise within subsection (4G) would satisfy one or more of the following additional conditions—

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- (a) the enterprise would be carried on by a body of persons corporate or unincorporate formed or recognised under the law of any part of the United Kingdom;
- (b) the activities, or part of the activities, of the enterprise would be carried on in the United Kingdom;
- (c) the person, or persons, by whom the enterprise would be carried on supply goods or services to a person or persons in the United Kingdom in connection with the enterprise.

(4G) The following enterprises are within this subsection—

- (a) any enterprise concerned other than—
  - (i) E, or
  - (ii) any other enterprise with which E is under common ownership or common control;
- (b) any enterprise concerned that, as a result of the enterprises concerned ceasing to be distinct enterprises, a person or group of persons may be treated as having brought under their control by virtue of section 26(4).”

(6) In subsection (5), after “(4)” insert “, or of 33 per cent mentioned in [subsection \(4D\)](#),”.

(7) In subsection (6), for “and (4)” substitute “, (4), [\(4D\)](#) and [\(4F\)\(c\)](#)”.

3 (1) Section 28 (turnover test) is amended as follows.

(2) In subsection (5)—

- (a) in paragraph (a)—
  - (i) for “sum” substitute “sums”;
  - (ii) after “section 23(1)(b)” insert “, (2)(c) and [\(4E\)](#)”;
- (b) in paragraph (b), for “sum is” substitute “sums are”.

(3) In subsection (6)—

- (a) after “section 23(1)(b)” insert “, (2)(c) or [\(4E\)](#)”;
- (b) for “the sum” substitute “any of the sums”.

4 In Chapter 2 of Part 3 of EA 2002 (mergers: public interest cases), in section 58A (construction of consideration specified in section 58(2C)), in subsection (1), for “section 58 and this section” substitute “this Part”.

5 Chapter 3 of Part 3 of EA 2002 (mergers: other special cases) is amended as follows.

6 (1) Section 59 (intervention by Secretary of State in special public interest cases) is amended as follows.

(2) For subsections (3) and (3A) substitute—

“(3) For the purposes of this Part, a special merger situation has been created if—

- (a) two or more enterprises have ceased to be distinct enterprises at a time or in circumstances falling within section 24;
- (b) no relevant merger situation has been created; and
- (c) immediately before the enterprises concerned ceased to be distinct, one or more of the conditions mentioned in subsections (3C) to [\(3F\)](#) were satisfied.”



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(3) After subsection (3D) insert—

“(3E) The condition mentioned in this subsection is that a relevant merger situation would have been created if, in subsection (1) of section 23—

- (a) the “and” at the end of paragraph (a) were omitted;
- (b) for paragraph (b) there were substituted—
  - “(b) one of the enterprises concerned is a media enterprise or a newspaper enterprise; and”;
- (c) after that paragraph there were inserted—
  - “(c) the value of the turnover in the United Kingdom of the enterprise being taken over exceeds £70 million.”

(3F) The condition mentioned in this subsection is that a relevant merger situation would have been created if, for section 23(2)(c), there were substituted—

- “(c) one of the enterprises concerned is a media enterprise or a newspaper enterprise.””

(4) In subsection (5), after “deciding” insert “whether two or more enterprises have ceased to be distinct at a time or in circumstances falling within section 24,”

(5) In subsection (6A), for the words from “amend” to the end substitute “—

- (a) substitute a new sum for the sum for the time being mentioned in [subsection \(3E\)\(c\)](#);
- (b) amend the conditions mentioned in subsections (3C), (3D), [\(3E\)\(b\)](#) and [\(3F\)](#).”

7 (1) Schedule 5A (energy network mergers affecting comparative regulation: modifications of Chapter 1 of Part 3) is amended as follows.

(2) In paragraph 2 (modifications of section 23), in paragraph (a), in the substituted text, for “£70 million” substitute “£100 million”.

(3) In paragraph 3 (modifications of section 28), for paragraphs (b) and (c) substitute—

- “(b) in subsection (5)—
  - (i) in the words before paragraph (a), for “The CMA shall” there were substituted “The CMA and the Gas and Electricity Markets Authority must each”;
  - (ii) in paragraph (a), for “the sums for the time being mentioned in section 23(1)(b), (2)(c) and (4E)” there were substituted “the sum for the time being mentioned in section 23(1)(b)”;
  - (iii) in paragraph (b), for “sums are” there were substituted “sum is”;
- (c) in subsection (6)—
  - (i) for “section 23(1)(b), (2)(c) and (4E)” there were substituted “paragraph 2(a) of Schedule 5A”;
  - (ii) for “sums” there were substituted “sum”.

8 Chapter 5 of Part 3 of EA 2002 (mergers: supplementary) is amended as follows.

9 (1) Section 123 (power to alter share of supply test) is amended as follows.

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- (2) In the heading, for “share of supply test” substitute “conditions for a relevant merger situation”.
- (3) In subsection (2), at the end insert—  
“**(c)** to amend or replace the condition mentioned in **paragraph (a)** of **subsection (4C)** of that section.”
- (4) After subsection (3) insert—  
“(3A) In exercising the power under subsection (1) to amend or replace the condition mentioned in subsection **(4D)** or **(4E)** of section 23 or any condition which for the time being applies instead of it, the Secretary of State must, in particular, have regard to the desirability of ensuring that any amended or new condition continues to operate by reference to the degree of commercial strength that at least one of the enterprises concerned would have had if the enterprises concerned had not ceased to be distinct enterprises.”
- 10 In section 130 (index of defined expressions), in the appropriate place insert—
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- |                   |                  |
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| “Media enterprise | Section 58A(1)”. |
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## SCHEDULE 5

Section 128

### MERGERS: FAST-TRACK REFERENCES UNDER SECTIONS 22 AND 33 OF EA 2002

- 1 Chapter 1 of Part 3 of EA 2002 (mergers: duty to make references) is amended as follows.
- 2 (1) Section 22 (duty to make references in relation to completed mergers) is amended as follows.
- (2) After subsection (1) insert—  
“(1A) The CMA must make a reference to its chair for the constitution of a group under Schedule 4 to the Enterprise and Regulatory Reform Act 2013 if the CMA has decided, under **section 34ZF(2)**, to accept a fast-track reference request.”
- (3) In subsection (2), in the words before paragraph (a), for “this section” substitute “subsection (1)”.
- (4) In subsection (3), in the words before paragraph (a), for “this section” substitute “subsection (1)”.
- 3 (1) Section 33 (duty to make references in relation to anticipated mergers) is amended as follows.
- (2) After subsection (1) insert—  
“(1A) The CMA must make a reference to its chair for the constitution of a group under Schedule 4 to the Enterprise and Regulatory Reform Act 2013 if the CMA has decided, under **section 34ZF(3)**, to accept a fast-track reference request.”

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- (3) In subsection (2), in the words before paragraph (a), for “this section” substitute “subsection (1)”.
- (4) In subsection (3), in the words before paragraph (a), for “this section” substitute “subsection (1)”.
- 4 (1) Section 34ZA (time-limits for decisions about references) is amended as follows.
- (2) In subsection (1)—
- (a) in the words before paragraph (a), for “section 22 or 33” substitute “section 22(1) or 33(1)”;  
(b) in paragraph (a), for “the section” substitute “the subsection”.
- (3) After that subsection insert—
- “(1A) In carrying out its function of making a reference under section 22(1A) or 33(1A), the CMA must, within the initial period, inform the persons carrying on the enterprises concerned by notice of the making of the reference.”
- (4) In subsection (2), in the words before paragraph (a), for “section 22 or 33” substitute “section 22(1) or 33(1)”.
- 5 In section 34ZB (extension of time-limits), in subsection (1), for “mentioned in” substitute “for the purposes of”.
- 6 In section 34ZC (sections 34ZA and 34ZB: supplementary), in subsection (1), for “period mentioned in” substitute “initial period for the purposes of”.
- 7 After section 34ZC (sections 34ZA and 34ZB: supplementary) insert—

#### **“34ZD Fast-track reference requests**

- (1) **Subsection (2)** applies where the following conditions are met—
- (a) arrangements or proposed arrangements might have resulted or might result in the creation of a relevant merger situation (the “arrangements concerned”),  
(b) no reference has been made under section 22 or 33 in respect of the arrangements concerned, and  
(c) the CMA has not informed the persons carrying on the enterprises concerned of a decision that the duty to make a reference under section 22(1) or 33(1) does not apply in respect of those arrangements.
- (2) The persons carrying on the enterprises concerned may make a fast-track reference request to the CMA at any time before the end of the initial period (whether or not that period has begun).
- (3) In this section and in **sections 34ZE and 34ZF**, “fast-track reference request” means a request that the CMA makes a reference under section 22(1A) or 33(1A) in relation to the arrangements concerned.

#### **34ZE Fast-track reference requests: procedure**

- (1) This section applies where a fast-track reference request is made and not withdrawn.

- (2) Where the fast-track reference request is made before the beginning of the initial period, the CMA may, at any time before the beginning of that period, reject the request.
- (3) Where the CMA has not rejected the fast-track reference request in accordance with [subsection \(2\)](#), the CMA must, within the decision period, decide whether to accept the request in accordance with [section 34ZF](#) or reject the request.
- (4) Where the CMA accepts or rejects a fast-track reference request, the CMA must notify the persons carrying on the enterprises concerned that the request has been accepted or rejected.
- (5) In this section—
  - “decision period” means, in relation to the arrangements concerned—
    - (a) in a case where the initial period has not begun, that period, or
    - (b) in a case where the initial period has begun, the period beginning with the day on which the fast-track reference request is made and ending at the end of the initial period;
  - “initial period” has the meaning given by [section 34ZA\(3\)](#).

#### **34ZF Acceptance by the CMA of fast-track reference requests**

- (1) The CMA may accept a fast-track reference request only if the condition in [subsection \(2\)](#) or [\(3\)](#) is met.
- (2) The condition in this subsection is that, in relation to the arrangements concerned—
  - (a) the CMA believes that it is or may be the case that a relevant merger situation has been created, and
  - (b) the CMA would not be prevented from making a reference under [section 22\(1\)](#) by reason of [section 22\(3\)](#).
- (3) The condition in this subsection is that, in relation to the arrangements concerned—
  - (a) the CMA believes that it is or may be the case that, if carried into effect, the arrangements will result in the creation of a relevant merger situation, and
  - (b) the CMA would not be prevented from making a reference under [section 33\(1\)](#) by reason of [section 33\(3\)](#).
- (4) In deciding whether to accept a fast-track reference request under [subsection \(2\)](#) or [\(3\)](#), the CMA must have regard, in particular, to—
  - (a) whether the arrangements concerned raise any consideration specified in [section 58](#);
  - (b) whether a special intervention notice (see [section 59\(2\)](#)) is in force in relation to the arrangements.
- (5) Where the CMA decides to accept a fast-track reference request the duties to make references under [sections 22\(1\)](#) and [33\(1\)](#) do not apply, and accordingly the CMA may not make any reference under those provisions

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- in respect of the arrangements concerned (but see the duties under sections 22(1A) and 33(1A)).”
- 8 (1) Section 39 (time-limits for investigations and reports) is amended as follows.
- (2) In subsection (3), after “section 38” insert “on a reference under section 22(1) or 33(1)”.
- (3) After that subsection insert—
- “(3A) The CMA may extend, by no more than 11 weeks, the period within which a report under section 38 on a reference under section 22(1A) or 33(1A) is to be prepared and published if it considers that there are special reasons why the report cannot be prepared and published within that period.”
- (4) In subsection (7), after “(3)” insert “, (3A)”.
- 9 (1) Section 40 (section 39: supplementary) is amended as follows.
- (2) In subsection (4), after “section 39(3)” insert “or (3A)”.
- (3) In subsection (5), before “or (4)” insert “, (3A)”.
- 10 (1) In Chapter 3 of Part 3 of EA 2002 (mergers: other special cases), Schedule 5A (energy network mergers affecting comparative regulation: modifications of Chapter 1 of Part 3) is amended as follows.
- (2) In paragraph 1 (general modifications), in sub-paragraph (2), for the words after “include” substitute “—
- (a) a reference made under a subsection of that section;
- (b) a reference treated as made under that section.”
- (3) For paragraph 5 (time limits for decisions about references) substitute—
- “5 Section 34ZA (time-limits for decisions about references) has effect as if—
- (a) in subsection (1)(a)—
- (i) the reference to section 22(2) were to section 68B(2);
- (ii) the reference to section 22(3) were to section 68B(3);
- (iii) the reference to section 33(2) were to section 68C(2);
- (iv) the reference to section 33(3) were to section 68C(3);
- (b) section (1A) were omitted.
- 5A Chapter 1 has effect as if sections 34ZD to 34ZF (fast-track reference requests) were omitted.”
- (4) After paragraph 7 insert—
- “Time-limits for investigations and reports*
- 7A Section 39 (time-limits for investigations and reports) has effect as if subsection (3A) were omitted.”
- 11 (1) In Chapter 4 of Part 3 of EA 2002 (mergers: enforcement), section 73 (undertakings in lieu of references under section 22 or 33) is amended as follows.
- (2) In the heading, for “section 22, 33” substitute “section 22(1), 33(1)”.

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- (3) In subsection (1), for “section 22 or 33” substitute “section 22(1) or 33(1)”.
- 12 Chapter 5 of Part 3 of EA 2002 (mergers: supplementary) is amended as follows.
- 13 In section 104 (certain duties of relevant authorities to consult), in subsection (6),  
in the definition of “relevant decision”, in paragraph (a)—
- (a) in sub-paragraph (i), for “section 22, 33” substitute “section 22(1), 33(1)”; and
  - (b) in sub-paragraph (ii), for “such a reference” substitute “a reference under section 22, 33, 68B or 68C”.
- 14 (1) Section 107 (further publicity requirements) is amended as follows.
- (2) In subsection (1)—
- (a) in paragraph (a), for “section 22, 33” substitute “section 22(1), 33(1)”; and
  - (b) after paragraph (aa) insert—
    - “(aaa) any decision made by it to accept a fast-track reference request under [section 34ZD](#) and the resulting reference made by it;”.
- (3) In subsection (6), after “in relation to” insert “—
- (a) any decision published under subsection (1)(aaa), or
  - (b)”.
- 15 In section 130 (interpretation), in the appropriate place insert—
- 
- “Fast-track reference request [section 34ZD\(3\)](#)”.
- 

## SCHEDULE 6

Section 129

### MERGERS OF ENERGY NETWORK ENTERPRISES

- 1 Part 3 of EA 2002 (mergers) is amended as follows.
- 2 (1) Section 22 (duty to make references in relation to completed mergers) is amended  
as follows.
- (2) In subsection (3)(c) omit “or 68B or 68C”.
- (3) In subsection (7)(a) omit “, 68B or 68C”.
- 3 In section 33(3) (circumstances in which references in relation to anticipated  
mergers may not be made), in paragraph (c) omit “or 68B or 68C”.
- 4 In section 68B (further duty to make references in relation to completed mergers),  
for subsection (3) substitute—
- “(3) The CMA may not make a reference under this section—
- (a) in any circumstances mentioned in section 22(3)(za) to (b) or (d), or
  - (b) if the relevant merger situation concerned is being, or has been, dealt  
with in connection with a reference made under section 68C.”
- 5 In section 68C (further duty to make references in relation to anticipated mergers),  
for subsection (3) substitute—
- “(3) The CMA may not make a reference under this section—

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- (a) in any circumstances mentioned in section 33(3)(za) to (b) or (d), or
  - (b) if the arrangements concerned are being, or have been, dealt with in connection with a reference under section 68B.”
- 6 (1) In section 72 (initial enforcement orders: completed or anticipated mergers), subsection (6) is amended as follows.
  - (2) For the words before paragraph (a) substitute “So far as made in relation to a reference under section 22, 33, 68B or 68C, an order under this section which has not previously ceased to be in force and which has not been adopted under paragraph 2 of Schedule 7 ceases to be in force in relation to the reference concerned—”.
  - (3) In paragraph (a), in the words before sub-paragraph (i) omit “under section 22, 33, 68B or 68C”.
- 7 (1) Section 73 (undertakings in lieu of references under section 22, 33, 68B or 68C) is amended as follows.
  - (2) For subsection (3B) substitute—
    - “(3B) The CMA may, instead of making such a reference and for the purpose of remedying, mitigating or preventing—
      - (a) the prejudice to the ability of the Gas and Electricity Markets Authority described in section 68B(1) or 68C(1), or
      - (b) any adverse effect which has or may have resulted from it or may be expected to result from it,accept from such of the parties concerned as it considers appropriate undertakings to take such action as it considers appropriate.”
  - (3) In subsection (3C), after “to the prejudice” insert “and any adverse effects resulting from it”.
- 8 In section 73A (time-limits for consideration of undertakings), in subsection (2)(a), after “73(2)” insert “or (3B)”.
- 9 (1) Section 74 (effect of undertakings under section 73) is amended as follows.
  - (2) In subsection (1)—
    - (a) in the words before paragraph (a), for “, 45, 68B or 68C” substitute “or 45”;
    - (b) in paragraph (a), for “section 73” substitute “section 73(2)”.
  - (3) After subsection (1) insert—
    - “(1A) The relevant authority may not make a reference under section 45, 68B or 68C in relation to the creation of a relevant merger situation if—
      - (a) the CMA has accepted an undertaking or group of undertakings under section 73(3B), and
      - (b) the relevant merger situation is the situation by reference to which the undertaking or group of undertakings was accepted.”
  - (4) In subsection (2), for “Subsection (1) does not” substitute “Subsections (1) and (1A) do not”.
- 10 (1) Section 75 (order-making power where undertakings under section 73 not fulfilled etc) is amended as follows.
  - (2) In subsection (1), in paragraph (a), for “section 73” substitute “section 73(2) or (3B)”.



- (3) In subsection (2), after “73(2)” insert “or (3B) (as the case may be)”.
- (4) For subsection (3) substitute—
- “(3A) In proceeding under subsection (2) for the purposes mentioned in section 73(2) or (3B), the CMA must, in particular, have regard to the need to achieve as comprehensive a solution as is reasonable and practicable to—
- (a) in relation to the purpose mentioned in section 73(2), the substantial lessening of competition mentioned in that subsection and any adverse effects resulting from it;
  - (b) in relation to the purpose mentioned in section 73(3B), the prejudice mentioned in that subsection and any adverse effects resulting from it.
- (3B) In proceeding under subsection (2) for the purposes mentioned in section 73(2) or (3B), the CMA may, in particular, have regard to the effect of any action on any relevant customer benefits in relation to the creation of the relevant merger situation concerned.”
- 11 (1) Section 79 (sections 77 and 78: further interpretative provisions) is amended as follows.
- (2) In subsection (1), for paragraphs (c) to (e) substitute—
- “(c) the report of the CMA under that section contains the decision that—
- (i) in relation to a reference under section 22 or 33, there is not an anti-competitive outcome, or
  - (ii) in relation to a reference under section 68B or 68C, there is not a prejudicial outcome;
- (d) the report of the CMA under that section contains the decision that—
- (i) in relation to a reference under section 22 or 33, there is an anti-competitive outcome, or
  - (ii) in relation to a reference under section 68B or 68C, there is a prejudicial outcome, and
- the CMA has decided under section 41(2) neither to accept an undertaking under section 82 nor to make an order under section 84;
- (e) the report of the CMA under that section contains the decision that—
- (i) in relation to a reference under section 22 or 33, there is an anti-competitive outcome, or
  - (ii) in relation to a reference under section 68B or 68C, there is a prejudicial outcome, and
- the CMA has decided under section 41(2) to accept an undertaking under section 82 or to make an order under section 84.”
- (3) After subsection (5) insert—
- “(5A) References in subsection (1) to a prejudicial outcome are to a prejudicial outcome within the meaning of section 35 or 36 as those sections have effect by virtue of paragraphs 6 and 7 of Schedule 5A.”
- 12 (1) Schedule 5A (energy network mergers affecting comparative regulation: modifications of Chapter 1 of Part 3) is amended as follows.
- (2) After paragraph 1 insert—



*“Meaning of “the decision-making authority”*

- 1A Section 22(7)(a) (meaning of “the decision-making authority”) has effect as if after “section 33” there were inserted “, 68B or 68C”.
- (3) In paragraph 5 (time limits for decisions about references)—
- (a) for paragraph (b) substitute—
- “(b) the reference to section 22(3) were to section 68B(3);”;
- (b) for paragraph (d) substitute—
- “(d) the reference to section 33(3) were to section 68C(3).”
- 13 (1) Schedule 16 to the Energy Act 2023 (mergers of completed energy network enterprises) is amended as follows.
- (2) Omit paragraphs 5 and 6 (amendments to sections 22 and 33 of EA 2002).
- (3) Omit paragraph 14(2) (amendment to section 74(1) of EA 2002).

SCHEDULE 7

Section 130

MERGERS INVOLVING NEWSPAPER ENTERPRISES AND FOREIGN POWERS

*Introduction*

- 1 In EA 2002, Part 3 (mergers) is amended as follows.

*Prohibition on newspaper enterprise mergers involving foreign powers*

- 2 After Chapter 3 insert—

**“CHAPTER 3A**

MERGERS INVOLVING NEWSPAPER ENTERPRISES AND FOREIGN POWERS

**70A Intervention by the Secretary of State**

- (1) The Secretary of State must give the CMA a notice (a “foreign state intervention notice”) if the Secretary of State has reasonable grounds for suspecting that it is or may be the case that—
- (a) a foreign state newspaper merger situation has been created, or
- (b) arrangements are in progress or in contemplation which, if carried into effect, will result in the creation of a foreign state newspaper merger situation.
- (2) A foreign state intervention notice must describe the foreign state newspaper merger situation to which it relates.
- (3) For the purposes of this Chapter a foreign state newspaper merger situation has been created where—

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- (a) as a result of two or more enterprises ceasing to be distinct, a relevant merger situation would have been created by virtue of section 23(1) if the modifications in [Schedule 6A](#) had effect,
  - (b) one of the enterprises concerned is a newspaper enterprise, and
  - (c) as a result of the enterprises ceasing to be distinct, a foreign power is able to control or influence the policy of the person carrying on the newspaper enterprise, or is able to control or influence that policy to a greater extent.
- (4) [Schedule 6B](#) makes provision about the circumstances in which a foreign power is able to control or influence the policy of a person for the purposes of this section (and references to a foreign power being able to control or influence the policy of a person to a greater extent are to be interpreted accordingly).
- (5) A foreign state intervention notice—
- (a) comes into force when it is given, and
  - (b) ceases to be in force when the matter to which it relates is finally determined under this Chapter (see [section 70F](#)).

### **70B Investigation and report by the CMA**

- (1) Where the Secretary of State gives the CMA a foreign state intervention notice, the CMA must, within such period as the Secretary of State may require, give the Secretary of State a report in relation to the case.
- (2) The report must include—
- (a) a summary of representations relevant to the case that have been received by the CMA, and
  - (b) a decision as to whether the CMA believes that—
    - (i) a foreign state newspaper merger situation has been created, or
    - (ii) arrangements are in progress or in contemplation which, if carried into effect, will result in the creation of a foreign state newspaper merger situation.
- (3) The CMA must carry out such investigations as it considers appropriate for the purposes of producing a report under this section.
- (4) For the purposes of its investigation the CMA must invite representations from the enterprises concerned in the case.

### **70C Intervention to prevent foreign control of a newspaper enterprise**

- (1) [Subsection \(2\)](#) applies where the Secretary of State has received a report under [section 70B](#) stating that the CMA believes that—
- (a) a foreign state newspaper merger situation has been created, or
  - (b) arrangements are in progress or in contemplation which, if carried into effect, will result in the creation of a foreign state newspaper merger situation.
- (2) The Secretary of State must make an order containing such provision as the Secretary of State considers reasonable and practicable for the purposes of

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reversing or preventing the creation of the foreign state newspaper merger situation identified in the report.

- (3) An order under [subsection \(2\)](#) may contain—
  - (a) anything permitted by Schedule 8 (provision that may be contained in certain enforcement orders), and
  - (b) such supplementary, consequential or incidental provision as the Secretary of State considers appropriate.
- (4) An order under [subsection \(2\)](#)—
  - (a) comes into force at such time as is determined by or under the order, and
  - (b) may be varied or revoked by another order.
- (5) Paragraph 2 of Schedule 7 (enforcement regime for public interest and special public interest cases: order for the purposes of preventing pre-emptive action)—
  - (a) applies in relation to a foreign state intervention notice as it applies in relation to an intervention notice, and
  - (b) for this purpose, is to be read as if—
    - (i) sub-paragraph (10) were omitted;
    - (ii) for sub-paragraph (12), there were substituted—

“(12) In this paragraph “pre-emptive action” means action which might prejudice a foreign state intervention notice or a report under [section 70B](#), or might impede the taking of any action under this Part in relation to such a notice or report”.

#### **70D Other powers under this Part**

- (1) Nothing in this Chapter limits the exercise of powers in relation to a foreign state newspaper merger situation under other provisions of this Part.
- (2) The powers in this Chapter may be exercised in relation to a foreign state newspaper merger situation regardless of whether any other power under this Part has been exercised in relation to the case.
- (3) The CMA must, in considering whether to make a reference under section 22 or 33, bring to the attention of the Secretary of State any case which it believes may be relevant to the duty in [section 70A\(1\)](#).

#### **70E Meaning of “foreign power”**

- (1) In this Chapter, “foreign power” means—
  - (a) the sovereign or other head of a foreign state in their public or private capacity,
  - (b) a foreign government or part of a foreign government,
  - (c) the head or senior members of a foreign government in their private capacity,
  - (d) an agency or authority of a foreign government, or of part of a foreign government,

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- (e) the head or senior members of an agency or authority of a foreign government, or of part of a foreign government, in their private capacity,
  - (f) an authority responsible for administering the affairs of an area within a foreign country or territory, or persons exercising the functions of such an authority,
  - (g) a political party which is a governing political party of a foreign government, or
  - (h) the officers of a political party, which is a governing political party of a foreign government, in their private capacity.
- (2) A political party is a governing political party of a foreign government if persons holding political or official posts in the foreign government or part of the foreign government—
- (a) hold those posts as a result of, or in the course of, their membership of the party, or
  - (b) in exercising the functions of those posts, are subject to the direction or control of, or significantly influenced by, the party.
- (3) In this section—
- “foreign country or territory” means a country or territory outside the United Kingdom, the Channel Islands, the Isle of Man or the British Overseas Territories;
  - “foreign government” means the government of a foreign country or territory;
  - a “government” includes persons exercising the functions of a government;
  - “territory” includes the constituent territories of a federal state.

### **70F Other interpretation**

- (1) For the purposes of this Chapter, section 44(10) is to be read as if the definition of “newspaper” included a news publication circulating wholly or mainly in the United Kingdom or in a part of the United Kingdom on any periodic basis.
- (2) For the purposes of this Chapter, a matter is finally determined when the Secretary of State—
  - (a) makes an order under [section 70C\(2\)](#), or
  - (b) publishes under section 107 a report of the CMA under [section 70B](#) which the Secretary of State has received and which states that the CMA has decided that the CMA believes that—
    - (i) no foreign state newspaper merger situation has been created, or
    - (ii) no arrangements are in progress or in contemplation which, if carried into effect would result in the creation of a foreign state newspaper merger situation.

### **70G Regulations**

- (1) The Secretary of State may by regulations change the meaning of—

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- (a) “foreign power”, or
  - (b) “newspaper”,
- for the purposes of this Chapter.
- (2) Regulations under [subsection \(1\)\(a\)](#) may, among other things—
- (a) provide for a description of person to be treated as if they were not a foreign power, and
  - (b) frame any such description by reference to—
    - (i) the independence of persons from other descriptions of foreign power, or
    - (ii) the interest which persons have in a newspaper enterprise.
- (3) The Secretary of State may by regulations apply any provision made by or under Chapter 1, with or without modifications, for the purposes of this Chapter (including by way of amendments to the modifications in [Schedule 6A](#)).
- (4) Regulations under this section may, among other things, make provision having effect on or after 13 March 2024.”

3 After Schedule 6 insert—

“SCHEDULE 6A

Section 70A

DETERMINATION OF WHEN A FOREIGN STATE  
NEWSPAPER MERGER SITUATION HAS BEEN CREATED

**Application of sections 23 to 29**

- 1 (1) Sections 23 to 29 apply for the purposes of [Chapter 3A](#) of Part 1, subject to the following modifications.
- (2) Section 23 is to be read as if—
- (a) in subsection (1), for the amount in paragraph (b), there were substituted “£2 million”;
  - (b) in subsection (9), for paragraphs (a) and (b), there were substituted—
    - “(a) in relation to the giving of a foreign state intervention notice, the time when the notice is given;
    - (b) in relation to the giving of a report by the CMA under [section 70B](#), the time of the giving of the report.”
- (3) Section 24 is to be read as if—
- (a) for subsection (1)(a) there were substituted—
    - “(a) the two or more enterprises ceased to be distinct enterprises before the day on which—
      - (i) in a case to which section 23(9)(a) applies, the foreign state intervention notice relating to them is given, or

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- (ii) in a case to which section 23(9)(b) applies, the CMA gives its report relating to them under [section 70B](#),  
and did so not more than four months before that day; or”;
  - (b) in subsection (1)(b), after “distinct enterprises” there were inserted “, including facts about whether or the extent to which a foreign power is able to control or influence the policy of a person carrying on a newspaper enterprise as a result of the enterprises ceasing to be distinct enterprises.”;
  - (c) the reference to the CMA in subsection (2)(a) included a reference to the Secretary of State;
  - (d) for subsection (2)(b) there were substituted—
    - “(b) it is given to the Secretary of State or the CMA more than four months before the day on which—
      - (i) in a case to which section 23(9)(a) applies, the foreign state intervention notice relating to them is given, or
      - (ii) in a case to which section 23(9)(b) applies, the CMA gives its report relating to them under [section 70B](#); or
    - (c) the facts are made public more than four months before the day on which—
      - (i) in a case to which section 23(9)(a) applies, the foreign state intervention notice relating to them is given, or
      - (ii) in a case to which section 23(9)(b) applies, the CMA gives its report relating to them under [section 70B](#).”.
- (4) Section 25 is to be read as if—
- (a) subsections (4) and (5) were omitted;
  - (b) the powers to extend time-limits under section 25 were not exercisable by the CMA before the giving of a foreign state intervention notice by the Secretary of State.
- (5) Section 26 is to be read as if—
- (a) in subsection (3)—
    - (i) “materially” were omitted;
    - (ii) for “may, for the purposes of subsections (1) and (2), be treated” there were substituted “is to be treated, for the purposes of subsections (1) and (2),”;
  - (b) for subsection (4) there were substituted—
 

“(4) For the purposes of subsection (1), in so far as it relates to bringing two or more enterprises under common control, where a foreign power is already able to control or influence the policy of a person carrying on a newspaper enterprise to some extent, the foreign power is to be treated as bringing the newspaper enterprise under its control if anything is done

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which results in the foreign power being able to control or influence the policy of that person to a greater extent (whether by virtue of acquiring more shares or voting rights in the person, directly or indirectly, or otherwise).”

- (6) Section 27 is to be read as if—
- (a) references to the “decision-making authority” were to “the CMA or the Secretary of State”;
  - (b) in subsection (5), for “a reference” there were substituted “deciding whether or when a foreign state newspaper merger situation has been created”.
- (7) Section 28 is to be read as if, in subsection (4), the reference to the “decision-making authority” were to “the CMA or the Secretary of State”.
- (8) Section 29 is to be read as if—
- (a) in subsection (1)—
    - (i) the reference to the “decision-making authority” were to “the CMA or the Secretary of State”;
    - (ii) for “a reference” there were substituted “deciding whether or when a foreign state newspaper merger situation has been created”;
  - (b) in subsection (2)(a)(i) “materially” were omitted;
  - (c) in subsection (2)(a)(ii), for “degree” there were substituted “extent”;
  - (d) subsection (2)(b) and (3) were omitted.

### **Application of the Enterprise Act 2002 (Anticipated Mergers) Order 2003 (S.I. 2003/1595)**

- 2 (1) The Enterprise Act 2002 (Anticipated Mergers) Order 2003 applies for the purposes of [Chapter 3A](#) of Part 1, subject to the following modifications.
- (2) In Article 3, the words before paragraph (a) are to be read as if, for “in relation to references and notices”, there were substituted “for the purposes of [Chapter 3A](#) of Part 1 of the Act”.
- (3) Article 3(a) is to be read as if—
- (a) in the substituted version of section 27(5), for “a reference” there were substituted “deciding whether or when a foreign state news paper merger situation will be created”;
  - (b) the substituted version of section 27(6)(a)(i), for “the reference” there were substituted “the foreign state intervention notice relating to the situation”.
- (4) Article 3(b) is to be read as if—
- (a) in the substituted section 29(2)(a)(i), “materially” were omitted;
  - (b) in the substituted section 29(2)(a)(ii), for “degree” there were substituted “extent”;
  - (c) in the substituted section 29(4), for “the reference” there were substituted “the foreign state intervention notice”.

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## SCHEDULE 6B

Section 70A

### CONTROL OR INFLUENCE OF A PERSON BY A FOREIGN POWER

#### PART 1

##### CONDITIONS FOR CONTROL OR INFLUENCE

- 1 (1) A foreign power is able to control or influence the policy of a person for the purposes of [section 70A](#) if one or more of the following conditions is met.
  - (2) Condition 1 is that the foreign power holds, directly or indirectly, any of the shares in the person.
  - (3) Condition 2 is that the foreign power holds, directly or indirectly, any of the voting rights in the person.
  - (4) Condition 3 is that the foreign power holds the right, directly or indirectly, to appoint or remove an officer of the person.
  - (5) Condition 4 is that the foreign power has the right or ability to direct, control or influence to any extent, the person’s policy or activities (in whole or in part, and whether directly or indirectly), despite not meeting condition 1, 2 or 3.
  - (6) Condition 5 is that—
    - (a) the trustees of a trust, or the members of a partnership, unincorporated association or other entity, that is not a legal person under the law by which it is governed, would, if they were a foreign power, meet one or more of conditions 1 to 4 (in their capacity as such) in relation to the person, and
    - (b) the foreign power has the right or ability to direct, control or influence to any extent the activities of that trust or entity (in whole or in part, and whether directly or indirectly), or has any other interest in, or right over or in relation to, the trust or entity, or any of the trustees of the trust or the members of the entity, whether directly or indirectly.
  
- 2 In this Schedule, “officer”—
  - (a) in relation to a body corporate, means a director, member of the committee of management, chief executive, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity;
  - (b) in relation to a partnership, means a partner, a person purporting to act as a partner or a person concerned in the management or control of the partnership or who purports to act in the capacity of a person so concerned;
  - (c) in relation to an unincorporated association other than a partnership, means a person who is concerned in the



management or control of the association or purports to act in the capacity of a person so concerned.

## PART 2

### INTERPRETATION

#### Interpretation

3 This Part makes provision about the interpretation of this Schedule.

#### Joint interests

4 If a foreign power holds a share or right jointly with another person (whether or not a foreign power), each of those persons is to be taken to hold that share or right.

#### Joint arrangements

- 5
- (1) If shares or rights held by a foreign power and shares or rights held by another person (whether or not a foreign power) are the subject of a joint arrangement between those persons, each of those persons is to be taken to hold the combined shares or rights of both persons.
  - (2) A “joint arrangement” is an arrangement between the holders of shares (or rights) that they will exercise all or substantially all the rights conferred by their respective shares (or rights) jointly in a way that is pre-determined by the arrangement.
  - (3) For the meaning of “arrangement”, see paragraph 12.

#### Calculating shareholdings

- 6
- (1) In relation to a person that has a share capital, a reference to holding any of the shares in that person is to holding any shares comprised in the issued share capital of that person.
  - (2) In relation to a person that does not have a share capital, a reference to holding any of the shares in that person is to holding a right to share to any extent in the capital or, as the case may be, profits of that person.

#### Voting rights

- 7
- (1) A reference to the voting rights in a person is to the rights conferred on shareholders in respect of their shares (or, in the case of a person not having a share capital, on members) to vote at general meetings of the person on all or substantially all matters.
  - (2) In relation to a person that does not have general meetings at which matters are decided by the exercise of voting rights, a reference to exercising voting rights in the person is to be read as a reference to exercising rights in relation to the person that are equivalent to those of a person entitled to exercise voting rights in a company.

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- 8 In applying this Schedule, voting rights in a person held by the person itself are to be disregarded.

#### **Shares or rights held “indirectly”**

- 9 (1) A foreign power holds a share “indirectly” if the foreign power has any stake in a person and that person—
- (a) holds the share in question, or
  - (b) is part of a chain of persons—
    - (i) each of which (other than the last) has any stake in the person immediately below it in the chain, and
    - (ii) the last of which holds the share.
- (2) A foreign power holds a right “indirectly” if the foreign power has any stake in a person and that person—
- (a) holds that right, or
  - (b) is part of a chain of persons—
    - (i) each of which (other than the last) has any stake in the person immediately below it in the chain, and
    - (ii) the last of which holds that right.
- (3) For the purposes of [sub-paragraphs \(1\) and \(2\)](#), a person (“A”) has “any stake” in another person (“B”) if—
- (a) A holds any shares or voting rights in B,
  - (b) A is a member of B and has the right to appoint or remove an officer of B,
  - (c) A is a member of B and controls alone, or pursuant to an agreement with other shareholders or members, any of the voting rights in B, or
  - (d) A has the right or ability to control or influence B to any extent, despite not being within [paragraph \(a\), \(b\) or \(c\)](#).

#### **Shares held by nominees**

- 10 A share held by a person as a nominee for another is to be treated as held by the other (and not by the nominee).

#### **Rights treated as held by person who is able to control their exercise**

- 11 (1) Where a person controls a right, the right is to be treated as held by that person (and not by the person who in fact holds the right, unless that person also controls it).
- (2) A person “controls” a right if, by virtue of any arrangement between that person and others, the right is exercisable only—
- (a) by that person,
  - (b) in accordance with that person’s directions or instructions, or
  - (c) with that person’s consent or concurrence.

### **Arrangements**

- 12 (1) For the purposes of this Schedule, “arrangement” includes—
- (a) any scheme, agreement or understanding, whether or not it is legally enforceable, and
  - (b) any convention, custom or practice of any kind.
- (2) But something does not count as an arrangement unless there is at least some degree of stability about it (whether by its nature or terms, the time it has been in existence or otherwise).

### **Rights exercisable only in certain circumstances etc**

- 13 (1) Rights that are exercisable only in certain circumstances are to be taken into account only—
- (a) where the circumstances have arisen, and for so long as they continue to obtain, or
  - (b) when the circumstances are within the control of the person having the rights.
- (2) But rights that are exercisable by an administrator or by creditors while a person is in relevant insolvency proceedings are not to be taken into account even while the person is in those proceedings.
- (3) “Relevant insolvency proceedings” means—
- (a) administration within the meaning of the Insolvency Act 1986,
  - (b) administration within the meaning of the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)), or
  - (c) proceedings under the insolvency law of another country or territory during which a person’s assets and affairs are subject to the control or supervision of a third party or creditor.
- (4) Rights that are normally exercisable but are temporarily incapable of exercise are to continue to be taken into account.

### **Rights attached to shares held by way of security**

- 14 Rights attached to shares held by way of security provided by a person are to be treated for the purposes of this Schedule as held by that person—
- (a) where apart from the right to exercise them for the purpose of preserving the value of the security, or of realising it, the rights are exercisable only in accordance with that person’s instructions, and
  - (b) where the shares are held in connection with the granting of loans as part of normal business activities and apart from the right to exercise them for the purpose of preserving the value of the security, or of realising it, the rights are exercisable only in that person’s interests.

### PART 3

#### POWER TO AMEND CIRCUMSTANCES IN WHICH THERE IS CONTROL OR INFLUENCE

- 15 (1) The Secretary of State may by regulations make provision—
- (a) to change (by increasing or decreasing) the proportion of shares or rights which a foreign power must hold in a person carrying on a newspaper enterprise, whether directly or indirectly, in order for the foreign power to be able to control or influence the policy of a person for the purposes of [section 70A](#);
  - (b) to change (by increasing or decreasing) the proportion of shares or rights which is to be held by persons in a chain of persons for the purposes of determining whether shares or rights are held indirectly;
  - (c) about assumptions which are to be made when determining whether a foreign power is able to control or influence the policy of a person, including assumptions framed by reference to the ownership of shares or voting rights by any person;
  - (d) about the extent to which a foreign power needs to be able to control or influence the policy of a person in order to control or influence that policy for the purposes of [section 70A](#), including provision about a foreign power that is already able to control or influence the policy of a person to some extent being able to control or influence that policy to a greater extent;
  - (e) to change or supplement [Part 1](#) of this Schedule so as to include circumstances (for example, circumstances involving more complex structures) that give a foreign power a level of control or influence in relation to the policy of a person broadly similar to the level of control or influence given by the conditions in paragraph 1;
  - (f) in consequence of any provision made by virtue of [paragraph \(e\)](#), to change or supplement [Part 2](#) of this Schedule so that circumstances specified in that Part in which a person is to be regarded as holding an interest in another person correspond to any of the conditions in paragraph 1, or would do so but for the extent of the interest.
- (2) The provision that may be made under this paragraph, read with [section 124\(2\)\(a\)](#), includes—
- (a) different provision for different descriptions of foreign power, and
  - (b) different provision for different persons or descriptions of person in a chain of persons.
- (3) Regulations under this paragraph may, among other things—
- (a) confer a discretion on the CMA;
  - (b) make provision having effect on or after 13 March 2024.”

### Further amendments

- 4 (1) In section 86 (enforcement orders: general provisions), in subsection (6), after “section” insert “70C,”.
- (2) In section 88 (contents of certain enforcement orders), in subsection (1), after “section” insert “70C,”.
- (3) In section 94(8) (rights to enforce certain orders)—
- (a) after “made by the Secretary of State under” insert “[section 70C\(2\)](#),”;
  - (b) for “paragraph 2 of that Schedule” substitute “paragraph 2 of Schedule 7”.
- (4) In section 107 (further publicity requirements)—
- (a) in subsection (3), after paragraph (g) insert—
    - “(ga) any foreign state intervention notice given by the Secretary of State;
    - (gb) any report of the CMA under [section 70B](#) which the Secretary of State has received,”;
  - (b) after subsection (11) insert—
    - “(12) The Secretary of State must publish any report of the CMA under [section 70B](#) which the Secretary of State has received within the period of 7 days beginning with the day on which the Secretary of State receives the report.”
- (5) In section 109 (attendance of witnesses and production of documents etc), in subsection (A1)(b), at the end insert “or a foreign state intervention notice under [section 70A](#)”.
- (6) In section 110A (restriction on powers to impose penalties under section 110), after subsection (8) insert—
  - “(8A) Where the section 109 power is exercised for the purpose mentioned in section 109(A1)(b) in connection with a matter that is the subject of a foreign state intervention notice under [section 70A](#), the relevant day is the day when the matter to which the notice relates is finally determined under [Chapter 3A](#) (see [section 70F](#)).”
- (7) In section 118 (excisions from reports), in subsection (1)—
- (a) omit the “or” at the end of paragraph (aa), and
  - (b) at the end of paragraph (b) insert “, or
  - (c) a report of the CMA under [section 70B](#).”
- (8) In section 120 (review of decisions under Part 3), in subsection (1A), after paragraph (a) insert—
  - “(aa) a decision of the CMA or the Secretary of State in connection with a foreign state newspaper merger situation,”.
- (9) In section 124 (orders and regulations under Part 3)—
- (a) in subsection (3)—
    - (i) after “59(6A)” insert “, [70G](#)”;
    - (ii) after “above” insert “, or [paragraph 15](#) of [Schedule 6B](#),”;
  - (b) in subsection (5), after “65(3),” insert “[70C](#)”;
  - (c) after subsection (6) insert—

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- “(6A) A statutory instrument containing regulations under [section 70G](#) or [paragraph 15 of Schedule 6B](#) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”;
- (d) in subsection (10), after “58(3)” insert “or [70G](#), or [paragraph 15 of Schedule 6B](#)”.
- (10) In section 127 (associated persons), in subsection (1)—
- (a) omit the “and” at the end of paragraph (aa), and
- (b) after that paragraph insert—
- “(ab) for the purposes of [section 70A\(3\)](#)”.
- (11) In section 129 (other interpretation provisions), in subsection (1), at the appropriate place insert—
- ““foreign state intervention notice” means a notice under [section 70A\(1\)](#);  
“foreign state newspaper merger situation” is to be interpreted in accordance with [section 70A\(3\)](#)”.
- (12) In the table in section 130 (index of defined expressions), at the appropriate place insert—

“Foreign state intervention notice	<a href="#">Section 70A(1)</a>
Foreign state newspaper merger situation	<a href="#">Section 70A(3)</a> ”

- (13) In Schedule 8 (provision that may be contained in certain enforcement orders), in paragraph 20A (newspaper mergers), after sub-paragraph (1) insert—
- “(1A) This paragraph also applies in relation to an order under [section 70C\(2\)](#) (order to prevent foreign control of a newspaper enterprise).”
- (14) In Schedule 10 (procedural requirements for certain enforcement undertakings and orders)—
- (a) in paragraph 1(b), for “section 75” substitute “[section 70C](#), 75”;
- (b) in paragraph 6(b), for “section 75” substitute “[section 70C](#), 75”.

## SCHEDULE 8

Section 137

### ACCEPTANCE OF UNDERTAKINGS AT ANY STAGE OF A MARKET STUDY OR INVESTIGATION

- 1 Part 4 of EA 2002 (market studies and market investigations) is amended as follows.
- 2 (1) Section 131B (market studies and the making of decisions to refer: time-limits) is amended as follows.
- (2) In subsection (4), in paragraph (b), after “proposes to take” insert “, or has taken,”.
- (3) In subsection (5), in paragraph (a), for “section 154 instead of” substitute “[section 154A](#) instead of, or in addition to,”.
- 3 (1) Section 133A (functions to be exercised by CMA groups) is amended as follows.
- (2) In subsection (1), after paragraph (b) insert—

- “(ba) [section 154A](#), so far as relating to undertakings in lieu of a report;”.
- (3) In subsection (2), before paragraph (a) insert—
- “(za) [section 154A](#), so far as relating to undertakings in lieu of a report;”.
- 4 In section 136 (investigations and reports on market investigation references), in subsection (2), after paragraph (a) insert—
- “(aa) any decision of the CMA under [section 154A](#) to accept an undertaking partially in lieu of a report;”.
- 5 (1) Section 139 (public interest intervention by the Secretary of State) is amended as follows.
- (2) In subsection (1A), in paragraph (a), for “under section 154” substitute “fully in lieu of a reference under [section 154A](#)”.
- (3) In subsection (1B), in paragraph (a), for “under section 154” substitute “fully in lieu of a reference under [section 154A](#)”.
- (4) In subsection (2), in paragraph (a), in sub-paragraph (i), for “undertaking under section 154 instead of making a reference under section 131” substitute “undertaking in lieu of a reference under [section 154A](#)”.
- (5) In subsection (4C), for “154” substitute “[154A](#)”.
- 6 (1) Section 140 (intervention notices under section 139(1)) is amended as follows.
- (2) In subsection (5), in paragraph (za), for “under section 154” to the end substitute “fully in lieu of a reference under [section 154A](#)”.
- (3) In subsection (6A), for “154” substitute “[154A](#)”.
- 7 In section 150 (power of veto of Secretary of State), in subsection (A1) for “under section 154” substitute “in lieu of a reference under [section 154A](#)”.
- 8 For section 154 (and the italic heading immediately before it) substitute—

*“Undertakings in lieu*

**154A Undertakings fully or partially in lieu of references or reports**

- (1) This section applies where—
- no market study notice has been published under section 130A but the CMA considers that it has the power to make a market investigation reference under section 131 and (subject to taking action under this section) intends to make such a reference,
  - a market study notice has been published under section 130A but no market investigation reference has been made under section 131, or
  - a market investigation reference has been made under section 131 or 132 but no report under section 136 has been published.
- (2) The CMA may accept, from such persons as it considers appropriate, undertakings to take such action as it considers appropriate for the purposes of remedying, mitigating or preventing (to any extent)—
- any adverse effect on competition concerned, or
  - any detrimental effect on customers so far as—

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- (i) it has resulted from the adverse effect on competition, or
  - (ii) it may be expected to result from the adverse effect on competition.
- (3) An undertaking under this section is known as—
  - (a) an “undertaking in lieu of a reference” where it is accepted in circumstances where this section applies by virtue of [subsection \(1\)\(a\)](#) or [\(b\)](#);
  - (b) an “undertaking in lieu of a report” where it is accepted in circumstances where this section applies by virtue of [subsection \(1\)\(c\)](#).
- (4) The CMA may accept—
  - (a) undertakings in lieu of a reference either—
    - (i) instead of making a reference under section 131 (in which case the undertakings are known as “undertakings fully in lieu of a reference”), or
    - (ii) in addition to making a reference under that section (in which case the undertakings are known as “undertakings partially in lieu of a reference”);
  - (b) undertakings in lieu of a report either—
    - (i) instead of publishing a report under section 136 (in which case the undertakings are known as “undertakings fully in lieu of a report”), or
    - (ii) in addition to publishing a report under that section (in which case the undertakings are known as “undertakings partially in lieu of a report”).
- (5) In accepting undertakings fully in lieu of a reference or undertakings fully in lieu of a report, the CMA must, in particular, have regard to the need to achieve as comprehensive a solution as is reasonable and practicable to—
  - (a) the adverse effect on competition concerned, and
  - (b) any detrimental effects on customers so far as resulting from the adverse effect on competition.
- (6) In accepting an undertaking under this section, the CMA may, in particular, have regard to the effect of any action on any relevant customer benefits of the feature or features of the market or markets concerned.
- (7) Where no detrimental effect on customers has yet resulted from an adverse effect on competition, the CMA may not accept an undertaking under this section to remedy, mitigate or prevent a detrimental effect on customers so far as it may be expected to result from that adverse effect on competition unless the adverse effect on competition is also being remedied, mitigated or prevented (whether or not by the same undertaking).
- (8) An undertaking under this section—
  - (a) comes into force when accepted;
  - (b) may be varied or superseded by another undertaking;
  - (c) may be released by the CMA.



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- (9) The CMA must, as soon as reasonably practicable, consider any representations received by it in relation to varying or releasing an undertaking under this section.
- (10) This section is subject to sections 150 and 155.”
- 9 (1) Section 155 (undertakings in lieu: procedural requirements) is amended as follows.
- (2) In subsection (1), for “154” substitute “154A”.
- (3) For subsection (3) substitute—
- “(3A) The matters to be included in a notice under subsection (1) by virtue of subsection (2) include, in particular, the adverse effect on competition, and any detrimental effect on customers so far as resulting from the adverse effect on competition, which the CMA has identified.”
- (4) In subsection (10), for “154” substitute “154A”.
- 10 (1) Section 156 (effect of undertakings under section 154) is amended as follows.
- (2) In the heading, for “under section 154” substitute “in lieu”;
- (3) In subsection (A1)—
- (a) in paragraph (a), for “154” substitute “154A”;
- (b) in paragraph (b)—
- (i) for “the” in the first place it occurs substitute “any”;
- (ii) for “the same as the” substitute “a”.
- (4) In subsection (1)—
- (a) in paragraph (a), for “under section 154” substitute “in lieu of a reference under [section 154A](#)”;
- (b) omit the “and” after paragraph (a);
- (c) after paragraph (a) insert—
- “(ab) any feature or combination of features to which the undertaking or group of undertakings relates is a feature or combination of features to which the reference would relate; and”.
- (5) In subsection (3), in the words before paragraph (a), for “154” substitute “154A”.
- (6) After subsection (3) insert—
- “(4) Where the CMA has, under [section 154A](#), accepted an undertaking, or group of undertakings, in lieu of a report the CMA is not required by virtue of section 134 to make the decisions referred to in subsections (1) and (1A) of that section in relation to a feature, or features, to which the undertaking, or group of undertakings, relate.
- (5) Accordingly, a report under section 136 is not required, and the duty under section 138 does not arise, if the CMA accepts an undertaking fully in lieu of a report.
- (6) Instead, where the CMA accepts an undertaking fully in lieu of a report the CMA must prepare and publish a report containing—
- (a) the CMA’s decision to accept the undertaking,

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- (b) the reasons for the decision, and
- (c) such information as the CMA considers appropriate for facilitating a proper understanding of the decision and its reasons for the decision.

(7) For provision equivalent to [subsection \(6\)](#) in the case where the CMA accepts an undertaking partially in lieu of a report, see [section 136\(2\)\(aa\)](#).”

11 After section 156 insert—

*“Interim undertakings and orders”.*

12 After section 158 insert—

*“Final undertakings and orders”.*

13 (1) Section 162 (duty of CMA to monitor the carrying out of undertakings and orders: Part 4) is amended as follows.

(2) In subsection (4), in paragraphs (a) and (b), for “154” substitute “[154A](#)”.

(3) In subsection (8), in the definition of “enforcement undertaking”, for “154” substitute “[154A](#)”.

14 In section 169(6) (certain duties of relevant authorities to consult: Part 4), in paragraph (a)(ia) of the definition of “relevant decision”, for “under section 154” to the end substitute “in lieu of a reference under [section 154A](#)”.

15 (1) Section 174C (section 174B: supplementary provision) is amended as follows.

(2) In subsection (3), in paragraph (b), for “under section 154 instead of making such a reference” substitute “fully in lieu of a reference under [section 154A](#)”.

(3) In subsection (5), for “154” substitute “[154A](#)”.

16 In section 183 (interpretation: Part 4), in subsection (3), in paragraph (a)—

(a) omit the “or” at the end of sub-paragraph (iii);

(b) after that sub-paragraph insert—

“(iiiia) the CMA has accepted an undertaking fully in lieu of a report under [section 154A](#); or”.

17 In Schedule 4 to the Enterprise and Regulatory Reform Act 2013 (the CMA), in Part 2 (the CMA Board), in paragraph 29 (delegation), in sub-paragraph (2)(e), for “under section 154” substitute “in lieu of a reference under [section 154A](#)”.

## SCHEDULE 9

Section 138

### FINAL UNDERTAKINGS AND ORDERS: POWER TO CONDUCT TRIALS

1 Part 4 of EA 2002 (market studies and market investigations) is amended as follows.

2 (1) Section 133A (functions to be exercised by CMA groups) is amended as follows.

(2) In subsection (1)—

(a) in paragraph (a), for “138B” substitute “137”;

(b) after that paragraph insert—

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- “(aa) sections 138 to 138B so far as relating to an adverse effect on competition in respect of which the CMA is required to take action in accordance with section 138(2) within the period permitted by section 138A(1);”;
- (c) after paragraph (f) insert—  
“(fa) [section 161C](#);”.
- (3) In subsection (2), after paragraph (c) insert—  
“(ca) [section 162B](#);”.
- 3 (1) Section 138A (time-limits for discharging duty under section 138) is amended as follows.
- (2) Before subsection (1) insert—  
“(A1) [Subsection \(A3\)](#) applies in relation to an adverse effect on competition in respect of which the CMA—  
(a) has begun an implementation trial under [section 161C](#), or  
(b) considers that it is not reasonably practicable to discharge its duty under section 138(2) in accordance with subsection (1) as a result of such an implementation trial in respect of another adverse effect on competition.  
(A2) Subsection (1) applies in relation to any other adverse effect on competition.  
(A3) Where this subsection applies, the CMA must discharge its duty under section 138(2) before the day specified under [section 161D\(5\)\(b\)\(ii\)](#).”
- (3) In subsection (1), at the beginning insert “Where this subsection applies,”.
- (4) In subsection (2), after “discharged” insert “in accordance with subsection (1)”.
- 4 After [section 161A](#) (acceptance of enforcement undertakings: Part 4) (inserted by [paragraph 16](#) of [Schedule 11](#)) insert—

*“Implementation trials of final orders and undertakings*

**161B Implementation trials: purpose and interpretation**

- (1) This section and [sections 161C](#) to [161E](#) make provision in relation to the acceptance of undertakings and making of orders by a relevant authority on a trial basis for the purpose of assessing the effectiveness of qualifying remedial action (and the acceptance of undertakings and making of orders on that basis is referred to in this Part as an “implementation trial”).
- (2) In this section and in [sections 161C](#) to [161E](#) “relevant authority” means the CMA or the Secretary of State.
- (3) In this Part—  
“implementation trial measure” means an undertaking accepted, or order made, under [section 161C](#) (and references to the imposition of such a measure are to be read as the acceptance of an undertaking or the making of an order, as the case may be);  
“implementation trial period” means, in relation to an implementation trial measure, the period—

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- (a) beginning with the day on which the relevant authority begins the implementation trial, and
  - (b) ending with the last day on which the implementation trial measure is to have effect (see [subsections \(4\) and \(5\)](#));
- “qualifying remedial action” means remedial action in respect of—
- (a) a matter concerning the provision or publication of information to consumers (whether directly or through an intermediary), or
  - (b) any other matter specified in regulations made by the Secretary of State;
- “relevant adverse effect” means—
- (a) where the relevant authority is the CMA, an adverse effect on competition identified in the report mentioned in section 138(1);
  - (b) where the relevant authority is the Secretary of State—
    - (i) an adverse effect on competition identified in the report mentioned in section 146(1);
    - (ii) an effect adverse to the public interest identified in the report mentioned in section 146A(1);
- “remedial action” means an action—
- (a) where the relevant authority is the CMA, to be taken in accordance with section 138(2) or [section 162A\(5\)](#);
  - (b) where the relevant authority is the Secretary of State, to be taken in accordance with section 147(2) or 147A(2) (as the case may be).
- (4) The last day on which an implementation trial measure is to have effect is the earlier of—
- (a) the day specified under [section 161D\(5\)\(b\)\(ii\)](#), and
  - (b) the day on which action is taken under section 138(2), 147(2) or 147A(2) (as the case may be) in relation to the relevant adverse effect which the relevant authority considers concerns the same qualifying matter.
- (5) But where—
- (a) an implementation trial measure is imposed in accordance with this section, and
  - (b) the CMA extends, under section 138A(3), the period within which its duty under section 138(2) is required to be discharged in accordance with section 138A(A3) in relation to the measure,
- the last day on which the implementation trial measure is to have effect is the last day of that period as so extended.

### **161C Power to conduct implementation trials**

- (1) The CMA may, in relation to a market investigation reference, begin an implementation trial where—
- (a) subsection (2) of section 138 applies (see subsection (1) of that section), and

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- (b) the CMA has not taken, but is minded to take, qualifying remedial action.
- (2) The Secretary of State may, in relation to a restricted PI reference or a full PI reference, begin an implementation trial where—
  - (a) subsection (2) of section 147, or subsection (2) of 147A (as the case may be), applies (see subsection (1) of the section in question), and
  - (b) the Secretary of State has not taken, but is minded to take, qualifying remedial action.
- (3) [Subsections \(1\) and \(2\)](#) are subject to the duty to publish notices in [section 161D](#).
- (4) The relevant authority begins an implementation trial by—
  - (a) accepting, from such persons as the relevant authority considers appropriate, undertakings under this section to take action specified or described in the undertakings, or
  - (b) making an order under this section,for the purposes of assessing, during the implementation trial period, the likely effectiveness of the qualifying remedial action.
- (5) Where the relevant authority begins an implementation trial, the relevant authority may also—
  - (a) accept, from such persons as the relevant authority considers appropriate, undertakings under this section to take action specified or described in the undertakings, or
  - (b) make an order under this section,in the circumstances mentioned in subsection (6).
- (6) The circumstances are that the relevant authority considers that accepting the undertakings or making the order would be likely to contribute to, or otherwise be of use for purposes of, remedying, mitigating or preventing, during the implementation trial period—
  - (a) an adverse effect on competition identified in the report concerned or (as the case may be) an effect adverse to the public interest which has resulted from, or may be expected to result from, the features or combinations of features mentioned;
  - (b) any detrimental effect on customers so far as it has resulted from, or may be expected to result from, any such adverse effect on competition.

#### **161D Implementation trials: notices**

- (1) Before the relevant authority begins an implementation trial under [section 161C\(4\)](#), the relevant authority must publish—
  - (a) a provisional implementation trial notice, and
  - (b) a final implementation trial notice (but see [subsection \(4\)](#)).
- (2) A provisional implementation trial notice must—
  - (a) specify each implementation trial measure the relevant authority is minded to impose for the purposes of the implementation trial;

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- (b) specify the relevant adverse effect with which each measure is seeking to deal;
  - (c) specify any other facts which the relevant authority considers justify the imposition of each measure;
  - (d) specify, in relation to each measure—
    - (i) how the relevant authority intends to assess the likely effect of the measure, and
    - (ii) the last day on which the relevant authority intends for the measure to have effect;
  - (e) invite the making of representations by the persons on which the relevant authority is minded to impose one or more implementation trial measure (“implementation trial participants”) about the matters set out in the notice;
  - (f) specify the means by which, and the time by which, such representations must be made.
- (3) The time specified under [subsection \(2\)\(f\)](#) by which representations must be made must be at least 15 days after the date on which the provisional implementation trial notice is published.
- (4) A relevant authority may publish a final implementation trial notice only where—
- (a) the relevant authority has published a provisional implementation trial notice under [subsection \(1\)](#),
  - (b) the time for the implementation trial participants to make representations to the relevant authority in accordance with the notice has expired, and
  - (c) after considering such representations (if any), it appears to the relevant authority that it is appropriate to begin an implementation trial under [section 161C\(4\)](#).
- (5) A final implementation trial notice must specify—
- (a) the implementation trial measures the relevant authority intends to impose for the purposes of the implementation trial,
  - (b) in relation to each such measure—
    - (i) how the relevant authority intends to assess the likely effect of the measure, and
    - (ii) the last day on which the measure is to have effect.

### **161E Implementation trials: supplementary**

- (1) The relevant authority may not accept an undertaking from a person under [section 161C](#) unless it has provided the person with information about the possible consequences of failing to comply with the undertaking.
- (2) The CMA may not begin an implementation trial under [section 161C\(4\)](#)—
  - (a) in respect of qualifying remedial action that would be taken in accordance with subsection (2) of section 138, after the end of the period within which the CMA would otherwise have been required to discharge its duty under that subsection;

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- (b) in respect of qualifying remedial action that would be taken in accordance with [section 162A\(5\)](#), after the end of the period mentioned in [section 162A\(6\)](#).
- (3) Subsections (3), (5) and (6) of section 138 apply to action taken by the CMA under [section 161C](#) as they apply to action taken by the CMA under section 138(2).
- (4) Subsections (3)(b), (4), (5) and (6) of section 147 apply to action taken by the Secretary of State under [section 161C](#) in relation to a restricted PI reference as they apply to action taken by the Secretary of State under section 147(2).
- (5) Subsections (3) and (4)(b) of section 147A apply to action taken by the Secretary of State under [section 161C](#) in relation to a full PI reference as they apply to action taken by the Secretary of State under section 147A(2).
- (6) Subsections (3) to (5) of section 159 apply to undertakings accepted under [section 161C](#) as they apply to undertakings accepted under section 159(1).
- (7) Subsections (3) and (4) of section 161 apply to orders made under [section 161C](#) as they apply to orders made under section 161(1).”

5 After section 162A (inserted by [section 139\(4\)](#)) insert—

**“162B Power to vary etc undertakings and orders: implementation trials**

- (1) This section applies in relation to implementation trial measures imposed in accordance with [section 161C](#).
- (2) The CMA must keep under review the effectiveness of the implementation trial measures.
- (3) The CMA must, in particular, from time to time consider—
  - (a) whether an implementation trial measure has been or is being complied with;
  - (b) whether an undertaking accepted under [section 161C](#) is no longer appropriate and—
    - (i) one or more of the parties to it can be released from it; or
    - (ii) it needs to be varied or to be superseded by a new undertaking under that section; and
  - (c) whether an order made under [section 161C](#) is no longer appropriate and needs to be varied or revoked.
- (4) The CMA must, within the implementation trial period, give the Secretary of State such advice as it considers appropriate in relation to—
  - (a) any possible variation or release by the Secretary of State of an undertaking accepted by the Secretary of State under [section 161C](#);
  - (b) any possible new undertaking to be accepted by the Secretary of State under that section so as to supersede another undertaking given to the Secretary of State under that section;
  - (c) any possible variation or revocation by the Secretary of State of an order made by the Secretary of State under that section;



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- (d) any possible undertaking to be accepted by the Secretary of State under that section instead of an order made under that section, or any possible order to be made by the Secretary of State under that section instead of an undertaking accepted under that section.
  - (5) The relevant authority must, within the implementation trial period, take such action as it considers appropriate in relation to—
    - (a) any possible variation or release by the relevant authority of an undertaking accepted by it under [section 161C](#);
    - (b) any possible new undertaking to be accepted by the relevant authority under that section so as to supersede another undertaking given to it under that section;
    - (c) any possible variation or revocation by the relevant authority of an order made by it under that section;
    - (d) any possible undertaking to be accepted by the relevant authority under that section instead of an order made under that section, or any possible order to be made by the relevant authority under that section instead of an undertaking accepted under that section.
  - (6) But the relevant authority may not do anything under this section that would result in—
    - (a) the implementation trial period being extended;
    - (b) an order or undertaking made under [section 161C](#) being out of compliance with any provision of that section.
  - (7) In this section “relevant authority” has the meaning given by [section 161B\(2\)](#).
  - (8) Subsections (3), (5) and (6) of section 138 apply to action taken by the CMA under this section as those subsections apply to action taken by the CMA under section 138(2).
  - (9) Subsections (3)(b), (5) and (6) of section 147 apply to action taken by the Secretary of State under this section in respect of a restricted PI reference as those subsections apply to action taken by the Secretary of State under section 147(2).
  - (10) Subsection (3) of section 147A applies to action taken by the Secretary of State under this section in respect of a full PI reference as that subsection applies to action taken by the Secretary of State under section 147A(2).”
- 6 In section 165 (procedural requirements for certain undertakings and orders: Part 4)—
- (a) after “section 159” insert “or [161C](#)”;
  - (b) for “or 161” substitute “, 161 or [161C](#)”;
- 7 (1) Section 167 (rights to enforce undertakings and orders under Part 4) is amended as follows.
- (2) In subsection (1)—
- (a) the words from “any” to the end become paragraph (a);
  - (b) after that paragraph insert “;
    - (b) any undertaking accepted, or order made, under [section 161C](#).”



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- (3) In subsection (5), for “enforcement undertaking or enforcement order” substitute “undertaking or order to which this section applies”.
  - (4) In subsection (6), for “enforcement undertaking or an enforcement order” substitute “undertaking or order to which this section applies”.
  - (5) In subsection (9), for “enforcement undertaking or an enforcement order” substitute “undertaking or order to which this section applies”.
- 8 (1) [Section 167A](#) (enforcement of enforcement undertakings and orders: imposition of penalties) (inserted by [paragraph 18](#) of [Schedule 11](#)) is amended as follows.
- (2) In the heading, after “orders” insert “etc”.
  - (3) In subsection (1)—
    - (a) the words “an enforcement undertaking or enforcement order” become paragraph (a);
    - (b) after that paragraph insert “;  
(b) any undertaking accepted, or order made, under [section 161C](#).”
- 9 (1) In [section 167B](#) (penalties under [section 167A](#): amount) (inserted by [paragraph 18](#) of [Schedule 11](#)), [subsection \(5\)\(b\)](#) is amended as follows.
- (2) The words “the enforcement undertaking or enforcement order” become sub-paragraph (i).
  - (3) After that sub-paragraph insert “, or  
(ii) the undertaking accepted, or order made, under [section 161C](#).”
- 10 (1) In [section 169](#) (certain duties of relevant authorities to consult: Part 4), in subsection (6), paragraph (a) of the definition of “relevant decision” is amended as follows.
- (2) Omit the “and” at the end of sub-paragraph (iii).
  - (3) after that sub-paragraph insert—  
“(iv) to accept undertakings or make orders under [section 161C](#); and”.
- 11 In [section 172](#) (further publicity requirements: Part 4), in subsection (2), after paragraph (zb) insert—  
“(zc) any decision made by it under [section 138A\(A1\)\(b\)](#) that it is not reasonably practicable for the CMA to discharge its duty under [section 138\(2\)](#) in accordance with [section 138A\(1\)](#);”

## SCHEDULE 10

Section 143(1)

### CIVIL PENALTIES ETC IN CONNECTION WITH COMPETITION INVESTIGATIONS

#### PART 1

##### INVESTIGATIONS UNDER PART 1 OF CA 1998 (COMPETITION)

- 1        In Part 1 of CA 1998 (competition), Chapter 3 (investigation and enforcement) is amended as follows.
- 2        (1) In section 26 (investigations: powers to require documents and information), subsection (3) is amended as follows.
- (2) In the words before paragraph (a) omit “indicate”.
- (3) In paragraph (a), at the beginning insert “indicate”.
- (4) For paragraph (b) substitute—
- “(b) include information about the possible consequences of failing to comply with the notice.”
- 3        (1) In section 26A (investigations: power to ask questions), subsection (5) is amended as follows.
- (2) In the words before paragraph (a) omit “indicate”.
- (3) In paragraph (a), at the beginning insert “indicate”.
- (4) For paragraph (b) substitute—
- “(b) include information about the possible consequences of failing to comply with the notice.”
- 4        In section 27 (power to enter business premises without a warrant), in subsection (2), for paragraph (c) substitute—
- “(c) includes information about the possible consequences of failing to comply with the notice.”
- 5        (1) In section 29 (entry of premises under warrant: supplementary), subsection (1) is amended as follows.
- (2) In the words before paragraph (a) omit “indicate”.
- (3) In paragraph (a), at the beginning insert “indicate”.
- (4) For paragraph (b) substitute—
- “(b) include information about the possible consequences of failing to comply with the notice.”
- 6        (1) In section 40ZD (information relating to transferred EU anti-trust commitments and transferred EU anti-trust directions), subsection (3) is amended as follows.
- (2) The words from “indicates the subject matter” to the end become paragraph (a).
- (3) After that paragraph insert “, and
- (b) includes information about the possible consequences of failing to comply with the notice.”

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7 For the italic heading before section 40A substitute—

*“Civil sanctions: failure to comply with investigative requirements”*

8 Before section 40A (but after the italic heading substituted by [paragraph 7](#)) insert—

**“40ZE Enforcement of requirements: imposition of penalties**

- (1) The CMA may impose a penalty on a person in accordance with section 40A where the CMA considers that—
  - (a) the person has, without reasonable excuse, failed to comply with a requirement imposed on the person under section 26, 26A, 27, 28, 28A or 40ZD;
  - (b) the person has, without reasonable excuse, obstructed an officer acting in the exercise of the officer’s powers under section 27 or under a warrant issued under section 28 or 28A;
  - (c) the person, having been required to produce a document under section 26, 27, 28 or 28A, has, without reasonable excuse—
    - (i) destroyed or otherwise disposed of, falsified or concealed the document, or
    - (ii) caused or permitted the document’s destruction, disposal, falsification or concealment;
  - (d) the person has, without reasonable excuse, provided information that was false or misleading in a material particular to the CMA in connection with any function of the CMA under this Part;
  - (e) the person has, without reasonable excuse, provided information that was false or misleading in a material particular to another person knowing that the information was to be used for the purpose of providing information to the CMA in connection with any function of the CMA under this Part.
- (2) But the CMA may not proceed against a person under this section in relation to an act or omission which constitutes an offence under any of sections 42 to 44 if the person has, by reason of that act or omission, been found guilty of that offence.
- (3) In deciding whether and, if so, how to proceed under subsection (1) the CMA must have regard to the statement of policy which was most recently published under section 40B at the time when the act or omission concerned occurred.
- (4) In this section—
  - (a) the reference to the production of a document includes a reference to the production of a legible and intelligible copy of information recorded otherwise than in legible form;
  - (b) the reference to concealing a document includes a reference to destroying the means of reproducing information recorded otherwise than in legible form.
- (5) Sections 112 to 115 of the Enterprise Act 2002 (supplementary provisions about penalties) apply in relation to a penalty imposed under [subsection \(1\)](#) as they apply in relation to a penalty imposed under section 110(1) or (1A) of that Act, with the following modifications—

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- (a) any reference in those provisions to the appropriate authority is to be read as a reference to the CMA only;
  - (b) section 114(5A) is to be read as if the words “In the case of a penalty imposed on a person by the CMA or OFCOM,” were omitted;
  - (c) section 114(12) is to be read as if, for paragraph (b), there were substituted—
    - “(b) “relevant guidance” means the statement of policy which was most recently published under section 40B of the 1998 Act at the time when the act or omission concerned occurred.”
- 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)—
- (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 \(11\)](#)).”
- 10 (1) Section 40B (statement of policy on penalties) is amended as follows.
- (2) In subsection (1)—
- (a) for “use of its powers” substitute “exercise of functions”;
- (b) for “40A” substitute “[40ZE](#)”.
- (3) In subsection (2), for “40A” substitute “[40ZE](#)”.
- (4) In subsection (4), for “such persons” substitute “the Secretary of State and such other persons”.
- (5) After subsection (5) insert—
- “(5A) A statement or revised statement of policy may not be published under this section without the approval of the Secretary of State.”
- (6) Omit subsection (6).
- 11 (1) Section 42 (offences) is amended as follows.
- (2) For the heading substitute “Obstruction”.
- (3) After subsection (7) insert—
- “(8) A person is not guilty of an offence under subsection (5) or (7) by reason of any act or omission in relation to which the CMA has proceeded against the person under [section 40ZE\(1\)](#).”
- 12 In section 43 (destroying or falsifying documents), after subsection (1) insert—

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“(1A) A person is not guilty of an offence under subsection (1) by reason of any act or omission in relation to which the CMA has proceeded against the person under [section 40ZE\(1\)](#).”

13 In section 44 (false or misleading information), after subsection (2) insert—

“(2A) A person is not guilty of an offence under this section by reason of any act or omission in relation to which the CMA has proceeded against the person under [section 40ZE\(1\)](#).”

## PART 2

### INVESTIGATIONS UNDER PART 3 OF EA 2002 (MERGERS)

14 In Part 3 of EA 2002 (mergers), Chapter 5 (supplementary: investigation powers) is amended as follows.

15 (1) Section 110 (enforcement of powers under section 109: general) is amended as follows.

(2) In the heading, for “general” substitute “imposition of penalties”.

(3) For subsection (1) substitute—

“(1) The CMA may impose a penalty on a person in accordance with section 111 where the CMA considers that—

- (a) the person has, without reasonable excuse, failed to comply with any requirement of a notice under section 109;
- (b) the person has, without reasonable excuse, obstructed or delayed another person in the exercise of the other person’s powers under section 109(6);
- (c) the person has, without reasonable excuse, altered, suppressed or destroyed any document which the person has been required to produce by a notice under section 109.

(1A) The appropriate authority may impose a penalty on a person in accordance with section 111 where the authority considers that—

- (a) the person has, without reasonable excuse, supplied information that is false or misleading in a material respect to the authority in connection with any of the authority’s functions under this Part;
- (b) the person has, without reasonable excuse, supplied information that is false or misleading in a material respect to another person knowing that the information was to be used for the purpose of supplying information to the authority in connection with any function of the authority under this Part.

(1B) In this section, and in sections 111 to 117, “the appropriate authority” means—

- (a) the CMA;
- (b) the Secretary of State;
- (c) OFCOM.

(1C) But the appropriate authority may not proceed against a person under this section in relation to an act or omission which constitutes an offence under

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section 116A or 117 if the person has, by reason of that act or omission, been found guilty of that offence.”.

- (4) In subsection (2), for “subsection (1)” substitute “subsection (1)(a)”.
  - (5) Omit subsections (3) to (8).
  - (6) For subsection (9) substitute—
    - “(9) In deciding whether and, if so, how to proceed under subsection (1) or (1A) or section 39(4) or 51(4) (including that enactment as applied by section 65(3))—
      - (a) the CMA must have regard to the statement of policy which was most recently published under section 116 at the time when the act or omission concerned occurred;
      - (b) OFCOM must have regard to the statement of policy which was most recently published under section 392 of the Communications Act 2003 (penalties imposed by OFCOM) at the time when the act or omission concerned occurred.”
- 16 (1) Section 110A (restriction on powers to impose penalties under section 110) is amended as follows.
- (2) In subsection (1)—
    - (a) for “110(1) or (3)” substitute “110(1)(a) or (b)”;
    - (b) for “4” substitute “ten”.
  - (3) In subsection (2), for “the failure or (as the case may be) the obstruction or delay” substitute “the act or omission giving rise to the penalty”.
- 17 (1) Section 111 (penalties) is amended as follows.
- (2) In the heading, at the end insert “: amount”.
  - (3) In subsection (1)—
    - (a) for “(3)” substitute “(1A)”;
    - (b) for “the CMA” substitute “the appropriate authority”.
  - (4) In subsection (2) for “110(1)” substitute “110(1)(a)”.
  - (5) In subsection (3), for “section 110(3)” substitute “any of section 110(1)(b), (c) or (1A)”.
  - (6) In subsection (4)—
    - (a) for the words before paragraph (a) substitute “A penalty imposed under section 110(1) or (1A) on a person who does not own or control an enterprise 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 (4) insert—

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“(4A) A penalty imposed under section 110(1) or (1A) on any other person must not—

- (a) in the case of a fixed amount, exceed 1% of the total value of the turnover (both in and outside the United Kingdom) of the enterprises owned or controlled by the person;
- (b) in the case of an amount calculated by reference to a daily rate, for each day exceed 5% of the total value of the daily turnover (both in and outside the United Kingdom) of the enterprises owned or controlled by the person;
- (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) In subsection (5), in paragraph (a)—

- (a) for “notice under section 112” substitute “provisional penalty notice under section 112(A1)”;
- (b) in paragraph (b), in the words before sub-paragraph (i), for “the CMA” substitute “the appropriate authority”.

(9) Omit subsections (6) and (7).

(10) Before subsection (8) insert—

“(7A) The Secretary of State may by regulations amend subsection (4)(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)—

- (a) for “an order under subsection (4) or (6)” substitute “regulations under subsection (7A)”;
- (b) after “the CMA” insert “, OFCOM”.

(12) After subsection (8) insert—

“(9) The Secretary of State may by regulations make provision for determining, for the purposes of this section—

- (a) when an enterprise is to be treated as being controlled by a person;
- (b) the turnover and daily turnover (both in and outside the United Kingdom) of an enterprise.

(10) Regulations under subsection (9)(b) may, in particular, make provision as to—

- (a) the amounts which are, or which are not, to be treated as comprising an enterprise’s turnover or daily turnover;
- (b) the date, or dates, by reference to which an enterprise’s turnover, or daily turnover, is to be determined.

(11) Regulations under subsection (9) may, in particular, make provision enabling the appropriate authority to determine matters of a description specified in the regulations (including any of the matters mentioned in paragraphs (a) and (b) of subsection (10)).”

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—

- (a) contain a draft of the final penalty notice the appropriate authority is minded to give to the person under subsection (1),
- (b) invite the making of representations by the person to the authority about the proposed final penalty notice, and
- (c) 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)—

- (a) for “(3)” substitute “(1A)”;
- (b) 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)—

- (a) in the words before paragraph (a), after “The” insert “final penalty”;
- (b) in paragraph (a), for “the CMA” substitute “the appropriate authority”;
- (c) 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”;
- (d) in paragraph (e), for “the CMA” substitute “the appropriate authority”;
- (e) in paragraph (f), for “the CMA” substitute “the appropriate authority”.

(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”.

19 (1) Section 113 (payment and interest by instalments) is amended as follows.

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

(3) In subsection (4), for “the CMA” substitute “the appropriate authority”.

20 (1) Section 114 (appeals in relation to penalties) is amended as follows.

(2) In subsection (1), for “(3)” substitute “(1A)”

(3) In subsection (4), in the words before paragraph (a), for “the CMA” substitute “the appropriate authority”.

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- (4) In subsection (5), in paragraph (c), for “the CMA” substitute “the appropriate authority”.
- (5) After subsection (5) insert—
- “(5A) In the case of a penalty imposed on a person by the CMA or OFCOM, in considering what is appropriate for the purposes of subsection (5) the Competition Appeal Tribunal must have regard to the relevant guidance.”
- (6) In subsection (7), in paragraph (b), for “the CMA” substitute “the appropriate authority”.
- (7) In subsection (12)—
- (a) the words from ““the appropriate court”” to the end become paragraph (a);
- (b) after that paragraph insert—
- “(b) “the relevant guidance” means—
- (i) in the case of a penalty imposed on a person by the CMA, the statement of policy which was most recently published under section 116 at the time when the act or omission concerned occurred;
- (ii) in the case of a penalty imposed on a person by OFCOM, the statement of policy which was most recently published under section 392 of the Communications Act 2003 (penalties imposed by OFCOM) at the time when the act or omission concerned occurred.”
- 21 (1) Section 115 (recovery of penalties) is amended as follows.
- (2) In the words before paragraph (a), for “(3)” substitute “(1A)”.
- (3) In the words after paragraph (b), for “the CMA” in both places it occurs substitute “the appropriate authority”.
- 22 (1) Section 116 (statement of policy) is amended as follows.
- (2) For subsection (1) substitute—
- “(1) The CMA must prepare and publish a statement of policy in relation to—
- (a) the imposition of penalties under section 110, and
- (b) the enforcement of notices under section 109.”
- (3) In subsection (2), for “(3)” substitute “(1A)”.
- (4) In subsection (4), for “such” substitute “the Secretary of State and such other”.
- (5) After subsection (4) insert—
- “(5) A statement or revised statement of policy may not be published under this section without the approval of the Secretary of State.”
- 23 After section 116 insert—

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### “116A Intentional destruction etc of documents

- (1) A person (“P”) commits an offence if the person intentionally alters, suppresses or destroys any document which P has been required to produce by a notice under section 109.
  - (2) But P does not commit an offence under [subsection \(1\)](#) by reason of any act or omission if the CMA has proceeded against P under section 110(1) or [\(1A\)](#) in relation to that act or omission.
  - (3) A person who commits an offence under [subsection \(1\)](#) is liable—
    - (a) on summary conviction, to a fine not exceeding the statutory maximum;
    - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.
  - (4) In this section—
    - (a) the reference to the production of a document includes a reference to the production of a legible and intelligible copy of information recorded otherwise than in legible form;
    - (b) the reference to suppressing a document includes a reference to destroying the means of reproducing information recorded otherwise than in legible form.”
- 24 (1) Section 117 (false or misleading information) is amended as follows.
- (2) In sub-paragraph (1), in paragraph (a) for “the CMA, OFCOM or the Secretary of State” substitute “the appropriate authority”.
  - (3) In sub-paragraph (2), in the words after paragraph (b), for “the CMA, OFCOM or the Secretary of State” substitute “the appropriate authority”.
  - (4) After subsection (2) insert—

“(2A) A person does not commit an offence under subsection (1) or (2) by reason of any act or omission if the appropriate authority has proceeded against the person under section 110(1) or [\(1A\)](#) in relation to that act or omission.”
- 25 In section 120 (review of decisions under Part 3), in subsection (2), in paragraph (a), for “(3)” substitute “[\(1A\)](#)”.

## PART 3

### INVESTIGATIONS UNDER PART 4 OF EA 2002 (MARKET STUDIES AND MARKET INVESTIGATIONS)

- 26 In Part 4 of EA 2002 (market studies and market investigations), Chapter 4 (supplementary: investigation powers) is amended as follows.
- 27 (1) Section 174A (enforcement of powers under section 174: general) is amended as follows.
- (2) In the heading, for “general” substitute “imposition of penalties”.
  - (3) For subsection (1) substitute—

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“(1) The CMA may impose a penalty on a person in accordance with section 174D where the CMA considers that—

- (a) the person has, without reasonable excuse, failed to comply with any requirement of a notice under section 174;
- (b) the person has, without reasonable excuse, obstructed or delayed another person in the exercise of the other person’s powers under section 174(7);
- (c) the person has, without reasonable excuse, altered, suppressed or destroyed any document which the person has been required to produce by a notice under section 174.

(1A) The relevant authority may impose a penalty on a person in accordance with section 174D where the authority considers that—

- (a) the person has, without reasonable excuse, supplied information that is false or misleading in a material respect to the authority in connection with any of the authority’s functions under this Part;
- (b) the person has, without reasonable excuse, supplied information that is false or misleading in a material respect to another person knowing that the information was to be used for the purpose of supplying information to the authority in connection with any function of the authority under this Part.

(1B) In this section, and in sections 174B to 174D, “the relevant authority” means—

- (a) the CMA;
- (b) the Secretary of State;
- (c) the appropriate Minister (so far as the Minister is not the Secretary of State acting alone).

(1C) But the relevant authority may not proceed against a person under this section in relation to an act or omission which constitutes an offence under section 116A or 117 as applied by section 180 if the person has, by reason of that act or omission, been found guilty of that offence.”

(4) In subsection (2), for “subsection (1)” substitute “[subsection \(1\)\(a\)](#)”.

(5) Omit subsections (3) to (7).

(6) In subsection (8)—

- (a) for “(3)” substitute “[\(1A\)](#)”;
- (b) for “failure concerned or (as the case may be) the obstruction or delay” substitute “[act or omission](#)”.

(7) After subsection (9) insert—

“(10) Sections 112 to 115 apply in relation to a penalty imposed under section 174A(1) or [\(1A\)](#) as they apply in relation to a penalty imposed under section 110(1) or [\(1A\)](#), with the following modifications—

- (a) any reference in those provisions to the appropriate authority is to be read as a reference to the relevant authority within the meaning of this section;
- (b) section 114([5A](#)) is to be read as if the words “or OFCOM” were omitted;

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- (c) section 114(12) is to be read as if, for paragraph (b), there were substituted—
- “(b) “relevant guidance” means the statement of policy which was most recently published under section 174E at the time when the act or omission concerned occurred.””
- 28 (1) Section 174B (restriction on powers to impose penalties under section 174A) is amended as follows.
- (2) In subsection (1)—
- (a) for “174A(1) or (3)” substitute “174A(1)(a) or (b)”;
- (b) for “4” substitute “ten”.
- (3) In subsection (2), for “the failure or (as the case may be) the obstruction or delay” substitute “the act or omission giving rise to the penalty”.
- 29 (1) Section 174D (penalties) is amended as follows.
- (2) In the heading, at the end insert “: amount”.
- (3) In subsection (1)—
- (a) for “(3)” substitute “(1A)”;
- (b) for “the CMA” insert “the relevant authority”.
- (4) In subsection (2), in the words before paragraph (a), for “174A(1)” substitute “174A(1)(a)”.
- (5) In subsection (3), for “section 174A(3)” substitute “any of section 174A(1)(b), (c) or (1A)”.
- (6) In subsection (4)—
- (a) for the words before paragraph (a) substitute “A penalty imposed under section 174A(1) or (1A) on a person who does not own or control an enterprise 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 (4) insert—
- “(4A) A penalty imposed under section 174A(1) or (1A) on any other person must not—
- (a) in the case of a fixed amount, exceed 1% of the total value of the turnover (both in and outside the United Kingdom) of the enterprises owned or controlled by the person;
- (b) in the case of an amount calculated by reference to a daily rate, for each day exceed 5% of the total value of the daily turnover (both in and outside the United Kingdom) of the enterprises owned or controlled by the person;
- (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.”

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- (8) Omit subsections (5) and (6).
- (9) Before subsection (7) insert—
- “(6A) The Secretary of State may by regulations amend subsection (4)(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.”
- (10) In subsection (7), in the words before paragraph (a), for “an order under subsection (4) or (5)” substitute “regulations under [subsection \(6A\)](#)”.
- (11) In subsection (8), in paragraph (a)—
- (a) for “notice under section 112” substitute “provisional penalty notice under section 112([A1](#))”;
- (b) for “subsection (10)” substitute “section 174A([10](#))”.
- (12) Omit subsection (10).
- (13) After subsection (10) insert—
- “(11) The Secretary of State may by regulations make provision for determining, for the purposes of this section—
- (a) when an enterprise is to be treated as being controlled by a person;
- (b) the turnover and daily turnover (both in and outside the United Kingdom) of an enterprise.
- (12) Regulations under [subsection \(11\)\(b\)](#) may, in particular, make provision as to—
- (a) the amounts which are, or which are not, to be treated as comprising an enterprise’s turnover or daily turnover;
- (b) the date, or dates, by reference to which an enterprise’s turnover, or daily turnover, is to be determined.
- (13) Regulations under [subsection \(11\)](#) may, in particular, make provision enabling the relevant authority to determine matters of a description specified in the regulations (including any of the matters mentioned in paragraphs (a) and (b) of [subsection \(12\)](#)).”
- 30 (1) Section 174E (statement of policy on penalties) is amended as follows.
- (2) For subsection (1) substitute—
- “(1) The CMA must prepare and publish a statement of policy in relation to—
- (a) the imposition of penalties under section 174A, and
- (b) the enforcement of notices under section 174.”
- (3) In subsection (2), for “(3)” substitute “([1A](#))”.
- (4) In subsection (4), for “such” substitute “the Secretary of State and such other”.
- (5) After subsection (4) insert—
- “(5) A statement or revised statement of policy may not be published under this section without the approval of the Secretary of State.”

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- 31 In section 179 (review of decisions under Part 4), in subsection (2), in paragraph (a), for “(3)” substitute “(1A)”.
- 32 (1) Section 180 (offences) is amended as follows.
- (2) In subsection (1), after “Sections” insert “116A (intentional destruction etc of documents)”.
- (3) For subsection (2) substitute—
- “(1A) For the purposes of subsection (1), section 116A has effect as if—
- (a) references to section 109 were references to section 174;
- (b) the reference to section 110(1) or (1A) were a reference to section 174A(1) or (1A).
- (1B) For the purposes of subsection (1), section 117 has effect as if—
- (a) references to “the appropriate authority” were to “the relevant authority” within the meaning of section 174A;
- (b) the reference to section 110(1) or (1A) were a reference to section 174A(1) or (1A).”
- 33 In section 183 (interpretation: Part 4), in subsection (1), at the appropriate place insert—
- ““enterprise” means the activities, or part of the activities, of a business;”.
- 34 In section 184 (index of defined expressions: Part 4), at the appropriate place in the table insert—
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- |             |                  |
|-------------|------------------|
| “Enterprise | Section 183(1)”. |
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## SCHEDULE 11

Section 143(2)

### CIVIL PENALTIES ETC IN CONNECTION WITH BREACHES OF REMEDIES

#### PART 1

##### COMMITMENTS AND DIRECTIONS UNDER PART 1 OF CA 1998 (COMPETITION)

- 1 In Part 1 of CA 1998 (competition), Chapter 3 (investigation and enforcement) is amended as follows.
- 2 In section 31A (commitments), after subsection (2) insert—
- “(2A) But the CMA may not accept commitments from a person unless it has provided the person with information about the possible consequences of failing to adhere to the commitments.”
- 3 In section 31E (enforcement of commitments), after subsection (3) insert—
- “(4) In deciding whether and, if so, how to proceed under this section, the CMA must have regard to the statement of policy which was most recently published by it under section 35C at the time of the failure to adhere to the commitments.”

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4 In the italic heading before section 32, at the end insert “: directions and interim measures”.

5 In section 34 (enforcement of directions), after subsection (3) insert—

“(4) In deciding whether and, if so, how to proceed under this section, the CMA must have regard to the statement of policy which was most recently published by it under [section 35C](#) at the time of the failure to comply with the direction.”

6 After section 35 insert—

*“Civil sanctions: breaches of commitments, directions and interim measures*

### **35A Enforcement of powers under sections 31A, 32, 33 and 35: imposition of penalties**

- (1) The CMA may, in accordance with [section 35B](#), impose a penalty on a person—
  - (a) from whom the CMA has accepted commitments under section 31A (and who has not been released from those commitments), or
  - (b) to whom the CMA has given a direction under section 32, 33 or 35, where the CMA considers that the person has, without reasonable excuse, failed to adhere to the commitments or comply with the direction.
- (2) In deciding whether and, if so, how to proceed under [subsection \(1\)](#) the CMA must have regard to the statement of policy which was most recently published under [section 35C](#) at the time of the failure to adhere or comply.

### **35B Penalties under [section 35A](#): amount**

- (1) A penalty under [section 35A\(1\)](#) is to be such amount as the CMA considers appropriate.
- (2) The amount must be—
  - (a) a fixed amount,
  - (b) an amount calculated by reference to a daily rate, or
  - (c) a combination of a fixed amount and an amount calculated by reference to a daily rate.
- (3) A penalty imposed under [section 35A\(1\)](#) on a person who is not an undertaking must not—
  - (a) in the case of a fixed amount, exceed £30,000;
  - (b) in the case of an amount calculated by reference to a daily rate, exceed £15,000 per day;
  - (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.
- (4) A penalty imposed under [section 35A\(1\)](#) on a person who is an undertaking must not—
  - (a) in the case of a fixed amount, exceed 5% of the total value of the turnover of the undertaking;



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- (b) in the case of an amount calculated by reference to a daily rate, for each day exceed 5% of the total value 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.
- (5) In imposing a penalty by reference to a daily rate—
  - (a) no account is to be taken of any days before the service on the person concerned of the provisional penalty notice under section 112(A1) of the Enterprise Act 2002 (as applied by [subsection \(6\)](#)), and
  - (b) unless the CMA determines an earlier date (whether before or after the penalty is imposed), the amount payable ceases to accumulate at the beginning of the day on which the person adheres to the commitments or complies with the direction (as the case may be) referred to in [section 35A\(1\)](#).
- (6) Sections 112 to 115 of the Enterprise Act 2002 apply in relation to a penalty imposed under [section 35A\(1\)](#) as they apply in relation to a penalty imposed under section 110(1) or (1A) of that Act, with the following modifications—
  - (a) any reference in those provisions to the appropriate authority is to be read as a reference to the CMA only;
  - (b) section 114(5A) is to be read as if the words “In the case of a penalty imposed on a person by the CMA or OFCOM,” were omitted;
  - (c) section 114(12) is to be read as if, for paragraph (b), there were substituted—
    - “(b) “relevant guidance” means the statement of policy which was most recently published under [section 35C](#) at the time when the act or omission concerned occurred.”
- (7) 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.
- (8) Before making regulations under [subsection \(7\)](#) the Secretary of State must consult—
  - (a) the CMA, and
  - (b) such other persons as the Secretary of State considers appropriate.
- (9) The Secretary of State may by regulations make provision for determining the turnover and daily turnover of an undertaking for the purposes of [subsection \(4\)](#).
- (10) Regulations under [subsection \(9\)](#) may, in particular, make provision as to—
  - (a) the amounts which are, or which are not, to be treated as comprising 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.
- (11) Regulations under [subsection \(9\)](#) may, in particular, make provision enabling the CMA to determine matters of a description specified in the

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regulations (including any of the matters mentioned in paragraphs (a) and (b) of subsection (10)).

*Statement of policy in relation to functions under sections 31E, 34 and 35A*

**35C Statement of policy in relation to functions under sections 31E, 34 and 35A**

- (1) The CMA must prepare and publish a statement of policy in relation to the exercise of functions under sections 31E, 34 and 35A.
- (2) The statement must, in particular, include a statement about the considerations relevant to the determination of the nature and amount of any penalty imposed under section 35A(1).
- (3) The CMA may revise its statement of policy and, where it does so, it must publish the revised statement.
- (4) The CMA must consult the Secretary of State and such other persons as it considers appropriate when preparing or revising its statement of policy.
- (5) If the proposed statement of policy or revision relates to a matter in respect of which a regulator exercises concurrent jurisdiction, those consulted must include that regulator.
- (6) A statement or revised statement of policy may not be published under this section without the approval of the Secretary of State.

*Civil sanctions: infringements of the Chapter I or II prohibitions*

**PART 2**

UNDERTAKINGS AND ORDERS UNDER PART 3 OF EA 2002 (MERGERS)

7 In Part 3 of EA 2002 (mergers), Chapter 4 (enforcement) is amended as follows.

8 (1) Section 34C (functions to be exercised by CMA groups) is amended as follows.

(2) In subsection (1)(e), for “94A” substitute “94AA”.

(3) In subsection (3)(e), for “and 94” substitute “, 94 and 94AA”.

9 (1) Section 89 (subject-matter of undertakings) is amended as follows.

(2) In the heading, at the start insert “Acceptance and”.

(3) Before subsection (1) insert—

“(A1) An appropriate authority may not accept an enforcement undertaking from a person unless it has provided the person with information about the possible consequences of failing to comply with the undertaking.”

(4) After subsection (2) insert—

“(3) In this section, “appropriate authority” has the same meaning as in section 94AA.”

10 In section 94 (rights to enforce undertakings and orders), after subsection (9) insert—

“(10) In deciding whether and, if so, how to proceed under this section, the CMA must have regard to the statement of policy which was most recently published by it under section 94B at the time of the failure to comply with the undertaking or (as the case may be) order.”

11 For section 94A substitute—

**“94AA Enforcement of undertakings and orders: imposition of penalties**

(1) The appropriate authority may, in accordance with [section 94AB](#), impose a penalty on a person—

- (a) from whom the authority has accepted an enforcement undertaking, or
- (b) to whom an enforcement order is addressed,

where the authority considers that the person has, without reasonable excuse, failed to comply with the undertaking or order.

(2) In this section and in [section 94AB](#), “the appropriate authority” means—

- (a) in relation to an enforcement undertaking or enforcement order made by the Secretary of State under Schedule 7, the Secretary of State;
- (b) in relation to any other enforcement undertaking or enforcement order, the CMA.

(3) In deciding whether and, if so, how to proceed under [subsection \(1\)](#) the CMA must have regard to the statement of policy which was most recently published under section 94B at the time of the failure to comply.

**94AB Penalties under [section 94AA](#): amount**

(1) A penalty under [section 94AA\(1\)](#) is to be such amount as the appropriate authority considers appropriate.

(2) The amount must be—

- (a) a fixed amount,
- (b) an amount calculated by reference to a daily rate, or
- (c) a combination of a fixed amount and an amount calculated by reference to a daily rate.

(3) A penalty imposed under [section 94AA\(1\)](#) on a person who does not own or control an enterprise must not—

- (a) in the case of a fixed amount, exceed £30,000;
- (b) in the case of an amount calculated by reference to a daily rate, exceed £15,000 per day;
- (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.

(4) A penalty imposed under [section 94AA\(1\)](#) on any other person must not—

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- (a) in the case of a fixed amount, exceed 5% of the total value of the turnover (both in and outside the United Kingdom) of the enterprises owned or controlled by the person on whom it is imposed;
  - (b) in the case of an amount calculated by reference to a daily rate, for each day exceed 5% of the total value of the daily turnover (both in and outside the United Kingdom) of the enterprises owned or controlled by the person on whom it is imposed;
  - (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.
- (5) In imposing a penalty by reference to a daily rate—
- (a) no account is to be taken of any days before the service on the person concerned of the provisional penalty notice under section 112(A1) (as applied by [subsection \(6\)](#)), and
  - (b) unless the CMA determines an earlier date (whether before or after the penalty is imposed), the amount payable ceases to accumulate at the beginning of the day on which the person complies with the enforcement undertaking or enforcement order.
- (6) Sections 112 to 115 apply in relation to a penalty imposed under [section 94AA\(1\)](#) as they apply in relation to a penalty imposed under [section 110\(1\)](#) or [\(1A\)](#), with the following modifications—
- (a) any reference in those provisions to the appropriate authority is to be read as a reference to the appropriate authority within the meaning of this section (see [section 94AA\(2\)](#));
  - (b) [section 114\(5A\)](#) is to be read as if the words “or OFCOM” were omitted;
  - (c) [section 114\(12\)](#) is to be read as if, for paragraph (b), there were substituted—
    - “(b) “relevant guidance” means the statement of policy which was most recently published under [section 94B](#) at the time when the act or omission concerned occurred.”
- (7) 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.
- (8) Before making regulations under [subsection \(7\)](#) the Secretary of State must consult—
- (a) the CMA, and
  - (b) such other persons as the Secretary of State considers appropriate.
- (9) The Secretary of State may by regulations make provision for determining, for the purposes of this section—
- (a) when an enterprise is to be treated as being controlled by a person;
  - (b) the turnover and daily turnover (both in and outside the United Kingdom) of an enterprise.
- (10) Regulations under [subsection \(9\)\(b\)](#) may, in particular, make provision as to—

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- (a) the amounts which are, or which are not, to be treated as comprising an enterprise’s turnover or daily turnover;
  - (b) the date, or dates, by reference to which an enterprise’s turnover, or daily turnover, is to be determined.
- (11) Regulations under [subsection \(9\)](#) may, in particular, make provision enabling the appropriate authority to determine matters of a description specified in the regulations (including any of the matters mentioned in paragraphs (a) and (b) of [subsection \(10\)](#)).
- 12 (1) Section 94B (statement of policy in relation to powers under sections 94 and 94A) is amended as follows.
  - (2) In the heading—
    - (a) for “powers” substitute “functions”.
    - (b) for “94A” substitute “[94AA](#)”.
  - (3) In subsection (1)—
    - (a) in the words before paragraph (a), for “use of its powers” substitute “exercise of functions”;
    - (b) in paragraph (a) omit “, insofar as they relate to interim measures”;
    - (c) in paragraph (b), for “94A” substitute “[94AA](#)”.
  - (4) In subsection (2), for “94A” substitute “[94AA](#)”.
  - (5) Omit subsection (6).
- 13 In section 120 (review of decisions under Part 3), in subsection (2), in paragraph (a), for “94A(1)” substitute “[94AA\(1\)](#)”.

### PART 3

#### UNDERTAKINGS AND ORDERS UNDER PART 4 OF EA 2002 (MARKET STUDIES AND MARKET INVESTIGATIONS)

- 14 In Part 4 of EA 2002 (market studies and market investigations), Chapter 3 (enforcement) is amended as follows.
- 15 (1) Section 133A (functions to be exercised by CMA groups) is amended as follows.
  - (2) In subsection (1)(i), for “section 167” substitute “sections 167 and [167A](#)”.
  - (3) In subsection (2)(e), for “section 167” substitute “sections 167 and [167A](#)”.
- 16 After section 161 insert—

#### “**161A Acceptance of enforcement undertakings: Part 4**”

- (1) The relevant authority may not accept an enforcement undertaking from a person unless it has provided the person with information about the possible consequences of failing to comply with the undertaking.
- (2) In [subsection \(1\)](#), “the relevant authority” means—
  - (a) in the case of a restricted PI reference or a full PI reference, the Secretary of State;

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(b) in any other case, the CMA.”

17 In section 167 (rights to enforce undertakings and orders under this Part), after subsection (9) insert—

“(10) In deciding whether and, if so, how to proceed under this section, the CMA must have regard to the statement of policy which was most recently published by it under [section 167C](#) at the time of the failure to comply with the undertaking or (as the case may be) order.”

18 After section 167 insert—

**“167A Enforcement of undertakings and orders: imposition of penalties**

- (1) The relevant authority may, in accordance with [section 167B](#), impose a penalty on a person—
  - (a) from whom the authority has accepted an enforcement undertaking, or
  - (b) to whom an enforcement order is addressed,
 where the authority considers that the person has, without reasonable excuse, failed to comply with the undertaking or order.
- (2) In this section and in [section 167B](#), “the relevant authority” means—
  - (a) in the case of a restricted PI reference or a full PI reference, the Secretary of State;
  - (b) in any other case, the CMA.
- (3) In deciding whether and, if so, how to proceed under [subsection \(1\)](#) the CMA must have regard to the statement of policy which was most recently published under [section 167C](#) at the time of the failure to comply.

**167B Penalties under [section 167A](#): amount**

- (1) A penalty under [section 167A\(1\)](#) is to be such amount as the relevant authority considers appropriate.
- (2) The amount must be—
  - (a) a fixed amount,
  - (b) an amount calculated by reference to a daily rate, or
  - (c) a combination of a fixed amount and an amount calculated by reference to a daily rate.
- (3) A penalty imposed under [section 167A\(1\)](#) on a person who does not own or control an enterprise must not—
  - (a) in the case of a fixed amount, exceed £30,000;
  - (b) in the case of an amount calculated by reference to a daily rate, exceed £15,000 per day;
  - (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.
- (4) A penalty imposed under [section 167A\(1\)](#) on any other person must not—
  - (a) in the case of a fixed amount, exceed 5% of the total value of the turnover (both in and outside the United Kingdom) of the enterprises owned or controlled by the person on whom it is imposed;

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- (b) in the case of an amount calculated by reference to a daily rate, for each day exceed 5% of the total value of the daily turnover (both in and outside the United Kingdom) of the enterprises owned or controlled by the person on whom it is imposed;
  - (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.
- (5) In imposing a penalty by reference to a daily rate—
  - (a) no account is to be taken of any days before the service on the person concerned of the provisional penalty notice under section 112(A1) (as applied by subsection (6)), and
  - (b) unless the CMA determines an earlier date (whether before or after the penalty is imposed), the amount payable ceases to accumulate at the beginning of the day on which the person complies with the enforcement undertaking or enforcement order.
- (6) Sections 112 to 115 apply in relation to a penalty imposed under section 167A(1) as they apply in relation to a penalty imposed under section 110(1) or (1A), with the following modifications—
  - (a) any reference in those provisions to the appropriate authority is to be read as a reference to the relevant authority within the meaning of this section (see section 167A(2));
  - (b) section 114(5A) is to be read as if the words “or OFCOM” were omitted;
  - (c) section 114(12) is to be read as if, for paragraph (b), there were substituted—
    - “(b) “relevant guidance” means the statement of policy which was most recently published under section 167C at the time when the act or omission concerned occurred.”
- (7) 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.
- (8) Before making regulations under subsection (7) the Secretary of State must consult—
  - (a) the CMA, and
  - (b) such other persons as the Secretary of State considers appropriate.
- (9) The Secretary of State may by regulations make provision for determining, for the purposes of this section—
  - (a) when an enterprise is to be treated as being controlled by a person;
  - (b) the turnover and daily turnover (both in and outside the United Kingdom) of an enterprise.
- (10) Regulations under subsection (9)(b) may, in particular, make provision as to—
  - (a) the amounts which are, or which are not, to be treated as comprising an enterprise’s turnover or daily turnover;



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- (b) the date, or dates, by reference to which an enterprise’s turnover, or daily turnover, is to be determined.
- (11) Regulations under [subsection \(9\)](#) may, in particular, make provision enabling the relevant authority to determine matters of a description specified in the regulations (including any of the matters mentioned in paragraphs (a) and (b) of [subsection \(10\)](#)).

### **167C Statement of policy in relation to functions under sections 167 and 167A**

- (1) The CMA must prepare and publish a statement of policy in relation to the exercise of functions under sections 167 and [167A](#).
  - (2) The CMA must, in particular, include a statement about the considerations relevant to the determination of the amount of any penalty imposed under [section 167A](#).
  - (3) The CMA may revise its statement of policy and, where it does so, it must publish the revised statement.
  - (4) The CMA must consult the Secretary of State and such other persons as it considers appropriate when preparing or revising its statement of policy.
  - (5) A statement or revised statement of policy may not be published under this section without the approval of the Secretary of State.”
- 19 In section 179 (review of decisions under Part 4), in subsection (2), in paragraph (a), after “section” insert “[167A\(1\)](#) or”.

## SCHEDULE 12

Section 143(3)

### CIVIL PENALTIES: AMENDMENTS RELATING TO SECTORAL REGULATORS

#### *The Civil Aviation Authority (CAA)*

- 1 In the Civil Aviation Act 2012, Chapter 2 of Part 1 (regulation of operators of dominant airports: competition) is amended as follows.
- 2 (1) Section 60 (functions of the CAA under Part 4 of EA 2002) is amended as follows.
  - (2) In subsection (2), in the words before paragraph (a), after “166” insert “, [167C](#)”.
  - (3) In subsection (3), in paragraph (a), after “166” insert “, [167C](#)”.
- 3 In section 61 (functions of the CAA under Part 4 of EA 2002: supplementary), in subsection (8), for “or 171” substitute “, [167C](#), 171 or 174E”.
- 4 (1) Section 62 (functions of the CAA under CA 1998) is amended as follows.
  - (2) In subsection (2), in the words after paragraph (b), after “31D(1) to (6)” insert “, [35C](#)”.
  - (3) In subsection (4), after “31D(1) to (6)” insert “, [35C](#)”.
- 5 In section 63 (functions of the CAA under CA 1998: supplementary), in subsection (1), after “31D(1) to (6)” insert “, [35C](#)”.



- 6 (1) Section 86 of the Transport Act 2000 (functions of the CAA with respect to competition) is amended as follows.
- (2) In subsection (2), in the words before paragraph (a), after “166” insert “, 167C”.
- (3) In subsection (3), in the words before paragraph (a), after “31D(1) to (6)” insert “, 35C”.
- (4) In subsection (4)—
- (a) in paragraph (a), after “166” insert “, 167C”;
  - (b) in paragraph (b), after “31D(1) to (6)” insert “, 35C”.
- (5) In subsection (7), in paragraph (b), after “31D(1) to (6)” insert “, 35C”.

*The Financial Conduct Authority (FCA)*

- 7 The Financial Services and Markets Act 2000 is amended as follows.
- 8 (1) Section 234I (functions of the FCA under Part 4 of EA 2002) is amended as follows.
- (2) In the list in subsection (3)—
- (a) after the entry for section 166 of EA 2002 insert—  
“section 167C (statement of policy in relation to functions under sections 167 and 167A);”;
  - (b) after the entry for section 171 of EA 2002 insert—  
“section 174E (statement of policy on penalties).”
- (3) In subsection (5), in paragraph (a) for “or 171” substitute “, 167C, 171 or 174E”.
- 9 (1) Section 234J (functions of the FCA under CA 1998) is amended as follows.
- (2) In subsection (3) after the entry for section 31D(1) to (6) of CA 1998 insert—  
“section 35C (statement of policy in relation to functions under sections 31E, 34 and 35A);”.
- (3) In subsection (5), in paragraph (a), after “31D(1) to (6)” insert “, 35C”.

*The Northern Ireland Authority for Utility Regulation*

- 10 (1) Article 29 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) is amended as follows.
- (2) In paragraph (2), in the words before sub-paragraph (a), after “166” insert “, 167C”.
- (3) In paragraph (3), in the words before sub-paragraph (a)—
- (a) after “31D(1) to (6)” insert “, 35C”;
  - (b) after “38(1) to (6)” insert “, 40B(1) to (4)”.
- (4) In paragraph (4), in sub-paragraph (a), after “166” insert “, 167C”.
- (5) In paragraph (5)—
- (a) after “31D(1) to (6)” insert “, 35C”;
  - (b) after “38(1) to (6)” insert “, 40B(1) to (4)”.
- (6) In paragraph (9), in sub-paragraph (b)—

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- (a) after “31D(1) to (6)” insert “, 35C”;
  - (b) after “38(1) to (6)” insert “, 40B(1) to (4)”.
- (7) Omit paragraph (10).
- 11 (1) Article 23 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) is amended as follows.
- (2) In paragraph (2A), in the words before sub-paragraph (a), after “166” insert “, 167C”.
  - (3) In paragraph (2B), in sub-paragraph (a), after “166” insert “, 167C”.
  - (4) In paragraph (3), in the words before sub-paragraph (a), after “31D(1) to (6)” insert “, 35C”.
  - (5) In paragraph (3A), after “31D(1) to (6)” insert “, 35C”.
  - (6) In paragraph (6), in sub-paragraph (b), after “31D(1) to (6)” insert “, 35C”.
  - (7) Omit paragraph (7).
- 12 (1) Article 46 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) is amended as follows.
- (2) In paragraph (2A), in the words before sub-paragraph (a), after “166” insert “, 167C”.
  - (3) In paragraph (2B), in sub-paragraph (a), after “166” insert “, 167C”.
  - (4) In paragraph (3), in the words before sub-paragraph (a), after “31D(1) to (6)” insert “, 35C”.
  - (5) In paragraph (3A), after “31D(1) to (6)” insert “, 35C”.
  - (6) In paragraph (6), in sub-paragraph (b), after “31D(1) to (6)” insert “, 35C”.
  - (7) Omit paragraph (6A).

*The Office of Communications (OFCOM)*

- 13 The Communications Act 2003 is amended as follows.
- 14 (1) Section 370 (functions of OFCOM under Part 4 of EA 2002) is amended as follows.
- (2) In subsection (2), in the words before paragraph (a), after “166” insert “, 167C”.
  - (3) In subsection (3), in paragraph (a), after “166” insert “, 167C”.
  - (4) Omit subsection (10).
- 15 (1) Section 371 (functions of OFCOM under CA 1998) is amended as follows.
- (2) In subsection (2), in the words before paragraph (a), after “31D(1) to (6)” insert “, 35C”.
  - (3) In subsection (3), in paragraph (a), after “31D(1) to (6)” insert “, 35C”.
- 16 (1) Section 392 (penalties imposed by OFCOM) is amended as follows.

- (2) In subsection (1), after “the Competition Act 1998 (c. 41)” insert “and Part 4 of the Enterprise Act 2002”.
- (3) In subsection (6), after “the Competition Act 1998 (c. 41)” insert “and Part 4 of the Enterprise Act 2002”.

*The Office of Gas and Electricity Markets (Ofgem)*

- 17 (1) Section 43 of the Electricity Act 1989 (functions of Ofgem with respect to competition) is amended as follows.
  - (2) In subsection (2A), in the words before paragraph (a), after “166” insert “, 167C”.
  - (3) In subsection (2B), in paragraph (a), after “166” insert “, 167C”.
  - (4) In subsection (3), in the words before paragraph (a), after “31D(1) to (6)” insert “, 35C”.
  - (5) In subsection (3A), after “31D(1) to (6)” insert “, 35C”.
  - (6) In subsection (6), in paragraph (b), after “31D(1) to (6)” insert “, 35C”.
  - (7) Omit subsection (6A).
- 18 (1) Section 36A of the Gas Act 1986 (functions of Ofgem with respect to competition) is amended as follows.
  - (2) In subsection (2A), in the words before paragraph (a), after “166” insert “, 167C”.
  - (3) In subsection (2B), in paragraph (a), after “166” insert “, 167C”.
  - (4) In subsection (3), in the words before paragraph (a), after “31D(1) to (6)” insert “, 35C”.
  - (5) In subsection (3A), after “31D(1) to (6)” insert “, 35C”.
  - (6) In subsection (7), in paragraph (b), after “31D(1) to (6)” insert “, 35C”.
  - (7) Omit subsection (8).

*The Office of Rail and Road (ORR)*

- 19 (1) Section 67 of the Railways Act 1993 (functions of the ORR with respect to competition) is amended as follows.
  - (2) In subsection (2A), in the words before paragraph (a), after “166” insert “, 167C”.
  - (3) In subsection (2B), in paragraph (a), after “166” insert “, 167C”.
  - (4) In subsection (3), in the words before paragraph (a), after “31D(1) to (6)” insert “, 35C”.
  - (5) In subsection (3A), after “31D(1) to (6)” insert “, 35C”.
  - (6) In subsection (8), in paragraph (b), after “31D(1) to (6)” insert “, 35C”.
  - (7) Omit subsection (9).

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*The Payment Systems Regulator*

- 20 The Financial Services (Banking Reform) Act 2013 is amended as follows.
- 21 (1) Section 59 (functions of the Payment Systems Regulator under Part 4 of EA 2002) is amended as follows.
- (2) In the list in subsection (3)—
- (a) after the entry for section 166 of EA 2002 insert—  
“section 167C (statement of policy in relation to functions under sections 167 and 167A);”;
- (b) after the entry for section 171 of EA 2002 insert—  
“section 174E (statement of policy on penalties).”
- (3) In subsection (5), in paragraph (a), for “or 171” substitute “, 167C, 171 or 174E”.
- 22 (1) Section 61 (functions of the Payment Systems Regulator under CA 1998) is amended as follows.
- (2) In subsection (3), after the entry for section 31D(1) to (6) of CA 1998 insert—  
“section 35C (statement of policy in relation to functions under sections 31E, 34 and 35A);”.
- (3) In subsection (5), in paragraph (a), after “31D(1) to (6)” insert “, 35C”.

*The Water Services Regulation Authority (Ofwat)*

- 23 (1) Section 31 of the Water Industry Act 1991 (functions of Ofwat with respect to competition) is amended as follows.
- (2) In subsection (2A), in the words before paragraph (a), after “166” insert “, 167C”.
- (3) In subsection (3), in the words before paragraph (a), after “31D(1) to (6)” insert “, 35C”.
- (4) In subsection (4), in paragraph (a), after “166” insert “, 167C”.
- (5) In subsection (4A), after “31D(1) to (6)” insert “, 35C”.
- (6) In subsection (8), in paragraph (b), after “31D(1) to (6)” insert “, 35C”.
- (7) Omit subsection (8A).

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—

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## “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;
  - (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,

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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.”

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.”

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)”.

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)”.

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)”.

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”.

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)”.

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)”.

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)”.

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)”.

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- 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)”.
- 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)”.
- 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)”.
- 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)”.

#### *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.”

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.
- (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.”

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.”

#### SCHEDULE 14

Section 145

#### ORDERS AND REGULATIONS UNDER CA 1998 AND EA 2002

##### *Orders and regulations under CA 1998*

- 1 (1) In Part 4 of CA 1998 (supplemental and transitional), section 71 (regulations, orders and rules) is amended as follows.
  - (2) In subsection (4)—
    - (a) in the words before paragraph (a), for “No order is to be made” substitute “An order made”;
    - (b) for the words after paragraph (e) substitute “is subject to the affirmative procedure”.
  - (3) After subsection (4) insert—

“(4A) Regulations made under section [35B\(7\)](#) or [40A\(7A\)](#) are subject to the affirmative procedure.”
  - (4) In subsection (5)—
    - (a) in paragraph (a), after “(4)” insert “or [\(4A\)](#)”;
    - (b) for the words after paragraph (b) substitute “is subject to the negative procedure”.

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(5) After subsection (5) insert—

“(6) Any provision that may be made by order or regulations under this Act subject to the negative procedure may instead be made by order or regulations subject to the affirmative procedure.

(7) Where orders or regulations under this Act are subject to “the affirmative procedure”, the orders or regulations may not be made unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, each House of Parliament.

(8) Where orders or regulations under this Act are subject to “the negative procedure”, the statutory instrument containing them is subject to annulment in pursuance of a resolution of either House of Parliament.”

*Orders and regulations under Part 3 of EA 2002*

2 (1) In Part 3 of EA 2002 (mergers), section 124 (orders and regulations under Part 3) is amended as follows.

(2) In subsection (4) omit “, 94A(6)”.

(3) In subsection (5)—

- (a) omit “Regulations made by the Secretary of State under section 68A or”;
- (b) after “section 65(3),” insert “59(6A)(a),”;
- (c) omit “, 94A(3) or (6), 111(4) or (6)”;
- (d) for “shall be subject to annulment in pursuance of a resolution of either House of Parliament” substitute “is subject to the negative procedure”;

(4) After subsection (5) insert—

“(5A) Regulations made under section 68A, 94AB(9) or 111(9) are subject to the negative procedure.”

(5) In subsection (6)—

- (a) for “No order shall be made” substitute “An order made”;
- (b) for “section 59(6A)” substitute “section 59(6A)(b)”;
- (c) for “unless a draft of it has been laid before, and approved by a resolution of, each House of Parliament” substitute “is subject to the affirmative procedure”.

(6) For subsection (6A) substitute—

“(6A) Regulations made under section 70G, 94AB(7) or 111(7A), or paragraph 15 of Schedule 6B, are subject to the affirmative procedure.

(6B) Any provision that may be made by order or regulations under this Part subject to the negative procedure may instead be made by order or regulations subject to the affirmative procedure.”

(7) After subsection (10) insert—

“(11) Where orders or regulations under this Part are subject to “the affirmative procedure”, the orders or regulations may not be made unless a draft of the

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statutory instrument containing them has been laid before, and approved by a resolution of, each House of Parliament.

- (12) Where orders or regulations under this Act are subject to “the negative procedure”, the statutory instrument containing them is subject to annulment in pursuance of a resolution of either House of Parliament.”

#### *Orders and regulations under Part 4 of EA 2002*

- 3 (1) In Part 4 of EA 2002 (market studies and market investigations), section 181 (orders under Part 4) is amended as follows.
- (2) In the heading, after “Orders” insert “and regulations”.
- (3) In subsection (1), after “order” insert “or regulations”.
- (4) In subsection (2), after “order” insert “or regulations”.
- (5) In subsection (4)—
- (a) omit “174D(4) or (5)”;
  - (b) for “section 174D” substitute “section 174A(10)”;
  - (c) for “shall be subject to annulment in pursuance of a resolution of either House of Parliament” substitute “is subject to the negative procedure”.
- (6) After subsection (4) insert—
- “(4A) Regulations made under section 167B(9) or 174D(11) are subject to the negative procedure.”
- (7) In subsection (5)—
- (a) for “No order shall be made” substitute “An order made”;
  - (b) for “unless a draft of it has been laid before, and approved by a resolution of, each House of Parliament” substitute “is subject to the affirmative procedure”.
- (8) After subsection (5)—
- “(5A) Regulations made under paragraph (b) of the definition of “qualifying remedial action” in section 161B(3), or under section 167B(7) or 174D(6A), are subject to the affirmative procedure.
- (5B) Any provision that may be made by order or regulations under this Part subject to the negative procedure may instead be made by order or regulations subject to the affirmative procedure.”
- (9) In subsection (10), for “174D” substitute “174A(10)”.
- (10) After subsection (10) insert—
- “(11) Where orders or regulations under this Part are subject to “the affirmative procedure”, the orders or regulations may not be made unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, each House of Parliament.
- (12) Where orders or regulations under this Act are subject to “the negative procedure”, the statutory instrument containing them is subject to annulment in pursuance of a resolution of either House of Parliament.”

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SCHEDULE 15

Section 150

CONSUMER PROTECTION ENACTMENTS

**PART 1**

ENACTMENTS

Enactment	Authorised enforcers	Information about transitional etc provision
<b>1. Acts of Parliament</b>		
Accommodation Agencies Act 1953	<p>(1) All public designated enforcers, other than—</p> <ul style="list-style-type: none"> <li>(a) the Department of Health in Northern Ireland;</li> <li>(b) the Department for Infrastructure in Northern Ireland;</li> <li>(c) an enforcement authority within the meaning of section 120(15) of the Communications Act 2003 (regulation of premium rate services);</li> <li>(d) the Maritime and Coastguard Agency;</li> <li>(e) the Office for the Traffic Commissioner;</li> <li>(f) the Secretary of State.</li> </ul> <p>(2) All private designated enforcers.</p>	
Section 40 of the Administration of Justice Act 1970	<p>(1) All public designated enforcers, other than—</p> <ul style="list-style-type: none"> <li>(a) the Department of Health in Northern Ireland;</li> <li>(b) the Department for Infrastructure in Northern Ireland;</li> <li>(c) an enforcement authority within the meaning of section 120(15) of the Communications Act 2003 (regulation of premium rate services);</li> <li>(d) the Maritime and Coastguard Agency;</li> <li>(e) the Office for the Traffic Commissioner;</li> <li>(f) the Secretary of State.</li> </ul> <p>(2) All private designated enforcers.</p>	

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<b>Enactment</b>	<b>Authorised enforcers</b>	<b>Information about transitional etc provision</b>
Sections 4, 5 and 7 of the Cancer Act 1939	(1) All public designated enforcers, other than— (a) the Department of Health in Northern Ireland; (b) the Department for Infrastructure in Northern Ireland; (c) an enforcement authority within the meaning of section 120(15) of the Communications Act 2003 (regulation of premium rate services); (d) the Maritime and Coastguard Agency; (e) the Office for the Traffic Commissioner; (f) the Secretary of State. (2) All private designated enforcers.	
Sections 60, 61 and 63 of the Charities Act 1992	(1) All public designated enforcers, other than— (a) the Department of Health in Northern Ireland; (b) the Department for Infrastructure in Northern Ireland; (c) an enforcement authority within the meaning of section 120(15) of the Communications Act 2003 (regulation of premium rate services); (d) the Maritime and Coastguard Agency; (e) the Office for the Traffic Commissioner; (f) the Secretary of State. (2) All private designated enforcers.	
Section 7(1) and (2) of the Children and Young Persons Act 1933	(1) All public designated enforcers, other than— (a) the Department of Health in Northern Ireland; (b) the Department for Infrastructure in Northern Ireland; (c) an enforcement authority within the meaning of section 120(15) of the Communications Act	

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Enactment	Authorised enforcers	Information about transitional etc provision
Section 4 of the Children and Young Persons (Protection from Tobacco) Act 1991	<p>2003 (regulation of premium rate services);</p> <p>(d) the Maritime and Coastguard Agency;</p> <p>(e) the Office for the Traffic Commissioner;</p> <p>(f) the Secretary of State.</p> <p>(2) All private designated enforcers.</p>	<p>In relation to Scotland, see Article 2 of the Tobacco and Primary Medical Services (Scotland) Act 2010 (Ancillary Provisions) Order 2010 (S.S.I. 2010/77) for provision about the application of the section in connection with its repeal</p>
Sections 319, 321, 322, 325, 368F, 368G and 368H of the Communications Act 2003	<p>(1) All public designated enforcers, other than—</p> <p>(a) the Department of Health in Northern Ireland;</p> <p>(b) the Department for Infrastructure in Northern Ireland;</p> <p>(c) an enforcement authority within the meaning of section 120(15) of the Communications Act 2003 (regulation of premium rate services);</p> <p>(d) the Maritime and Coastguard Agency;</p> <p>(e) the Office for the Traffic Commissioner;</p> <p>(f) the Secretary of State.</p> <p>(2) All private designated enforcers.</p>	
Part 41 of the Companies Act 2006	<p>(1) All public designated enforcers, other than—</p> <p>(a) the Department of Health in Northern Ireland;</p> <p>(b) the Department for Infrastructure in Northern Ireland;</p> <p>(c) an enforcement authority within the meaning of section 120(15) of the Communications Act 2003 (regulation of premium rate services);</p> <p>(d) the Maritime and Coastguard Agency;</p> <p>(e) the Office for the Traffic Commissioner;</p> <p>(f) the Secretary of State.</p>	

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<b>Enactment</b>	<b>Authorised enforcers</b>	<b>Information about transitional etc provision</b>
	(2) All private designated enforcers.	
Consumer Credit Act 1974	(1) All public designated enforcers. (2) All private designated enforcers.	
Parts 1 and 2 and Chapter 5 of Part 3 of, and Schedules 2 and 3 and Part 3 of Schedule 5 to, the Consumer Rights Act 2015	(1) All public designated enforcers, other than— (a) the Department of Health in Northern Ireland; (b) the Department for Infrastructure in Northern Ireland; (c) an enforcement authority within the meaning of section 120(15) of the Communications Act 2003 (regulation of premium rate services); (d) the Maritime and Coastguard Agency; (e) the Office for the Traffic Commissioner; (f) the Secretary of State. (2) All private designated enforcers.	
Sections 107, 198 and 297A of the Copyright Designs and Patents Act 1988	(1) All public designated enforcers, other than— (a) the Department of Health in Northern Ireland; (b) the Department for Infrastructure in Northern Ireland; (c) an enforcement authority within the meaning of section 120(15) of the Communications Act 2003 (regulation of premium rate services); (d) the Maritime and Coastguard Agency; (e) the Office for the Traffic Commissioner; (f) the Secretary of State. (2) All private designated enforcers.	
Chapter 1 of Part 4 of the Digital Markets, Competition and Consumers Act 2024	(1) All public designated enforcers. (2) All private designated enforcers.	
Chapter 2 of Part 4 of the Digital	(1) All public designated enforcers. (2) All private designated enforcers.	

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Enactment	Authorised enforcers	Information about transitional etc provision
Markets, Competition and Consumers Act 2024	(1) The following public designated enforcers— <ul style="list-style-type: none"> <li>(a) the CMA;</li> <li>(b) every local weights and measures authority in Great Britain;</li> <li>(c) the Department for the Economy in Northern Ireland.</li> </ul>	
Chapter 3 of Part 4 of the Digital Markets, Competition and Consumers Act 2024		
Chapter 4 of Part 4 of the Digital Markets, Competition and Consumers Act 2024	(1) All public designated enforcers. (2) All private designated enforcers.	
Estate Agents Act 1979	(1) All public designated enforcers, other than— <ul style="list-style-type: none"> <li>(a) the Department of Health in Northern Ireland;</li> <li>(b) the Department for Infrastructure in Northern Ireland;</li> <li>(c) an enforcement authority within the meaning of section 120(15) of the Communications Act 2003 (regulation of premium rate services);</li> <li>(d) the Maritime and Coastguard Agency;</li> <li>(e) the Office for the Traffic Commissioner;</li> <li>(f) the Secretary of State.</li> </ul> (2) All private designated enforcers.	
Hallmarking Act 1973	(1) All public designated enforcers, other than— <ul style="list-style-type: none"> <li>(a) the Department of Health in Northern Ireland;</li> <li>(b) the Department for Infrastructure in Northern Ireland;</li> <li>(c) an enforcement authority within the meaning of section 120(15) of the Communications Act 2003 (regulation of premium rate services);</li> <li>(d) the Maritime and Coastguard Agency;</li> </ul>	



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Enactment	Authorised enforcers	Information about transitional etc provision
Malicious Communications Act 1988	<ul style="list-style-type: none"> <li>(e) the Office for the Traffic Commissioner;</li> <li>(f) the Secretary of State.</li> <li>(2) All private designated enforcers.</li> <li>(1) All public designated enforcers, other than—                             <ul style="list-style-type: none"> <li>(a) the Department of Health in Northern Ireland;</li> <li>(b) the Department for Infrastructure in Northern Ireland;</li> <li>(c) an enforcement authority within the meaning of section 120(15) of the Communications Act 2003 (regulation of premium rate services);</li> <li>(d) the Maritime and Coastguard Agency;</li> <li>(e) the Office for the Traffic Commissioner;</li> <li>(f) the Secretary of State.</li> </ul> </li> <li>(2) All private designated enforcers.</li> </ul>	
Misrepresentation Act 1967	<ul style="list-style-type: none"> <li>(1) All public designated enforcers, other than—                             <ul style="list-style-type: none"> <li>(a) the Department of Health in Northern Ireland;</li> <li>(b) the Department for Infrastructure in Northern Ireland;</li> <li>(c) an enforcement authority within the meaning of section 120(15) of the Communications Act 2003 (regulation of premium rate services);</li> <li>(d) the Maritime and Coastguard Agency;</li> <li>(e) the Office for the Traffic Commissioner;</li> <li>(f) the Secretary of State.</li> </ul> </li> <li>(2) All private designated enforcers.</li> </ul>	<p>See Article 6 of the Consumer Rights Act 2015 (Commencement No. 3, Transitional Provisions, Savings and Consequential Amendments) Order 2015 (<a href="#">S.I. 2015/1630</a>) for provision about the application of provisions of the Act in connection with the coming into force of CRA 2015</p>
Sections 13 and 16 of the National Lottery Act 1993	<ul style="list-style-type: none"> <li>(1) All public designated enforcers, other than—                             <ul style="list-style-type: none"> <li>(a) the Department of Health in Northern Ireland;</li> </ul> </li> </ul>	

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<b>Enactment</b>	<b>Authorised enforcers</b>	<b>Information about transitional etc provision</b>
	<ul style="list-style-type: none"> <li>(b) the Department for Infrastructure in Northern Ireland;</li> <li>(c) an enforcement authority within the meaning of section 120(15) of the Communications Act 2003 (regulation of premium rate services);</li> <li>(d) the Maritime and Coastguard Agency;</li> <li>(e) the Office for the Traffic Commissioner;</li> <li>(f) the Secretary of State.</li> </ul>	
	(2) All private designated enforcers.	
Section 4 of the Prices Act 1974	<ul style="list-style-type: none"> <li>(1) All public designated enforcers, other than— <ul style="list-style-type: none"> <li>(a) the Department of Health in Northern Ireland;</li> <li>(b) the Department for Infrastructure in Northern Ireland;</li> <li>(c) an enforcement authority within the meaning of section 120(15) of the Communications Act 2003 (regulation of premium rate services);</li> <li>(d) the Maritime and Coastguard Agency;</li> <li>(e) the Office for the Traffic Commissioner;</li> <li>(f) the Secretary of State.</li> </ul> </li> <li>(2) All private designated enforcers.</li> </ul>	
Protection from Harassment Act 1997	<ul style="list-style-type: none"> <li>(1) All public designated enforcers, other than— <ul style="list-style-type: none"> <li>(a) the Department of Health in Northern Ireland;</li> <li>(b) the Department for Infrastructure in Northern Ireland;</li> <li>(c) an enforcement authority within the meaning of section 120(15) of the Communications Act 2003 (regulation of premium rate services);</li> <li>(d) the Maritime and Coastguard Agency;</li> </ul> </li> </ul>	

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<b>Enactment</b>	<b>Authorised enforcers</b>	<b>Information about transitional etc provision</b>
	(e) the Office for the Traffic Commissioner; (f) the Secretary of State. (2) All private designated enforcers.	
Sections 75 and 76 of the Road Traffic Act 1988	(1) All public designated enforcers, other than— (a) the Department of Health in Northern Ireland; (b) the Department for Infrastructure in Northern Ireland; (c) an enforcement authority within the meaning of section 120(15) of the Communications Act 2003 (regulation of premium rate services); (d) the Maritime and Coastguard Agency; (e) the Office for the Traffic Commissioner; (f) the Secretary of State. (2) All private designated enforcers.	
Sale of Goods Act 1979	(1) All public designated enforcers. (2) All private designated enforcers.	See Article 6 of the Consumer Rights Act 2015 (Commencement No. 3, Transitional Provisions, Savings and Consequential Amendments) Order 2015 ( <a href="#">S.I. 2015/1630</a> ) for provision about the application of provisions of the Act in connection with the coming into force of CRA 2015
Supply of Goods (Implied Terms) Act 1973	(1) All public designated enforcers. (2) All private designated enforcers.	See Article 6 of the Consumer Rights Act 2015 (Commencement No. 3, Transitional

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Enactment	Authorised enforcers	Information about transitional etc provision
Supply of Goods and Services Act 1982	(1) All public designated enforcers. (2) All private designated enforcers.	Provisions, Savings and Consequential Amendments) Order 2015 (S.I. 2015/1630) for provision about the application of provisions of the Act in connection with the coming into force of CRA 2015  See Article 6 of the Consumer Rights Act 2015 (Commencement No. 3, Transitional Provisions, Savings and Consequential Amendments) Order 2015 (S.I. 2015/1630) for provision about the application of provisions of the Act in connection with the coming into force of CRA 2015
Tobacco Advertising and Promotion Act 2002	(1) All public designated enforcers, other than— (a) the Department of Health in Northern Ireland; (b) the Department for Infrastructure in Northern Ireland; (c) an enforcement authority within the meaning of section 120(15) of the Communications Act 2003 (regulation of premium rate services); (d) the Maritime and Coastguard Agency;	

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Enactment	Authorised enforcers	Information about transitional etc provision
Section 12 of the Torts (Interference with Goods) Act 1977	<ul style="list-style-type: none"> <li>(e) the Office for the Traffic Commissioner;</li> <li>(f) the Secretary of State.</li> </ul> <p>(2) All private designated enforcers.</p> <p>(1) All public designated enforcers, other than—</p> <ul style="list-style-type: none"> <li>(a) the Department of Health in Northern Ireland;</li> <li>(b) the Department for Infrastructure in Northern Ireland;</li> <li>(c) an enforcement authority within the meaning of section 120(15) of the Communications Act 2003 (regulation of premium rate services);</li> <li>(d) the Maritime and Coastguard Agency;</li> <li>(e) the Office for the Traffic Commissioner;</li> <li>(f) the Secretary of State.</li> </ul> <p>(2) All private designated enforcers.</p>	
Trade Descriptions Act 1968	<p>(1) All public designated enforcers, other than—</p> <ul style="list-style-type: none"> <li>(a) the Department of Health in Northern Ireland;</li> <li>(b) the Department for Infrastructure in Northern Ireland;</li> <li>(c) an enforcement authority within the meaning of section 120(15) of the Communications Act 2003 (regulation of premium rate services);</li> <li>(d) the Maritime and Coastguard Agency;</li> <li>(e) the Office for the Traffic Commissioner;</li> <li>(f) the Secretary of State.</li> </ul> <p>(2) All private designated enforcers.</p>	<p>See Schedule 3 to the Consumer Protection from Unfair Trading Regulations 2008 (<a href="#">S.I. 2008/1277</a>) for provision about the application of provisions of the Act that have been repealed</p>
Section 92 of the Trade Marks Act 1994	<p>(1) All public designated enforcers, other than—</p> <ul style="list-style-type: none"> <li>(a) the Department of Health in Northern Ireland;</li> <li>(b) the Department for Infrastructure in Northern Ireland;</li> </ul>	

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Enactment	Authorised enforcers	Information about transitional etc provision
Unfair Contract Terms Act 1977	<ul style="list-style-type: none"> <li>(c) an enforcement authority within the meaning of section 120(15) of the Communications Act 2003 (regulation of premium rate services);</li> <li>(d) the Maritime and Coastguard Agency;</li> <li>(e) the Office for the Traffic Commissioner;</li> <li>(f) the Secretary of State.</li> </ul> <p>(2) All private designated enforcers.</p>	<p>See Article 6 of the Consumer Rights Act 2015 (Commencement No. 3, Transitional Provisions, Savings and Consequential Amendments) Order 2015 (<a href="#">S.I. 2015/1630</a>) for provision about the application of provisions of the Act in connection with the coming into force of CRA 2015</p>
Sections 21 to 23, 25, 28, 30, 31, 32, 50(5) and (6) of the Weights and Measures Act 1985	<p>(1) All public designated enforcers, other than—</p> <ul style="list-style-type: none"> <li>(a) the Department of Health in Northern Ireland;</li> <li>(b) the Department for Infrastructure in Northern Ireland;</li> <li>(c) an enforcement authority within the meaning of section 120(15) of the Communications Act 2003 (regulation of premium rate services);</li> <li>(d) the Maritime and Coastguard Agency;</li> <li>(e) the Office for the Traffic Commissioner;</li> <li>(f) the Secretary of State.</li> </ul> <p>(2) All private designated enforcers.</p>	<p>See Article 21 of the Weights and Measures (Packaged Goods) Regulations 2006 (<a href="#">S.I. 2006/659</a>) for provision about the application of provisions of the Act that have been repealed</p>

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Enactment	Authorised enforcers	Information about transitional etc provision
	(2) All private designated enforcers.	
<b>2. Secondary legislation</b>		
Regulations 19(1) and (2) of the Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015 ( <a href="#">S.I. 2015/542</a> )	(1) All public designated enforcers. (2) All private designated enforcers.	
Breaching of Limits on Ticket Sales Regulations 2018 ( <a href="#">S.I. 2018/735</a> )	(1) CMA	
Regulations 2, 4, 13, 15 and 18 of the Business Protection from Misleading Marketing Regulations 2008 ( <a href="#">S.I. 2008/1276</a> )	(1) All public designated enforcers. (2) All private designated enforcers.	
Civil Aviation (Access to Air Travel for Disabled Persons and Persons with Reduced Mobility) Regulations 2014 ( <a href="#">S.I. 2014/2833</a> )	(1) All public designated enforcers. (2) All private designated enforcers.	See regulation 8 of the Consumer Protection (Enforcement) (Amendment etc.) Regulations 2020 ( <a href="#">S.I. 2020/484</a> ) for provision about the application of regulations that have been revoked
Civil Aviation (Denied Boarding, Compensation and Assistance) Regulations 2005 ( <a href="#">S.I. 2005/975</a> )	(1) All public designated enforcers. (2) All private designated enforcers.	
Part 6 of the Company, Limited Liability Partnership and Business (Names and Trading Disclosures) Regulations 2015 ( <a href="#">S.I. 2015/17</a> ), and any other provision of the Regulations having effect for the purposes of Part 6	(1) All public designated enforcers, other than— (a) the Department of Health in Northern Ireland; (b) the Department for Infrastructure in Northern Ireland; (c) an enforcement authority within the meaning of section 120(15)	

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Enactment	Authorised enforcers	Information about transitional etc provision
	<p>of the Communications Act 2003 (regulation of premium rate services);</p> <p>(d) the Maritime and Coastguard Agency;</p> <p>(e) the Office for the Traffic Commissioner;</p> <p>(f) the Secretary of State.</p> <p>(2) All private designated enforcers.</p>	
Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 ( <a href="#">S.I. 2013/3134</a> )	<p>(1) All public designated enforcers.</p> <p>(2) All private designated enforcers.</p>	
Consumer Protection from Unfair Trading Regulations 2008 ( <a href="#">S.I. 2008/1277</a> )	<p>(1) All public designated enforcers.</p> <p>(2) All private designated enforcers.</p>	
Regulations 4 and 6A to 10 of the Consumer Rights (Payment Surcharges) Regulations 2012 ( <a href="#">S.I. 2012/3110</a> )	<p>(1) All public designated enforcers.</p> <p>(2) All private designated enforcers.</p>	
Regulations 6, 7, 8, 9 and 11 of the Electronic Commerce (EC Directive) Regulations 2002 ( <a href="#">S.I. 2002/2013</a> )	<p>(1) All public designated enforcers.</p> <p>(2) All private designated enforcers.</p>	
Financial Services (Distance Marketing) Regulations 2004 ( <a href="#">S.I. 2004/2095</a> ) and rules corresponding to any provisions of those Regulations made by the Financial Conduct Authority or a designated professional body within the meaning of section 326(2) of the Financial Services and Markets Act 2000	<p>(1) All public designated enforcers.</p> <p>(2) All private designated enforcers.</p>	
Chapters 1 and 2 of Part 14 of the Human Medicines	<p>(1) All public designated enforcers.</p> <p>(2) All private designated enforcers.</p>	



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Enactment	Authorised enforcers	Information about transitional etc provision
Regulations 2012 (S.I. 2012/1916)	(1) All public designated enforcers. (2) All private designated enforcers.	See regulation 8 of the Consumer Protection (Enforcement) (Amendment etc.) Regulations 2020 (S.I. 2020/484) for provision about the application of regulations that have been revoked
Merchant (Passengers’ Rights) Regulations 2013 (S.I. 2013/425)	(1) All public designated enforcers. (2) All private designated enforcers.	
Operation of Air Services (Pricing etc.) Regulations 2013 (S.I. 2013/486)	(1) All public designated enforcers. (2) All private designated enforcers.	
Package Travel and Linked Travel Arrangements Regulations 2018 (S.I. 2018/634)	(1) All public designated enforcers. (2) All private designated enforcers.	
Parts 2 and 3 and regulations 18, 19, 20(1), 20(3) to 20(5), 21 to 25, 27(2) and 27(3) of, and Schedules 1 to 6 to, the Payment Accounts Regulations 2015 (S.I. 2015/2038)	(1) All public designated enforcers. (2) All private designated enforcers.	
Price Marking Order 2004 (S.I. 2004/102)	(1) All public designated enforcers. (2) All private designated enforcers.	
Regulations 19 to 26, 30 and 32 of the Privacy and Electronic Communications (EC Directive) Regulations 2003 (S.I. 2003/2426)	(1) All public designated enforcers. (2) All private designated enforcers.	
Provision of Services Regulations 2009 (S.I. 2009/2999)	(1) All public designated enforcers. (2) All private designated enforcers.	
Rail Passengers’ Rights and Obligations	(1) All public designated enforcers. (2) All private designated enforcers.	

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Enactment	Authorised enforcers	Information about transitional etc provision
Regulations 2010 (S.I. 2010/1504)		
Rights of Passengers in Bus and Coach Transport (Exemptions and Enforcement) Regulations 2013 (S.I. 2013/1865)	(1) All public designated enforcers. (2) All private designated enforcers.	
Timeshare, Holiday Products, Resale and Exchange Contracts Regulations 2010 (S.I. 2010/2960)	(1) All public designated enforcers. (2) All private designated enforcers.	
Rules made under sections 137A, 137R and 137T of the Financial Services and Markets Act 2000 which give effect to Articles 10, 11, 13 to 18 and 21 to 23, Chapter 10 and Annexes I and II of <a href="#">Directive 2014/17/EU</a> of the European Parliament and of the Council of 4 February 2014 on credit agreements for consumers relating to residential immovable property	(1) All public designated enforcers. (2) All private designated enforcers.	
<b>3. Northern Ireland legislation</b>		
Articles 131 to 135 and 168 of the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 (S.I. 1985/1204 (N.I. 11))	(1) All public designated enforcers, other than— (a) the Department of Health in Northern Ireland; (b) the Department for Infrastructure in Northern Ireland; (c) an enforcement authority within the meaning of section 120(15) of the Communications Act 2003 (regulation of premium rate services); (d) the Maritime and Coastguard Agency; (e) the Office for the Traffic Commissioner;	

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Enactment	Authorised enforcers	Information about transitional etc provision
Bus and Coach Passengers Rights and Obligations (Designation and Enforcement) Regulations (Northern Ireland) 2014 ( <a href="#">S.R. (N.I.) 2014 No 180</a> )	(f) the Secretary of State. (2) All private designated enforcers. (1) All public designated enforcers. (2) All private designated enforcers.	
Bus and Coach Passenger Rights and Obligations (Designation of Terminals, Tour Operators and Enforcement) Regulations (Northern Ireland) 2014 ( <a href="#">S.R. (N.I.) 2014 No 186</a> )	(1) All public designated enforcers. (2) All private designated enforcers.	
Article 5 of the Children and Young Persons (Protection from Tobacco) (Northern Ireland) Order 1991 ( <a href="#">S.I. 1991/2872 (N.I. 25)</a> )	(1) All public designated enforcers, other than— <ul style="list-style-type: none"> <li>(a) the Department of Health in Northern Ireland;</li> <li>(b) the Department for Infrastructure in Northern Ireland;</li> <li>(c) an enforcement authority within the meaning of section 120(15) of the Communications Act 2003 (regulation of premium rate services);</li> <li>(d) the Maritime and Coastguard Agency;</li> <li>(e) the Office for the Traffic Commissioner;</li> <li>(f) the Secretary of State.</li> </ul> (2) All private designated enforcers.	
Articles 3 and 4 of the Health and Personal Social Services (Northern Ireland) Order 1978 ( <a href="#">S.I. 1978/1907 (N.I. 26)</a> )	(1) All public designated enforcers, other than— <ul style="list-style-type: none"> <li>(a) the Department of Health in Northern Ireland;</li> <li>(b) the Department for Infrastructure in Northern Ireland;</li> <li>(c) an enforcement authority within the meaning of section 120(15) of the Communications Act 2003 (regulation of premium rate services);</li> </ul>	

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Enactment	Authorised enforcers	Information about transitional etc provision
Malicious Communications (Northern Ireland) Order 1988 (S.I. 1988/1849 (N.I. 18))	<ul style="list-style-type: none"> <li>(d) the Maritime and Coastguard Agency;</li> <li>(e) the Office for the Traffic Commissioner;</li> <li>(f) the Secretary of State.</li> </ul> <p>(2) All private designated enforcers.</p> <p>(1) All public designated enforcers, other than—</p> <ul style="list-style-type: none"> <li>(a) the Department of Health in Northern Ireland;</li> <li>(b) the Department for Infrastructure in Northern Ireland;</li> <li>(c) an enforcement authority within the meaning of section 120(15) of the Communications Act 2003 (regulation of premium rate services);</li> <li>(d) the Maritime and Coastguard Agency;</li> <li>(e) the Office for the Traffic Commissioner;</li> <li>(f) the Secretary of State.</li> </ul> <p>(2) All private designated enforcers.</p>	
Misrepresentation Act (Northern Ireland) 1967	<p>(1) All public designated enforcers, other than—</p> <ul style="list-style-type: none"> <li>(a) the Department of Health in Northern Ireland;</li> <li>(b) the Department for Infrastructure in Northern Ireland;</li> <li>(c) an enforcement authority within the meaning of section 120(15) of the Communications Act 2003 (regulation of premium rate services);</li> <li>(d) the Maritime and Coastguard Agency;</li> <li>(e) the Office for the Traffic Commissioner;</li> <li>(f) the Secretary of State.</li> </ul> <p>(2) All private designated enforcers.</p>	
Price Marking Order (Northern Ireland) 2004 (S.R. (N.I.) 2004 No 368)	<p>(1) All public designated enforcers.</p> <p>(2) All private designated enforcers.</p>	

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Enactment	Authorised enforcers	Information about transitional etc provision
Protection from Harassment (Northern Ireland) Order 1997 (S.I. 1997/1180 (N.I. 9))	(1) All public designated enforcers, other than— <ul style="list-style-type: none"> <li>(a) the Department of Health in Northern Ireland;</li> <li>(b) the Department for Infrastructure in Northern Ireland;</li> <li>(c) an enforcement authority within the meaning of section 120(15) of the Communications Act 2003 (regulation of premium rate services);</li> <li>(d) the Maritime and Coastguard Agency;</li> <li>(e) the Office for the Traffic Commissioner;</li> <li>(f) the Secretary of State.</li> </ul> (2) All private designated enforcers.	
Rail Passengers Rights and Obligations (Designation and Enforcement) Regulations (Northern Ireland) 2017 (S.R. (N.I.) 2017 No. 84)	(1) All private designated enforcers. (2) All public designated enforcers.	
Articles 83 and 84 of the Road Traffic (Northern Ireland) Order 1995 (S.I. 1995/2994 (N.I. 18))	(1) All public designated enforcers, other than— <ul style="list-style-type: none"> <li>(a) the Department of Health in Northern Ireland;</li> <li>(b) the Department for Infrastructure in Northern Ireland;</li> <li>(c) an enforcement authority within the meaning of section 120(15) of the Communications Act 2003 (regulation of premium rate services);</li> <li>(d) the Maritime and Coastguard Agency;</li> <li>(e) the Office for the Traffic Commissioner;</li> <li>(f) the Secretary of State.</li> </ul> (2) All private designated enforcers.	
Article 19(1) to (6), 20, 22, 25(2) and 32(5) of the Weights and Measures (Northern Ireland) Order	(1) All public designated enforcers, other than— <ul style="list-style-type: none"> <li>(a) the Department of Health in Northern Ireland;</li> </ul>	See regulation 21 of the Weights and Measures (Packaged Goods)

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Enactment	Authorised enforcers	Information about transitional etc provision
1981 (S.I. 1981/231 (N.I. 10))	(b) the Department for Infrastructure in Northern Ireland; (c) an enforcement authority within the meaning of section 120(15) of the Communications Act 2003 (regulation of premium rate services); (d) the Maritime and Coastguard Agency; (e) the Office for the Traffic Commissioner; (f) the Secretary of State. (2) All private designated enforcers.	Regulations (Northern Ireland) 2006 (S.R. (N.I.) 2011 No 331) for provision about the application of Articles at have been revoked

#### 4. Assimilated direct legislation

Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to air passengers in the event of denied boarding and of cancellation or long delay of flights	(1) All public designated enforcers. (2) All private designated enforcers.	
Regulation (EC) No 1107/2006 of the European Parliament and of the Council of 5 July 2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air	(1) All public designated enforcers. (2) All private designated enforcers.	
Regulation (EC) No 1371/2007 of the European Parliament and of the Council of 23 October 2007 on rail passengers' rights and obligations	(1) All public designated enforcers. (2) All private designated enforcers.	
Article 23 of Regulation (EC) No 1008/2008 of the European Parliament and of the Council of	(1) All public designated enforcers. (2) All private designated enforcers.	

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<b>Enactment</b>	<b>Authorised enforcers</b>	<b>Information about transitional etc provision</b>
24 September 2008 on common rules for the operation of air services in the Community		
<a href="#">Regulation (EU) No 1177/2010</a> of the European Parliament and of the Council of 24 November 2010 concerning the rights of passengers when travelling by sea and inland waterway and amending Regulation (EC) No 2006/2004	(1) All public designated enforcers. (2) All private designated enforcers.	
<a href="#">Regulation (EU) No 181/2011</a> of the European Parliament and of the Council of 16 February 2011 concerning the rights of passengers in bus and coach transport and amending Regulation (EC) No 2006/2004	(1) All public designated enforcers. (2) All private designated enforcers.	
Article 10(4) of <a href="#">Regulation (EU) 2015/751</a> of the European Parliament and of the Council of 29 April 2015 on interchange fees for card-based payment transactions	(1) All public designated enforcers. (2) All private designated enforcers.	
<b>5. Saved legislation</b>		
Cancellation of Contracts made in a Consumer's Home or Place of Work etc. Regulations 2008 ( <a href="#">S.I. 2008/1816</a> )	(1) All public designated enforcers. (2) All private designated enforcers.	See regulation 2(b) of the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 ( <a href="#">S.I. 2013/3134</a> ) for provision about the application of the Regulations in

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Enactment	Authorised enforcers	Information about transitional etc provision
Consumer Protection (Distance Selling) Regulations 2000 (S.I. 2000/2334)	(1) All public designated enforcers. (2) All private designated enforcers.	connection with their revocation  See regulation 2(b) of the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 (S.I. 2013/3134) for provision about the application of the Regulations in connection with their revocation
Package Travel, Package Holidays and Package Tours regulations 1992 (S.I. 1992/3288)	(1) All public designated enforcers. (2) All private designated enforcers.	See regulation 37(2) of the Package Travel and Linked Travel Arrangements Regulations 2018 (S.I. 2018/634) for provision about the application of the Regulations in connection with their revocation
Regulation 15 of the Pyrotechnic Articles (Safety) Regulations 2010 (S.I. 2010/1554)	(1) All public designated enforcers, other than— (a) the Department of Health in Northern Ireland; (b) the Department for Infrastructure in Northern Ireland; (c) an enforcement authority within the meaning of section 120(15) of the Communications Act 2003 (regulation of premium rate services); (d) the Maritime and Coastguard Agency;	See regulation 75(2) of the Pyrotechnic Articles (Safety) Regulations 2015 (S.I. 2015/1553) for provision about the application of the regulation in connection with its revocation



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Enactment	Authorised enforcers	Information about transitional etc provision
Regulation 15 of the Sale and Supply of Goods to Consumers Regulations 2002 ( <a href="#">S.I. 2002/3045</a> )	<ul style="list-style-type: none"> <li>(e) the Office for the Traffic Commissioner;</li> <li>(f) the Secretary of State.</li> </ul> <p>(2) All private designated enforcers.</p> <p>(1) All public designated enforcers, other than—</p> <ul style="list-style-type: none"> <li>(a) the Department of Health in Northern Ireland;</li> <li>(b) the Department for Infrastructure in Northern Ireland;</li> <li>(c) an enforcement authority within the meaning of section 120(15) of the Communications Act 2003 (regulation of premium rate services);</li> <li>(d) the Maritime and Coastguard Agency;</li> <li>(e) the Office for the Traffic Commissioner;</li> <li>(f) the Secretary of State.</li> </ul> <p>(2) All private designated enforcers.</p>	<p>See Article 6 of the Consumer Rights Act 2015 (Commencement No. 3, Transitional Provisions, Savings and Consequential Amendments) Order 2015 (<a href="#">S.I. 2015/1630</a>) for provision about the application of the regulation in connection with its revocation</p>
Tobacco Products (Manufacture, Presentation and Sale) Regulations 2002 ( <a href="#">S.I. 2002/3041</a> )	<p>(1) All public designated enforcers, other than—</p> <ul style="list-style-type: none"> <li>(a) the Department of Health in Northern Ireland;</li> <li>(b) the Department for Infrastructure in Northern Ireland;</li> <li>(c) an enforcement authority within the meaning of section 120(15) of the Communications Act 2003 (regulation of premium rate services);</li> <li>(d) the Maritime and Coastguard Agency;</li> <li>(e) the Office for the Traffic Commissioner;</li> <li>(f) the Secretary of State.</li> </ul> <p>(2) All private designated enforcers.</p>	<p>See regulations 55 and 56 of the Tobacco and Related Products Regulations 2016 (<a href="#">S.I. 2016/507</a>) for provision about the application of the Regulations in connection with their revocation</p>
Unfair Terms in Consumer Contracts Regulations 1999 ( <a href="#">S.I. 1999/2083</a> )	<p>(1) All public designated enforcers.</p> <p>(2) All private designated enforcers.</p>	<p>See Article 6 of the Consumer Rights Act 2015 (Commencement No. 3, Transitional Provisions,</p>

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Enactment	Authorised enforcers	Information about transitional etc provision
<b>6. Other subordinate legislation</b>	(1) All public designated enforcers. (2) All private designated enforcers.	Savings and Consequential Amendments) Order 2015 (S.I. 2015/1630) for provision about the application of the Regulations in connection with their revocation)
Any other subordinate legislation (not otherwise listed in this Schedule) so far as made under an enactment so listed		

## PART 2

### OBLIGATIONS AND RULES OF LAW

Obligation or rule of law	Authorised enforcers
Breach of contract for the supply of goods, services or digital content (whether or not breach is waived)	(1) All public designated enforcers, other than— (a) the Department of Health in Northern Ireland; (b) the Department for Infrastructure in Northern Ireland; (c) an enforcement authority within the meaning of section 120(15) of the Communications Act 2003 (regulation of premium rate services); (d) the Maritime and Coastguard Agency; (e) the Office for the Traffic Commissioner; (f) the Secretary of State. (2) All private designated enforcers.
Breach of duty of care owed to consumer under law of tort	(1) All public designated enforcers, other than—

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Obligation or rule of law	Authorised enforcers
Breach of duty of care owed to consumer under law of delict	<ul style="list-style-type: none"> <li>(a) the Department of Health in Northern Ireland;</li> <li>(b) the Department for Infrastructure in Northern Ireland;</li> <li>(c) an enforcement authority within the meaning of section 120(15) of the Communications Act 2003 (regulation of premium rate services);</li> <li>(d) the Maritime and Coastguard Agency;</li> <li>(e) the Office for the Traffic Commissioner;</li> <li>(f) the Secretary of State.</li> </ul> <p>(2) All private designated enforcers.</p>
	<p>(1) All public designated enforcers, other than—</p> <ul style="list-style-type: none"> <li>(a) the Department of Health in Northern Ireland;</li> <li>(b) the Department for Infrastructure in Northern Ireland;</li> <li>(c) an enforcement authority within the meaning of section 120(15) of the Communications Act 2003 (regulation of premium rate services);</li> <li>(d) the Maritime and Coastguard Agency;</li> <li>(e) the Office for the Traffic Commissioner;</li> <li>(f) the Secretary of State.</li> </ul> <p>(2) All private designated enforcers.</p>
Any rule of law in Scotland which provides comparable protection to section 13 of the Supply of Goods and Services Act 1982	<p>(1) All public designated enforcers.</p> <p>(2) All private designated enforcers.</p>

SCHEDULE 16

Section 150

DIRECT ENFORCEMENT ENACTMENTS

Enactment	Extent
<b>1. Acts of Parliament</b>	
Consumer Credit Act 1974	The whole Act
Consumer Rights Act 2015	Parts 1 and 2

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<b>Enactment</b>	<b>Extent</b>
	Chapter 5 of Part 3
	Schedules 2 and 3
	Part 3 of Schedule 5
Digital Markets, Competition and Consumers Act 2024	Chapters 1, 2 and 3 of Part 4
Sale of Goods Act 1979	Sections 1 to 10
	Section 11 (other than subsection (4))
	Sections 16 to 19
	Sections 20A and 20B
	Sections 21 to 28
	Section 29 (other than subsection (3))
	Section 34
	Section 37
	Part 5
	Sections 49 and 50
	Section 57
	Sections 60 to 62
<b>2. Secondary legislation and assimilated direct legislation</b>	
Business Protection from Misleading Marketing Regulations 2008	Regulations 2, 4, 13, 15 and 18
Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013	All regulations
Consumer Protection from Unfair Trading Regulations 2008	All regulations
Consumer Rights (Payment Surcharges) Regulations 2012	Regulations 4 and 6A to 10
Electronic Commerce (EC Directive) Regulations 2002	Regulations 6, 7, 8, 9 and 11
<a href="#">Regulation (EU) 2015/751</a> of the European Parliament and of the Council of 29 April 2015 on interchange fees for card-based payment transactions	Article 10(4)
Package Travel and Linked Travel Arrangements Regulations 2018	All regulations
Price Marking Order 2004	The whole Order

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<b>Enactment</b>	<b>Extent</b>
Price Marking Order (Northern Ireland) 2004 ( <a href="#">S.R. (N.I.) 2004 No 368</a> )	The whole Order
Provision of Services Regulations 2009	All regulations
Timeshare, Holiday Products, Resale and Exchange Contracts Regulations 2010	All regulations
<b>3. Saved legislation</b>	
Sale of Goods Act 1979	The whole Act, so far as it continues to apply by virtue of the saving made by Article 6(1) of the Consumer Rights Act (Commencement No 3, Transitional Provisions, Savings and Consequential Amendments) Order 2015
Supply of Goods and Services Act 1982	The whole Act, so far as it continues to apply by virtue of the saving made by Article 6(1) of the Consumer Rights Act (Commencement No 3, Transitional Provisions, Savings and Consequential Amendments) Order 2015
Supply of Goods (Implied Terms Act) 1973	The whole Act, so far as it continues to apply by virtue of the saving made by Article 6(1) of the Consumer Rights Act (Commencement No 3, Transitional Provisions, Savings and Consequential Amendments) Order 2015
Unfair Contract Terms Act 1977	The whole Act, so far as it continues to apply by virtue of the saving made by Article 6(1) of the Consumer Rights Act (Commencement No 3, Transitional Provisions, Savings and Consequential Amendments) Order 2015
Cancellation of Contracts made in a Consumer’s Home or Place of Work etc Regulations 2008 ( <a href="#">S.I. 2008/1816</a> )	All regulations (see regulation 2(b) of the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 ( <a href="#">S.I. 2013/3134</a> ) for provision about the application of the Regulations in connection with contracts entered into before 13th June 2014).
Consumer Protection (Distance Selling) Regulations 2000 ( <a href="#">S.I. 2000/2334</a> )	All regulations (see regulation 2(a) of the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 for provision about the application of the Regulations in connection with contracts entered into before 13th June 2014).

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

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<b>Enactment</b>	<b>Extent</b>
Package Travel, Package Holidays and Package Tours Regulations 1992 (S.I. 1992/3288)	All regulations (see regulation 37(2) of the Package Travel and Linked Travel Arrangements Regulations 2018 (S.I. 2018/634) for provision about the application of the Regulations in connection with their revocation)
Sale and Supply of Goods to Consumers Regulations 2002 (S.I. 2002/3045)	Regulation 15 (see Article 6(3) of the Consumer Rights Act 2015 (Commencement No 3, Transitional Provisions, Savings and Consequential Amendments) Order 2015 for provision about the application of the Regulation in connection with its revocation)
Unfair Terms in Consumer Contracts Regulations 1999 (S.I. 1999/2083)	All regulations (see Article 6(4) of the Consumer Rights Act 2015 (Commencement No 3, Transitional Provisions, Savings and Consequential Amendments) Order 2015 for provision about the application of the Regulations in connection with their revocation)
<b>4. Other subordinate legislation</b>	
Any other subordinate legislation (not otherwise listed in this Schedule) so far as made under an enactment so listed	The entirety of the legislation.

SCHEDULE 17

Section 208

INVESTIGATORY POWERS

*Introductory*

1 Schedule 5 to CRA 2015 (investigatory powers) is amended as follows.

*Penalties for non-compliance with information notices*

2 (1) Paragraph 15 is amended in accordance with sub-paragraphs (2) and (3).

(2) In sub-paragraph (3)—

(a) in the opening words for “may” substitute “must”;

(b) after paragraph (b) insert—

“(c) the circumstances in which a monetary penalty may be payable under this Part of this Schedule in relation to non-compliance with the notice.”

(3) After paragraph 16 insert—

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*“Non-compliance with notice under paragraph 14: power of court to impose monetary penalties*

- 16A (1) This paragraph applies where—
- (a) an enforcer or an officer of an enforcer has given a notice to a person (“the respondent”) under paragraph 14, and
  - (b) the enforcer considers that the respondent has, without reasonable excuse, failed to comply with the notice.
- (2) The enforcer or an officer of the enforcer may make an application under this paragraph to the court.
- (3) If the court finds that the respondent has, without reasonable excuse, failed to comply with the notice, the court may make an order that requires the respondent to pay a monetary penalty to the enforcer.
- (4) The amount of the penalty must be—
- (a) a fixed amount,
  - (b) an amount calculated by reference to a daily rate, or
  - (c) a combination of a fixed amount and an amount calculated by reference to a daily rate.
- (5) The penalty must not exceed—
- (a) in the case of a fixed amount, £30,000 or, if higher, 1% of the total value of the turnover (if any) of the respondent;
  - (b) in the case of an amount calculated by reference to a daily rate, £15,000 per day or, if higher, 5% of the total value of the daily turnover (if any) of the respondent;
  - (c) in the case of a fixed amount and an amount calculated by reference to a daily rate, such fixed amount and such amount per day.
- (6) In imposing a penalty by reference to a daily rate—
- (a) no account is to be taken of any days before the notification date, and
  - (b) unless the court determines an earlier date (whether before or after the order imposing the penalty is made), the amount payable ceases to accumulate on the day on which the requirements of the notice under paragraph 14 are complied with.
- (7) An order under this paragraph, or a notice accompanying service of the order, must state—
- (a) the amount of the penalty (including whether it is a fixed amount, an amount calculated by reference to a daily rate or both a fixed amount and an amount calculated by reference to a daily rate);
  - (b) the grounds on which the penalty is imposed together with any other factors that the court considers justify the giving of the penalty or its amount;

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- (c) in the case of an amount calculated by reference to a daily rate, the day on which the amount first starts to accumulate and the day or days on which it might cease to accumulate;
  - (d) how the penalty is to be paid to the enforcer;
  - (e) the date or dates, no earlier than the end of 28 days beginning with the date of service of the order on the respondent, by which the penalty or (as the case may be) different portions of it are required to be paid;
  - (f) that the penalty or (as the case may be) different portions of it may be paid earlier than the date or dates by which it or they are required to be paid;
  - (g) that the respondent has the right to apply under sub-paragraph (8), and the rights available to the respondent to appeal against the order, and the main details of those rights.
- (8) The respondent may, within 14 days of the date on which an order under this paragraph is served on the respondent, apply to the court for it to specify a different date or dates by which the penalty, or portions of it, are to be paid.
- (9) An application by an enforcer or officer of an enforcer under this paragraph—
- (a) may be made in addition to, or instead of, an application under paragraph 16, and
  - (b) where made in addition to an application under paragraph 16, may be combined with the application under that paragraph.
- (10) In addition to any right of appeal on a point of law, a person liable to pay a penalty by virtue of an order under this paragraph may appeal in respect of the amount of the penalty.
- (11) Where an appeal is brought in respect of a penalty imposed by virtue of an order under this paragraph, the penalty is not payable until the appeal is determined or withdrawn, unless the court dealing with the appeal orders otherwise.
- (12) Sub-paragraphs (4) and (5) of paragraph 16 apply to an order under this paragraph as they apply to an order under that paragraph.
- (13) In the application of this paragraph to Scotland, the references in sub-paragraphs (7) and (8) to an order being served include service of an extract order in execution of or diligence on the order.
- (14) In this paragraph, other than in sub-paragraph (11)—
- “the court” has the same meaning as in paragraph 16;
  - “the notification date”, in relation to an order under this paragraph, means the date on which notice of the application for the order is given to the respondent.

*Non-compliance with notice under paragraph 14: powers of CMA to give provisional enforcement notice*

- 16B (1) This paragraph applies where—



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- (a) the CMA has given a notice to a person (“the respondent”) under paragraph 14, and
  - (b) the CMA has reasonable grounds to believe that the respondent has failed to comply with the notice.
- (2) The CMA may give to the respondent a notice under this paragraph (a “provisional enforcement notice”).
- (3) A provisional enforcement notice must—
- (a) set out the grounds on which it is given, including the respondent’s acts or omissions giving rise to the giving of the notice;
  - (b) specify such actions as the CMA considers appropriate to be taken by the respondent for the purposes of securing compliance with the notice under paragraph 14;
  - (c) invite the respondent to make representations to the CMA about the matters set out in the notice;
  - (d) specify the means by which, and the time by which, such representations must be made.
- (4) The means specified under sub-paragraph (3)(d) for making representations must include arrangements for them to be made orally if the respondent chooses to make representations in that way.
- (5) If the CMA is considering the imposition of a monetary penalty on the respondent (see paragraph 16C), the provisional enforcement notice must also state—
- (a) that the CMA is considering imposing a monetary penalty;
  - (b) the proposed amount of the penalty (including whether the penalty would be a fixed amount, an amount calculated by reference to a daily rate or both a fixed amount and an amount calculated by reference to a daily rate);
  - (c) any further factors (in addition to those provided under sub-paragraph (3)(a)) which the CMA considers justify the imposition of the proposed penalty and its amount or amounts.

*Non-compliance with notice under paragraph 14: power of CMA to give final enforcement notice*

- 16C (1) This paragraph applies where—
- (a) the CMA has given to the respondent a provisional enforcement notice under paragraph 16B in respect of a notice given to the respondent under paragraph 14,
  - (b) the time for the respondent to make representations to the CMA in accordance with the provisional enforcement notice has expired, and
  - (c) after considering such representations (if any), the CMA is satisfied that the respondent has failed to comply with the notice given under paragraph 14.
- (2) The CMA may by notice (a “final enforcement notice”) impose on the respondent a requirement to do either or both of the following—

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- (a) a requirement to pay a monetary penalty;
  - (b) a requirement to comply with such directions as the CMA considers appropriate for the purpose of securing the respondent's compliance with the notice under paragraph 14.
- (3) A requirement under sub-paragraph (2)(a) to pay a monetary penalty may be imposed only if the CMA is satisfied that the respondent's failure in question is without reasonable excuse.
- (4) The amount of a monetary penalty must be—
  - (a) a fixed amount,
  - (b) an amount calculated by reference to a daily rate, or
  - (c) a combination of a fixed amount and an amount calculated by reference to a daily rate.
- (5) The penalty must not exceed—
  - (a) in the case of a fixed amount, £30,000 or, if higher, 1% of the total value of the turnover (if any) of the respondent;
  - (b) in the case of an amount calculated by reference to a daily rate, £15,000 per day or, if higher, 5% of the total value of the daily turnover (if any) of the respondent;
  - (c) in the case of a fixed amount and an amount calculated by reference to a daily rate, such fixed amount and such amount per day.
- (6) In imposing a penalty by reference to a daily rate—
  - (a) no account is to be taken of any days before the date on which the provisional enforcement notice mentioned in sub-paragraph (1)(a) was given to the respondent, and
  - (b) unless the CMA determines an earlier date, the amount payable ceases to accumulate on the day on which the requirements of the notice under paragraph 14 are complied with.
- (7) A final enforcement notice that imposes a penalty on the respondent must state—
  - (a) the amount of the penalty (including whether it is a fixed amount, an amount calculated by reference to a daily rate or both a fixed amount and an amount calculated by reference to a daily rate);
  - (b) the grounds on which the penalty is imposed together with any other factors that the CMA considers justify the giving of the penalty or its amount;
  - (c) in the case of an amount calculated by reference to a daily rate, the day on which the amount first starts to accumulate and the day or days on which it might cease to accumulate;
  - (d) how the penalty is to be paid to the CMA;
  - (e) the date or dates, no earlier than the end of 28 days beginning with the date of service of the notice on the respondent, by which the penalty or (as the case may be) different portions of it are required to be paid;

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- (f) that the penalty or (as the case may be) different portions of it may be paid earlier than the date or dates by which it or they are required to be paid;
  - (g) that the respondent has the right to apply under sub-paragraph (8), or to appeal under paragraph 16D, and the main details of those rights.
- (8) The respondent may, within 14 days of the date of service of the notice, apply to the CMA for it to specify a different date or dates by which the penalty, or different portions of it, are to be paid.
  - (9) In deciding whether, and if so how, to proceed under this paragraph the CMA must have regard to the statement of policy most recently published under paragraph 16F at the time of the act or omission giving rise to the penalty.
  - (10) The CMA may publish a notice given under this paragraph in such manner as it considers appropriate.
  - (11) Sections 191 to 196 of the Digital Markets, Competition and Consumers Act 2024 apply to a direction given in a notice under this paragraph as if the direction were an enforcement direction for the purposes of those sections.

#### *Appeals against final enforcement notice*

- 16D (1) A person to whom a final enforcement notice is given may appeal to the appropriate court against—
- (a) a decision to impose a monetary penalty by virtue of the notice,
  - (b) the nature or amount of any such penalty, or
  - (c) the giving of directions by virtue of the notice.
- (2) The grounds for an appeal under sub-paragraph (1)(a) or (b) are that—
- (a) the decision to impose a monetary penalty was based on an error of fact,
  - (b) the decision was wrong in law,
  - (c) the amount of the penalty is unreasonable, or
  - (d) the decision was unreasonable or wrong for any other reason.
- (3) The grounds for an appeal under sub-paragraph (1)(c) are that—
- (a) the decision to give the directions was based on an error of fact,
  - (b) the decision was wrong in law,
  - (c) the nature of the directions is unreasonable, or
  - (d) the decision was unreasonable or wrong for any other reason.
- (4) On an appeal under this paragraph the appropriate court may quash, confirm or vary the final enforcement notice.
- (5) An appeal under this paragraph must be brought before the end of the period of 28 days beginning with the day on which the final enforcement notice was given to the person seeking to bring the appeal.
- (6) The appropriate court may extend the period mentioned in sub-paragraph (5) for bringing an appeal.

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- (7) Where an appeal is brought under this paragraph, the penalty is not payable until the appeal is determined or withdrawn, unless the appropriate court orders otherwise.
- (8) In this paragraph “the appropriate court” means—
  - (a) in relation to England and Wales or Northern Ireland, the High Court, and
  - (b) in relation to Scotland, the Outer House of the Court of Session.

#### *Recovery of penalties imposed under paragraph 16C*

- 16E
- (1) This paragraph applies where a penalty imposed by a final enforcement notice given under paragraph 16C, or any part of such a penalty, has not been paid by the date on which it is required to be paid and—
    - (a) an appeal under paragraph 16D has not been brought before the end of the period mentioned in sub-paragraph (5) of that paragraph, or
    - (b) any such appeal that was brought has been determined, withdrawn or otherwise disposed of.
  - (2) The CMA may recover from the person on whom the penalty was imposed any of the penalty and any interest which has not been paid.
  - (3) Any such penalty and interest may be recovered summarily (or, in Scotland, recovered) as a civil debt by the CMA.

#### *Statement of policy in relation to penalties under paragraph 16C*

- 16F
- (1) The CMA must prepare and publish a statement of policy in relation to the use of its power to impose penalties under paragraph 16C.
  - (2) The statement must include a statement about the considerations relevant to the determination of—
    - (a) whether to impose a penalty under that paragraph, and
    - (b) the nature and amount of any such penalty.
  - (3) The CMA may revise its statement of policy and, where it does so, must publish the revised statement.
  - (4) In preparing or revising its statement of policy the CMA must consult—
    - (a) the Secretary of State, and
    - (b) such other persons as the CMA considers appropriate.
  - (5) A statement of policy, or revised statement, may not be published under this paragraph without the approval of the Secretary of State.

#### *Penalties imposed under paragraphs 16A and 16C: further provision*

- 16G
- (1) If the whole or any portion of a penalty is not paid by the date by which it is required to be paid, the unpaid balance from time to time carries interest at the statutory rate.

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- (2) Where an application has been made under paragraph 16A(8) or 16C(8), the penalty is not required to be paid until the application has been determined, withdrawn or otherwise disposed of.
- (3) If a portion of a penalty has not been paid by the date required for it, the enforcer to whom it is payable may, where it considers it appropriate to do so, require so much of the penalty as has not already been paid (and is capable of being paid immediately) to be paid immediately.
- (4) Where on an appeal under paragraph 16D the appropriate court substitutes a penalty of a different nature or of a lesser amount, the court may require the payment of interest at the statutory rate on the substituted penalty from whatever date it considers appropriate (which may include a date before the determination of the appeal).
- (5) In the case of a monetary penalty imposed on a firm, the penalty is to be paid out of the assets or funds of the firm.
- (6) Sums received from a person towards payment of a monetary penalty must be paid—
  - (a) in the case of a penalty imposed by an order of the Court of Session or the Sheriff, into the Scottish Consolidated Fund;
  - (b) in the case of a penalty imposed by an order of a court in Northern Ireland, into the Consolidated Fund of Northern Ireland;
  - (c) in any other case, into the Consolidated Fund of the United Kingdom.
- (7) In this paragraph—
  - “penalty” means a penalty imposed under paragraph 16A or 16C;
  - “statutory rate” means the rate for the time being specified in section 17 of the Judgments Act 1838.

*Meaning of “turnover” for purposes of paragraphs 16A and 16C*

- 16H (1) References to “turnover” of a person in paragraphs 16A and 16C include—
- (a) turnover both in and outside the United Kingdom;
  - (b) where the person controls another person, the turnover of that other person;
  - (c) where the person is controlled by another person, the turnover of that other person.
- (2) The Secretary of State may by regulations—
- (a) make provision for determining when a person is to be treated as controlled by another person for the purposes of subparagraph (1);
  - (b) make provision for determining the turnover of a person for those purposes.
- (3) Regulations under this paragraph may, in particular, make provision as to—

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- (a) the amounts which are, or which are not, to be treated as comprising a person's turnover or daily turnover;
  - (b) the date or dates by references to which a person's turnover or daily turnover is to be determined.
- (4) Regulations under this paragraph may include provision enabling the court (within the meaning of paragraph 16A) or the CMA to determine matters of a description specified in the regulations (including any of the matters mentioned in paragraphs (a) and (b) of sub-paragraph(3)).
- (5) Regulations under this paragraph are to be made by statutory instrument.
- (6) A statutory instrument containing regulations under this paragraph is subject to annulment in pursuance of a resolution of either House of Parliament.

*Power to amend amounts*

- 16I (1) The Secretary of State may by regulations amend the following provisions of this Schedule for the purpose of substituting a different monetary amount for an amount of fixed or daily penalty for the time being specified—
- (a) paragraph 16A(5)(a) and (b);
  - (b) paragraph 16C(5)(a) and (b).
- (2) Before making regulations under this paragraph the Secretary of State must consult such persons as the Secretary of State considers appropriate.
- (3) Regulations under this paragraph are to be made by statutory instrument.
- (4) Regulations under this paragraph may not be made unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, each House of Parliament.

*Miscellaneous*

- 16J (1) The CMA may not make an application under paragraph 16A in respect of a person's failure to comply with a notice under paragraph 14 if the CMA has given to the person a final enforcement notice under paragraph 16C in respect of that failure.
- (2) The CMA may not give a person a final enforcement notice under paragraph 16C in respect of a failure to comply with a notice under paragraph 14 if—
- (a) the CMA has made an application under paragraph 16A against the person in respect of that failure, and
  - (b) the application has been determined by the court (within the meaning of that paragraph)."

*Extra-territorial application in relation to notices*

- 3 After paragraph 17 insert—

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*“Extra-territorial application in relation to notices under paragraph 14*

- 17A (1) This paragraph applies to the exercise of a power of an enforcer to give a person a notice under paragraph 14.
- (2) The power is exercisable so as to—
- (a) give the notice to a person who is outside the United Kingdom;
  - (b) require the provision of information held outside the United Kingdom.
- (3) Sub-paragraph (4) applies where—
- (a) an enforcer proposes to give a notice to a person outside the United Kingdom by virtue of sub-paragraph (2)(a), and
  - (b) the enforcer does not consider that the person is a potential enforcement subject.
- (4) Where this sub-paragraph applies, the power to give the notice is exercisable only if the person has a UK connection.
- (5) 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 firm established in the United Kingdom, or
  - (d) carries on business in the United Kingdom or by any means directs activities in the course of carrying on a business to consumers in the United Kingdom.
- (6) For the purposes of sub-paragraph (3)(b) a person (P) is a “potential enforcement subject”, in relation to a notice given by an enforcer to P by virtue of this paragraph, if the notice is given for the purposes of enabling the enforcer—
- (a) to exercise, or consider whether to exercise, a function mentioned in paragraph 13(2), (3), (7)(a) or (9)(b) in relation to P;
  - (b) to ascertain whether P has breached any legislation mentioned in paragraph 13(4);
  - (c) to ascertain whether P has complied with, or is complying with, an injunction or interdict mentioned in paragraph 13(7)(b);
  - (d) to determine whether to make an order of a kind mentioned in paragraph 13(9)(a) in respect of, or in relation to, P.
- (7) In sub-paragraph (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 protection person within the meaning of that Act.
- (8) For the purposes of sub-paragraph(5)(c), a firm is “established in the United Kingdom” if—



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- (a) it is incorporated or formed under the law of a part of the United Kingdom, or
  - (b) it is administered under arrangements governed by the law of a part of the United Kingdom.
- (9) References in this paragraph to an enforcer include an officer of an enforcer.”

*Means of giving notices*

4 After paragraph 17A (inserted by paragraph 3 above) insert—

*“Means of giving notice under this Part of this Schedule*

- 17B (1) This paragraph applies in relation to a notice given to a person under this Part of this Schedule.
- (2) The notice may be given 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 the person’s email address.
- (3) A notice to a body corporate may be given in accordance with sub-paragraph (2) to any officer of that body.
- (4) A notice to a partnership may be given in accordance with sub-paragraph (2) to any partner or a person who has the control or management of the partnership business.
- (5) A notice to a firm other than a body corporate or a partnership may be given in accordance with sub-paragraph (2) to any member of the governing body of the firm.
- (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 notices or other documents, that address;
  - (b) in any other case, the address determined in accordance with sub-paragraph (7).
- (7) A person’s proper address is (if sub-paragraph (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 a firm other than a body corporate or a partnership, the principal office of the firm;
  - (d) in a case where none of paragraphs (a) to (c) apply, any address by means of which the enforcer or officer giving the notice believes, on reasonable grounds, that the notice will come to the attention of the person.
- (8) A person’s email address is—



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- (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 enforcer or officer giving the notice believes, on reasonable grounds, that the notice 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 type of firm 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 paragraph “officer”, in relation to a body corporate, means any director, manager, secretary or other similar officer of the body.
- (11) This paragraph does not limit other lawful means of giving notice.”

#### *Access to documents*

- 5 In paragraph 32—
- (a) in sub-paragraph (2), in the words before paragraph (a), after “on” insert “, or accessible from,”;
  - (b) in sub-paragraph (5)—
    - (i) after “documents on” insert “, or accessible from,” and
    - (ii) after “with” insert “, or access to them would otherwise be restricted,”.

#### *Meaning of “firm”*

- 6 In paragraph 8, after the definition of “enforcement order” insert—
- ““firm” means any entity, whether or not a legal person, that is not an individual and includes a body corporate, a corporation sole and a partnership or other unincorporated association;”.

## SCHEDULE 18

Section 214

### PART 3: MINOR AND CONSEQUENTIAL AMENDMENTS

#### *Estate Agents Act 1979*

- 1 In section 3 of the Estate Agents Act 1979 (orders prohibiting unfit persons from doing estate agency work), in subsection (1)—
- (a) in paragraph (ba) for “section 217, 218 or 219 of the Enterprise Act 2002” substitute “section 156, 159, 163 or 185 of the Digital Markets, Competition and Consumers Act 2024”;

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- (b) in paragraph (bb) for “section 217 of the Enterprise Act 2002” substitute “section 156 of the Digital Markets, Competition and Consumers Act 2024”;
- (c) after paragraph (bb) insert—
  - “(bc) has failed to comply with a requirement imposed by a final infringement notice given under section 182 of that Act in relation to estate agency work; or”.

#### *Companies Act 1985*

- 2 (1) Schedule 15D to the Companies Act 1985 is amended as follows.
  - (2) In paragraph 20—
    - (a) for “Part 8 of the Enterprise Act 2002” substitute “Chapter 3 or 4 of the Digital Markets, Competition and Consumers Act 2024”;
    - (b) for “that Part” substitute “that Chapter”.
  - (3) In paragraph 27 for “section 230(2) of the Enterprise Act 2002” substitute “section 171(2) of the Digital Markets, Competition and Consumers Act 2024”.

#### *Enterprise Act 2002*

- 3 EA 2002 is amended as follows.
- 4 Omit Part 8 (including Schedule 13).
- 5 In section 238 (information), in subsection (1), in paragraph (a) for “, 7 or 8” substitute “or 7”.
- 6 In section 243 (overseas disclosures), in subsection (3)(a) for the words from “designated” to the end substitute “a private designated enforcer for the purposes of Chapter 3 of Part 3 of the Digital Markets, Competition and Consumers Act 2024”.
- 7 In Schedule 14 (provisions about disclosure of information) at the appropriate place insert—
 

“Chapters 3 and 4 of Part 3 of the Digital Markets, Competition and Consumers Act 2024.”
- 8 In Schedule 15 (enactments conferring functions) at the appropriate place insert—
 

“Chapters 3 and 4 of Part 3 of the Digital Markets, Competition and Consumers Act 2024.”

#### *Companies Act 2006*

- 9 (1) The Companies Act 2006 is amended as follows.
  - (2) In Part 2 of Schedule 2—
    - (a) in paragraph 28—
      - (i) for “Part 8 of the Enterprise Act 2002” substitute “Chapter 3 or 4 of Part 3 of the Digital Markets, Competition and Consumers Act 2024”;
      - (ii) for “that Part” substitute “that Chapter”;

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- (b) in paragraph 36 for the words after “under” to the end substitute “section 171(2) of the Digital Markets, Competition and Consumers Act 2024”.
- (3) In Schedule 11A—
  - (a) in paragraph 42, for the words after “under” to the end substitute “Chapter 3 or 4 of Part 3 of the Digital Markets, Competition and Consumers Act 2024 (enforcement of consumer protection law)”;
  - (b) in paragraph 51 for the words after “under” to the end substitute “section 171(2) of the Digital Markets, Competition and Consumers Act 2024 (notice of intention to prosecute etc)”.

#### *Regulatory Enforcement and Sanctions Act 2008*

- 10 In Schedule 3 to the Regulatory Enforcement and Sanctions Act 2008, at the appropriate place insert—  
“Digital Markets, Competition and Consumers Act 2024, Chapters 3 and 4 of Part 3”.

#### *Consumer Rights Act 2015*

- 11 (1) Schedule 5 to CRA 2015 (investigatory powers) is amended as follows.
- (2) In paragraph 2—
  - (a) in sub-paragraph (1), omit paragraph (b);
  - (b) in sub-paragraph (2) for paragraph (b) substitute—  
“(b) an authorised enforcer for the purposes of that Part (see paragraph 20(7)).”
- (3) Omit paragraph 4 (including the heading before it).
- (4) In paragraph 5 for the words from “which—” to the end substitute “which is a public designated enforcer for the purposes of Chapter 3 of Part 3 of the Digital Markets, Competition and Consumers Act 2024 (see section 151(1) of that Act), but for this purpose does not include—
  - (a) the Competition and Markets Authority,
  - (b) a local weights and measures authority in Great Britain, or
  - (c) the Department for the Economy in Northern Ireland.”
- (5) In paragraph 8—
  - (a) omit the definition of “Schedule 13 infringement”;
  - (b) in the definition of “enforcement order” for “section 217 of the Enterprise Act 2002” substitute “section 156 of the Digital Markets, Competition and Consumers Act 2024”;
  - (c) in the definition of “interim enforcement order” for “section 218” substitute “section 159”;
  - (d) in the definition of “interim online interface order” for “section 218ZC” substitute “section 162”;
  - (e) in the definition of “online interface order” for “section 218ZB” substitute “section 161”.
- (6) In paragraph 13—

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- (a) in sub-paragraph (2)—
    - (i) in paragraph (a) for “Part 8 of the Enterprise Act 2002” substitute “Chapter 3 or 4 of Part 3 of the Digital Markets, Competition and Consumers Act 2024”;
    - (ii) in paragraph (b) after “under” insert “Chapter 3 of”;
    - (iii) in paragraph (e) for the words from “section 217(9),” to the end substitute “Chapter 3 or 4 of Part 3 of the Digital Markets, Competition and Consumers Act 2024”;
  - (b) in sub-paragraph (3)—
    - (i) in the opening words, for “Britain,” substitute “Britain or” and omit “or a Schedule 13 enforcer other than the Competition and Markets Authority”;
    - (ii) in paragraph (a) for “Part 8 of the Enterprise Act 2002” substitute “Chapter 3 of Part 3 of the Digital Markets, Competition and Consumers Act 2024”;
    - (iii) in paragraph (c) for “section 217(9) or 218(10) of the Enterprise Act 2002” substitute “section 156(2)(b) or section 159(2)(b) of the Digital Markets, Competition and Consumers Act 2024”;
    - (iv) in paragraph (d) for “section 219” substitute “section 163”;
  - (c) in sub-paragraph (10) for the words from “which—” to the end substitute “which is a private designated enforcer for the purposes of Chapter 3 of Part 3 of the Digital Markets, Competition and Consumers Act 2024 (see section 151(2) of that Act)”.
- (7) In the heading to Part 4 (before paragraph 19), for “Schedule 13” substitute “authorised”.
- (8) In the heading before paragraph 20, for “Schedule 13” substitute “authorised”.
- (9) In paragraph 20—
- (a) in sub-paragraph (1) for “a Schedule 13” substitute “an authorised”;
  - (b) in sub-paragraph (2)—
    - (i) for “a Schedule 13”, where it first occurs, substitute “an authorised”;
    - (ii) for the words from “Part 8” to the end substitute “Chapter 3 or 4 of Part 3 of the Digital Markets, Competition and Consumers Act 2024”;
  - (c) in sub-paragraph (3)—
    - (i) in the opening words, for “Schedule 13” substitute “authorised”;
    - (ii) in paragraph (a), for “Schedule 13” substitute “relevant”;
    - (iii) in paragraph (c), for “section 217(9) or 218(10) of the Enterprise Act 2002” substitute “section 156(2)(b) or section 159(2)(b) of the Digital Markets, Competition and Consumers Act 2024”;
    - (iv) in paragraph (d), for “section 219” substitute “section 163”;
  - (d) in sub-paragraph (3A)—
    - (i) in the opening words, for “A Schedule 13” substitute “An authorised”;
    - (ii) in paragraph (b) for “Part 8 of the Enterprise Act 2002” substitute “Chapter 3 or 4 of Part 3 of the Digital Markets, Competition and Consumers Act 2024”;
  - (e) in sub-paragraph (4)—

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- (i) in the opening words, for “A Schedule 13” substitute “An authorised”;
  - (ii) in paragraph (b) for “Part 8 of the Enterprise Act 2002” substitute “Chapter 3 or 4 of Part 3 of the Digital Markets, Competition and Consumers Act 2024”;
- (f) in sub-paragraph (5)—
- (i) in the opening words, for “A Schedule 13” substitute “An authorised”;
  - (ii) in paragraph (a) for “Schedule 13” substitute “relevant”;
  - (iii) in paragraph (b) for “Part 8 of the Enterprise Act 2002” substitute “Chapter 3 or 4 of Part 3 of the Digital Markets, Competition and Consumers Act 2024”;
- (g) in sub-paragraph (6)—
- (i) for “A Schedule 13” substitute “An authorised”;
  - (ii) for “Part 8 of the Enterprise Act 2002” substitute “Chapter 3 or 4 of Part 3 of the Digital Markets, Competition and Consumers Act 2024”;
- (h) after sub-paragraph (6) insert—
- “(7) Each of the following is an “authorised enforcer” for the purposes of this Part of this Schedule—
- (a) the Competition and Markets Authority;
  - (b) the Civil Aviation Authority;
  - (c) the Financial Conduct Authority;
  - (d) the Secretary of State;
  - (e) the Department of Health in Northern Ireland;
  - (f) the Office of Communications;
  - (g) the Department for the Economy in Northern Ireland;
  - (h) every local weights and measures authority in Great Britain;
  - (i) an enforcement authority within the meaning of section 120(15) of the Communications Act 2003;
  - (j) the Information Commissioner;
  - (k) the Department for Infrastructure in Northern Ireland;
  - (l) the Maritime and Coastguard Agency;
  - (m) the Office of Rail and Road;
  - (n) the Office for the Traffic Commissioner.
- (8) In this paragraph “relevant infringement” means an act or omission which is a relevant infringement for the purposes of Chapter 3 of Part 3 of the Digital Markets, Competition and Consumers Act 2024 by virtue of contravening an enactment listed in paragraph 20A of this Schedule.”
- (10) After paragraph 20 insert—

*“Paragraph 20: listed enactments*

20A The enactments referred to in paragraph 20(8) are the following—

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Sections 9 to 11 of the Supply of Goods (Implied Terms) Act 1973, to the extent that those sections continue to apply to a contract for a trader to supply goods to a consumer by virtue of the saving made, in connection with their amendment by this Act, by Article 6 of the Consumer Rights Act 2015 (Commencement No. 3, Transitional Provisions, Savings and Consequential Amendments) Order 2015. The Consumer Credit Act 1974 and secondary legislation made under that Act excluding requirements relating to consumer hire agreements.

Sections 6(2), 7(1), 7(2), 20(2), 21 and 27(2) of the Unfair Contract Terms Act 1977, to the extent that those sections remain in force, or continue to apply to a consumer contract, by virtue of the saving made, in connection with their repeal or disapplication by this Act, by Article 6 of the Consumer Rights Act 2015 (Commencement No. 3, Transitional Provisions, Savings and Consequential Amendments) Order 2015.

Sections 13 to 15, 15B, 20 and 32 of the Sale of Goods Act 1979, to the extent that those sections continue to apply to a contract for a trader to supply goods to a consumer by virtue of the saving made, in connection with their amendment by this Act, by Article 6 of the Consumer Rights Act 2015 (Commencement No. 3, Transitional Provisions, Savings and Consequential Amendments) Order 2015.

Sections 48A to 48F of the Sale of Goods Act 1979, to the extent that those sections remain in force by virtue of the saving made, in connection with their repeal by this Act, by Article 6 of the Consumer Rights Act 2015 (Commencement No. 3, Transitional Provisions, Savings and Consequential Amendments) Order 2015.

Sections 3 to 5, 11C to 11E and 13 of the Supply of Goods and Services Act 1982, and any rule of law in Scotland which provides comparable protection to section 13, to the extent that those sections continue to apply to a contract for a trader to supply goods or, in the case of section 13, a contract for a trader to supply a service, to a consumer by virtue of the saving made, in connection with their amendment by this Act, by Article 6 of the Consumer Rights Act 2015 (Commencement No. 3, Transitional Provisions, Savings and Consequential Amendments) Order 2015.

Sections 11M to 11S of the Supply of Goods and Services Act 1982 to the extent that those sections remain in force by virtue of the saving made, in connection with their repeal by this Act, by Article 6 of the Consumer Rights Act 2015 (Commencement No. 3, Transitional Provisions, Savings and Consequential Amendments) Order 2015.

The Package Travel, Package Holidays and Package Tours Regulations 1992, to the extent that those Regulations remain in force by virtue of the saving made, in connection with their revocation, by regulation 37(2) of the Package Travel and Linked Travel Arrangements Regulations 2018.

The Unfair Terms in Consumer Contracts Regulations 1999, to the extent that those Regulations remain in force by virtue of the saving made, in connection with their revocation by this Act, by Article 6 of

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the Consumer Rights Act 2015 (Commencement No. 3, Transitional Provisions, Savings and Consequential Amendments) Order 2015. Rules made under sections 137A, 137R and 137T of the Financial Services and Markets Act 2000 which give effect to Articles 10, 11, 13 to 18 and 21 to 23, Chapter 10 and Annexes I and II of [Directive 2014/17/EU](#) of the European Parliament and of the Council of 4 February 2014 on credit agreements for consumers relating to residential immovable property.

The Consumer Protection (Distance Selling) Regulations 2000, to the extent that those Regulations remain in force for contracts entered into prior to their disapplication by virtue of regulation 2(a) of the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013.

Sections 319, 321, 322, 325, 368F, 368G and 368H of the Communications Act 2003.

Regulations 6, 7, 8, 9 and 11 of the Electronic Commerce (EC Directive) Regulations 2002.

Regulation 15 of the Sale and Supply of Goods to Consumers Regulations 2002, to the extent that regulation 15 remains in force by virtue of the saving made, in connection with its revocation by the this Act, by Article 6 of the Consumer Rights Act 2015 (Commencement No. 3, Transitional Provisions, Savings and Consequential Amendments) Order 2015.

Regulations 19 to 26, 30 and 32 of the Privacy and Electronic Communications (EC Directive) Regulations 2003.

The Price Marking Order 2004.

Regulation [\(EC\) No 261/2004](#) of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to air passengers in the event of denied boarding and of cancellation or long delay of flights.

The Financial Services (Distance Marketing) Regulations 2004 and rules corresponding to any provisions of those Regulations made by the Financial Conduct Authority or a designated professional body within the meaning of section 326(2) of the Financial Services and Markets Act 2000.

The Price Marking Order (Northern Ireland) 2004.

The Civil Aviation (Denied Boarding, Compensation and Assistance) Regulations 2005.

Regulation [\(EC\) No 1107/2006](#) of the European Parliament and of the Council of 5 July 2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air.

Regulation [\(EC\) No 1371/2007](#) of the European Parliament and of the Council of 23 October 2007 on rail passengers' rights and obligations.

Regulations 2, 4, 13, 15 and 18 of the Business Protection from Misleading Marketing Regulations 2008.

The Consumer Protection from Unfair Trading Regulations 2008.

The Cancellation of Contracts made in a Consumer's Home or Place of Work etc. Regulations 2008, to the extent that those Regulations remain in force for contracts entered into prior to



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their disapplication by regulation 2(b) of the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013.

Article 23 of Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community.

The Provision of Services Regulations 2009.

The Rail Passengers' Rights and Obligations Regulations 2010.

Regulation (EU) No 1177/2010 of the European Parliament and of the Council of 24 November 2010 concerning the rights of passengers when travelling by sea and inland waterway.

The Timeshare, Holiday Products, Resale and Exchange Contracts Regulations 2010.

Regulation (EU) No 181/2011 of the European Parliament and of the Council of 16 February 2011 concerning the rights of passengers in bus and coach transport and amending Regulation (EC) No 2006/2004.

Chapters 1 and 2 of Part 14 of the Human Medicines Regulations 2012.

Regulations 4 and 6A to 10 of the Consumer Rights (Payment Surcharges) Regulations 2012.

The Merchant Shipping (Passengers' Rights) Regulations 2013.

The Operation of Air Services in the Community (Pricing etc.) Regulations 2013.

The Rights of Passengers in Bus and Coach Transport (Exemptions and Enforcement) Regulations 2013.

The Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013.

The Bus and Coach Passengers Rights and Obligations (Designation and Enforcement) Regulations (Northern Ireland) 2014.

The Bus and Coach Passengers Rights and Obligations (Designation of Terminals, Tour Operators and Enforcement) Regulations (Northern Ireland) 2014.

The Civil Aviation (Access to Air Travel for Disabled Persons and Persons with Reduced Mobility) Regulations 2014.

Regulation 19(1) and (2) of the Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015.

Sections 2, 3, 5, 9 to 15, 19, 23, 24, 28 to 32, 36(3) and (4), 37, 38, 42, 50, 54, 58, 59, 61 to 64, 67 to 70, 72 to 74 of, and Schedules 2 and 3 and Part 3 of Schedule 5 to, this Act.

Article 10(4) of Regulation (EU) 2015/751 of the European Parliament and of the Council of 29 April 2015 on interchange fees for card-based payment transactions.

Parts 2 and 3 and regulations 18, 19, 20(1), 20(3) to 20(5), 21 to 25, 27(2) and 27(3) of, and Schedules 1 to 6 to, the Payment Accounts Regulations 2015.

The Rail Passengers Rights and Obligations (Designation and Enforcement) Regulations (Northern Ireland) 2017.



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The Package Travel and Linked Travel Arrangements Regulations 2018.

Part 4 of the Digital Markets, Competition and Consumers Act 2024.”

- (11) In paragraph 32, in sub-paragraph (3)—
- (a) in paragraph (b)—
    - (i) for “a Schedule 13 enforcer” substitute “an authorised enforcer”;
    - (ii) for “Schedule 13 infringement” substitute “relevant infringement (as defined by paragraph 20(8))”;
  - (b) in paragraph (c) for “a Schedule 13 enforcer” substitute “an authorised enforcer”.
- (12) In paragraph 41, in sub-paragraph (4)—
- (a) in the opening words, for “a Schedule 13 enforcer” substitute “an authorised enforcer for the purposes of Part 4 of this Schedule (see paragraph 20(7))”;
  - (b) in paragraph (a) for “Schedule 13 infringement” substitute “relevant infringement (as defined by paragraph 20(8))”.
- (13) In paragraph 45, in sub-paragraph (1), for paragraph (a) substitute—
- “(a) Chapter 3 of Part 3 of the Digital Markets, Competition and Consumers Act 2024,”.

## 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

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- (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.

### *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 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.

### *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.

*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.
- (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.

*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.

*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.

SCHEDULE 20

Section 225

COMMERCIAL PRACTICES WHICH ARE IN ALL CIRCUMSTANCES CONSIDERED UNFAIR

- 1 Claiming to be a signatory to a code of conduct when the trader is not.

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- 2            Claiming that a code of conduct has an endorsement from a public or private body which it does not have.
- 3            Displaying a trust mark, quality mark or equivalent without having obtained the necessary authorisation.
- 4            Claiming that a trader, a trader’s commercial practice, or a product has been approved, endorsed or authorised by a public or private body when—
  - (a)    the claim is false, or
  - (b)    the terms of the approval, endorsement or authorisation have not been, or are not being, complied with.
- 5            (1) Making an invitation to purchase products at a specified price where—
  - (a)    the trader has reasonable grounds for believing that it will not be possible for the trader to offer those products, or equivalent products, for supply at that price, in reasonable quantities, for a reasonable period of time (or to procure another trader to do so), and
  - (b)    the trader does not disclose that fact.

(2) In sub-paragraph (1), the references to reasonable quantities and a reasonable period of time are references to what is reasonable having regard to—

  - (a)    the nature of the product,
  - (b)    the extent of advertising for the product, and
  - (c)    the price offered for the product.
- 6            Making an invitation to purchase products at a specified price and then—
  - (a)    refusing to show the advertised item to consumers,
  - (b)    refusing to take orders for it or deliver it within a reasonable time, or
  - (c)    demonstrating a defective sample of it,with the intention of promoting a different product.
- 7            Falsely stating that a product will only be available for a limited time, or that it will only be available on particular terms for a limited time, in order to elicit an immediate decision and deprive consumers of sufficient opportunity or time to make an informed choice.
- 8            Undertaking to provide an after-sales service to consumers and then making such service available only in a language which is different to the language used in communication with the consumer for, or prior to, the transaction without clearly disclosing this to the consumer before the consumer committed to the transaction.
- 9            Falsely claiming or creating the false impression that an after-sales service is available, including falsely claiming that it is available in, or accessible from, any particular country or location.
- 10           Stating or otherwise creating the impression that a product can be legally sold when it cannot.
- 11           Presenting rights given to consumers by law as a distinctive feature of the trader’s offer.
- 12           Using editorial content in the media to promote a product where a trader has paid for the promotion without making that clear in the content or by images or sounds clearly identifiable by the consumer.
- 13           (1) Submitting, or commissioning another person to submit or write—
  - (a)    a fake consumer review, or

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- (b) a consumer review that conceals the fact it has been incentivised.
  - (2) Publishing consumer reviews, or consumer review information, in a misleading way.
  - (3) Publishing consumer reviews, or consumer review information, without taking such reasonable and proportionate steps as are necessary for the purposes of—
    - (a) preventing the publication of—
      - (i) fake consumer reviews,
      - (ii) consumer reviews that conceal the fact they have been incentivised,  
or
      - (iii) consumer review information that is false or misleading, and
    - (b) removing any such reviews or information from publication.
  - (4) Offering services to traders—
    - (a) for the doing of anything covered by sub-paragraph (1) or (2);
    - (b) for the facilitating of anything covered by sub-paragraph (1) or (2) to be done.
  - (5) For the purposes of this paragraph—
    - (a) “consumer review” means a review of a product, a trader or any other matter relevant to a transactional decision;
    - (b) “fake consumer review” means a consumer review that purports to be, but is not, based on a person’s genuine experience;
    - (c) a consumer review conceals the fact it has been incentivised if—
      - (i) a person has been commissioned to submit or write the review, and
      - (ii) that fact is not made apparent (whether through the contents of the review or otherwise);
    - (d) “consumer review information” means information that is derived from, or is influenced by, consumer reviews;
    - (e) a person “submits” a review or information if they supply it with a view to publication;
    - (f) “writing” includes creating by any means;
    - (g) “commissioning” includes incentivising by any means (and “commissioned” is to be read accordingly);
    - (h) “publishing” includes disseminating, or otherwise making available, by any means;
    - (i) publishing in a “misleading way” includes (for example)—
      - (i) failing to publish, or removing from publication, negative consumer reviews whilst publishing positive ones (or vice versa);
      - (ii) giving greater prominence to positive consumer reviews over negative ones (or vice versa);
      - (iii) omitting information that is relevant to the circumstances in which a consumer review has been written (including that a person has been commissioned to write the review).
- 14 Making a materially inaccurate claim concerning the nature and extent of the risk to the personal security or safety of the consumer, a member of the consumer’s family or anyone living in the consumer’s home, if the consumer does not purchase the product.

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- 15 Promoting a product similar to a product made by a particular manufacturer in such a manner as deliberately to mislead the consumer into believing that the product is made by that same manufacturer when it is not.
- 16 (1) Establishing, operating or promoting a pyramid promotional scheme.
- (2) In sub-paragraph (1), a pyramid promotional scheme means a scheme where a consumer gives consideration for the opportunity to receive compensation that is derived primarily from the introduction of other consumers into the scheme rather than from the supply or consumption of products.
- 17 Claiming that the trader is about to cease trading or move premises when the trader is not.
- 18 Claiming that products are able to facilitate winning in games of chance.
- 19 (1) Falsely claiming that a product is able to—
- (a) prevent or treat disease or a malformation,
  - (b) restore, correct or modify a physiological function, or
  - (c) modify a person’s appearance.
- (2) For the purposes of sub-paragraph (1), “disease” includes any injury, ailment or adverse condition, whether of body or mind.
- 20 Providing (including passing on) materially inaccurate information about market conditions or about the availability of the product with the intention of inducing the consumer to acquire the product under conditions that are less favourable than normal market conditions.
- 21 Claiming to offer a competition or prize promotion without awarding the prizes described or a reasonable equivalent.
- 22 Creating the false impression that the consumer has already won, will win, or will on doing a particular act win, a prize or other equivalent benefit, when in fact either—
- (a) there is no prize or other equivalent benefit, or
  - (b) taking any action in relation to claiming the prize or other equivalent benefit requires the consumer to pay money or incur a cost.
- 23 Describing a product as “gratis”, “free”, “without charge” or similar if the consumer has to pay anything other than the unavoidable cost of responding to the commercial practice and collecting or paying for delivery of the item.
- 24 Including in marketing material an invoice or similar document seeking payment which gives the consumer the impression that the consumer has already ordered the marketed product when the consumer has not.
- 25 Falsely claiming or creating the false impression that the trader is not acting for purposes relating to the trader’s business or falsely representing oneself as a consumer.
- 26 Creating the impression that the consumer cannot leave the premises until a contract is formed.
- 27 Ignoring a request from a consumer to leave or not return to the consumer’s home except in circumstances and to the extent justified to enforce a contractual obligation.

- 28 Making persistent and unwanted solicitations by any means, other than by attending at the consumer’s home, except in circumstances and to the extent justified to enforce a contractual obligation.
- 29 Requiring a consumer who wishes to claim on an insurance policy to produce documents which could not reasonably be considered relevant as to whether the claim was valid, or failing systematically to respond to correspondence, in order to dissuade a consumer from exercising the consumer’s contractual rights.
- 30 Including in an advertisement a direct appeal to children to buy advertised products or persuade their parents or other adults to buy advertised products for them.
- 31 Supplying products to a consumer that have not been requested by the consumer and demanding that the consumer—
- (a) pays for the products,
  - (b) returns the products, or
  - (c) safely stores the products.
- 32 Explicitly telling a consumer that if the consumer does not buy the product, the trader’s job or livelihood will be at risk.

## SCHEDULE 21

Section 251

### CHAPTER 1 OF PART 4: CONSEQUENTIAL AMENDMENTS

#### *Administration of Justice Act 1970 (c. 31)*

- 1 In section 40(3A) of the Administration of Justice Act 1970 (punishment for unlawful harassment of debtors), for “the Consumer Protection from Unfair Trading Regulations 2008” substitute “[Chapter 1 of Part 4](#) of the Digital Markets, Competition and Consumers Act 2024”.

#### *Trade Descriptions Act 1968 (c. 29)*

- 2 In section 12(3) of the Trade Descriptions Act 1968 (false representations as to royal approval or award, etc.) for the words from “and” to “2008” substitute “has the same meaning as in [Chapter 1 of Part 4](#) of the Digital Markets, Competition and Consumers Act 2024 and, for the purposes of this section, a commercial practice is unfair if it would be unfair for the purposes of that Chapter”.

#### *Hallmarking Act 1973 (c. 43)*

- 3 In section 1 of the Hallmarking Act 1973 (prohibited descriptions of unhallmarked articles)—
- (a) in subsection (4C) for “the Consumer Protection from Unfair Trading Regulations 2008” substitute “[Chapter 1 of Part 4](#) of the Digital Markets, Competition and Consumers Act 2024”;
  - (b) in subsection (4D) for the words from “satisfying” to “action)” substitute “an unfair commercial practice involving a misleading action for the purposes of that Chapter”.

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*Prescription and Limitation (Scotland) Act 1973 (c. 52)*

- 4 In paragraph 1 of Schedule 1 to the Prescription and Limitation (Scotland) Act 1973 for paragraph (af) substitute—
- “(af) to any obligation arising by virtue of rights of redress under [Chapter 1 of Part 4](#) of the Digital Markets, Competition and Consumers Act 2024;”.

*Companies Act 1985 (c. 6)*

- 5 In paragraph 17 of Schedule 15D to the Companies Act 1985 (disclosures), omit subparagraph (k).

*Copyright, Designs and Patents Act 1988 (c. 48)*

- 6 (1) The Copyright, Designs and Patents Act 1988 is amended as follows.
- (2) In section 114A(2)(bb) (forfeiture of infringing copies, etc.: England and Wales or Northern Ireland) for “the Consumer Protection from Unfair Trading Regulations 2008” substitute “[Chapter 1 of Part 4](#) of the Digital Markets, Competition and Consumers Act 2024”.
- (3) In section 114B(15) (forfeiture of infringing copies, etc.: Scotland), in paragraph (d) in the definition of “relevant offence”, for “the Consumer Protection from Unfair Trading Regulations 2008” substitute “[Chapter 1 of Part 4](#) of the Digital Markets, Competition and Consumers Act 2024”.
- (4) In section 204A(2)(bb) (forfeiture of illicit recordings: England and Wales or Northern Ireland), for “the Consumer Protection from Unfair Trading Regulations 2008” substitute “[Chapter 1 of Part 4](#) of the Digital Markets, Competition and Consumers Act 2024”.
- (5) In section 204B(15) (forfeiture of illicit recordings: Scotland), in paragraph (d) in the definition of “relevant offence” for “the Consumer Protection from Unfair Trading Regulations 2008” substitute “[Chapter 1 of Part 4](#) of the Digital Markets, Competition and Consumers Act 2024”.
- (6) In section 297C(2)(bb) (forfeiture of unauthorised decoders: England and Wales or Northern Ireland) for “the Consumer Protection from Unfair Trading Regulations 2008” substitute “[Chapter 1 of Part 4](#) of the Digital Markets, Competition and Consumers Act 2024”.
- (7) In section 297D(15) (forfeiture of unauthorised decoders: Scotland), in paragraph (d) in the definition of “relevant offence” for “the Consumer Protection from Unfair Trading Regulations 2008” substitute “[Chapter 1 of Part 4](#) of the Digital Markets, Competition and Consumers Act 2024”.

*Trade Marks Act 1994 (c. 26)*

- 7 (1) The Trade Marks Act 1994 is amended as follows.
- (2) In section 91 (power of commissioners for revenue and customs to disclose information), for paragraph (d) substitute—
- “(d) [Chapter 1 of Part 4](#) of the Digital Markets, Competition and Consumers Act 2024.”



- (3) In section 97(8)(d) (forfeiture; England and Wales or Northern Ireland) for “the Consumer Protection from Unfair Trading Regulations 2008” substitute “[Chapter 1 of Part 4](#) of the Digital Markets, Competition and Consumers Act 2024”.
- (4) In section 98(14) (forfeiture; Scotland), in paragraph (d) in the definition of “relevant offence” for “the Consumer Protection from Unfair Trading Regulations 2008” substitute “[Chapter 1 of Part 4](#) of the Digital Markets, Competition and Consumers Act 2024”.

#### *Enterprise Act 2002 (c. 40)*

- 8 In EA 2002—
  - (a) in Schedule 14 (provisions about disclosure of information) at the appropriate place insert—

“[Chapter 1 of Part 4](#) of the Digital Markets, Competition and Consumers Act 2024.”;
  - (b) in Schedule 15 (enactments conferring functions) at the appropriate place insert—

“[Chapter 1 of Part 4](#) of the Digital Markets, Competition and Consumers Act 2024.”

#### *Licensing Act 2003 (c. 17)*

- 9 In paragraph 23 of Schedule 4 to the Licensing Act 2003 (personal licence: relevant offences), for the words from “regulation” to “2008” substitute “[Chapter 1 of Part 4](#) of the Digital Markets, Competition and Consumers Act 2024”.

#### *Companies Act 2006 (c. 46)*

- 10 In paragraph 25 of Part 2 of Schedule 2 to the Companies Act 2006 (specified descriptions of disclosures), omit paragraph (j).

#### *Regulatory Enforcement and Sanctions Act 2008 (c. 13)*

- 11 In Schedule 3 to the Regulatory Enforcement and Sanctions Act 2008 (enactments specified for the purposes of Part 1), at the appropriate place insert—

“Digital Markets, Competition and Consumers Act 2024, [Chapter 1 of Part 4](#).”

#### *Consumer Rights Act 2015 (c. 15)*

- 12 (1) Schedule 5 to the CRA 2015 (investigatory powers: enforcer’s legislation) is amended as follows.
- (2) In paragraph 10—
  - (a) omit “regulation 19(1) or (1A) of the Consumer Protection from Unfair Trading Regulations 2008 ([SI 2008/1277](#)),”;
  - (b) at the appropriate place insert—

“section [231\(1\)](#), [\(2\)](#) or [\(3\)](#) of the Digital Markets, Competition and Consumers Act 2024.”

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- (3) In paragraph 18(b) for “the Consumer Protection from Unfair Trading Regulations 2008 (SI 2008/1277)” substitute “Chapter 1 of Part 4 of the Digital Markets, Competition and Consumers Act 2024”.

*Online Safety Act 2023 (c. 50)*

- 13 (1) The Online Safety Act 2023 is amended as follows.
- (2) In section 59(6) (“illegal content” etc) for “the Consumer Protection from Unfair Trading Regulations 2008 (SI 2008/1277)” substitute “Chapter 1 of Part 4 of the Digital Markets, Competition and Consumers Act 2024”.
- (3) In section 74(3) (interpretation of Chapter)—
- (a) in paragraph (b) for “the Consumer Protection from Unfair Trading Regulations 2008 (S.I. 2008/1277)” substitute “Chapter 1 of Part 4 of the Digital Markets, Competition and Consumers Act 2024”;
  - (b) in paragraph (c) for “those Regulations (see regulation 19 of those Regulations)” substitute “that Chapter (see section 231 of that Act).
- (4) In section 218(3)(b) (power to amend section 40) for “the Consumer Protection from Unfair Trading Regulations 2008 (SI 2008/1277)” substitute “Chapter 1 of Part 4 of the Digital Markets, Competition and Consumers Act 2024”.
- (5) In section 222(6)(b) (power to amend Schedule 7) for “the Consumer Protection from Unfair Trading Regulations 2008 (SI 2008/1277)” substitute “Chapter 1 of Part 4 of the Digital Markets, Competition and Consumers Act 2024”.

SCHEDULE 22

Section 255

EXCLUDED CONTRACTS

*Utilities*

- 1 (1) A contract between an electricity supplier and a consumer for the supply of electricity to any premises.
- (2) A contract between a gas supplier and a consumer for the supply of gas to any premises.
- (3) A contract between a heat supplier and a consumer for the supply of heating, cooling or hot water by means of a relevant heat network.
- (4) In England and Wales, a contract between a licensed water supplier, or licensed sewerage supplier, and a consumer for the supply of water or sewerage services.
- (5) In Scotland, a contract between a licensed water supplier, or licensed sewerage supplier, and a consumer for the supply of water or sewerage services.
- (6) In Northern Ireland—
- (a) a contract between a water undertaker and a consumer for the supply of water pursuant to Article 94 of the Water and Sewerage Services (Northern Ireland) Order 2006 (S.I. 2006/3336 (N.I. 21));

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- (b) a contract between a sewerage undertaker and a consumer for the supply of sewerage services pursuant to Chapter 3 of Part 6 of that Order.

(7) In this paragraph—

“electricity supplier” means a person who is authorised to supply electricity—

- (a) by a licence under Part 1 of the Electricity Act 1989 or Part 2 of the Electricity (Northern Ireland) Order 1992 (S.I. 1992/231 (N.I. 1)),
- (b) by virtue of an exemption granted under the Electricity (Class Exemptions from the Requirement for a Licence) Order 2001 (S.I. 2001/3270), or
- (c) by virtue of an exemption granted under the Electricity (Class Exemptions from the Requirement for a Licence) Order (Northern Ireland) 2013 (S.I. 2013/93 (N.I. 1));

“gas supplier” means a person who is authorised to supply gas—

- (a) by a licence under Part 1 of the Gas Act 1986 or Part 2 of the Gas (Northern Ireland) Order 1996 (S.I. 1996/275 (N.I. 2)), or
- (b) by virtue of the exemption in paragraph 1 of Schedule 2A to the Gas Act 1986;

“heat supplier” means a person who is authorised to supply heating, cooling or hot water by an authorisation conferred under regulations made under Chapter 1 of Part 8 of the Energy Act 2023;

“licensed sewerage supplier” means—

- (a) in relation to England and Wales, a sewerage licensee within the meaning of the Water Industry Act 1991;
- (b) in relation to Scotland, a person supplying sewerage services under a sewerage services licence within the meaning of the Water Services etc. (Scotland) Act 2005 (asp 3);

“licensed water supplier” means—

- (a) in relation to England and Wales, a water supply licensee within the meaning of the Water Industry Act 1991;
- (b) in relation to Scotland, a person supplying water under a water services licence within the meaning of the Water Services etc. (Scotland) Act 2005;

“relevant heat network” has the same meaning as in Chapter 1 of Part 8 of the Energy Act 2023;

“sewerage undertaker” and “water undertaker” have the same meanings as in the Water and Sewerage Services (Northern Ireland) Order 2006.

### *Insurance and financial services*

- 2 A contract for services of a banking, credit, insurance, personal pension, investment or payment nature.

### *Medical prescriptions etc.*

- 3 (1) A contract for the supply of goods, services or digital content where the supply—
- (a) is made for purposes relating to the prevention, diagnosis or treatment of illness, or otherwise relating to a person’s physical or mental health, and
- (b) is—

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(i) made under, or in connection with, a prescription or directions given by a prescriber, or

(ii) of a medicinal product which is administered by a prescriber.

(2) In sub-paragraph (1)—

“illness” means physical or mental illness;

“medicinal product” has the meaning given by regulation 2(1) of the Human Medicines Regulations 2012 (S.I. 2012/ 1916);

“prescriber”—

(a) in relation to a prescription or directions given, or a medicinal product administered, in England, has the meaning given by regulation 2(1) of the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 (S.I. 2013/349);

(b) in relation to a prescription or directions given, or a medicinal product administered, in Wales, has the meaning given by regulation 2 of the National Health Service (Pharmaceutical Services) (Wales) Regulations 2020 (S.I. 2020/1073 (W. 241));

(c) in relation to a prescription or directions given, or a medicinal product administered, in Scotland, has the meaning given by regulation 2 of the National Health Service (Pharmaceutical Services) (Scotland) Regulations 2009 (S.S.I. 2009/183) but as if that definition included “a dentist”;

(d) in relation to a prescription or directions given, or a medicinal product administered in Northern Ireland, has the meaning given by the Pharmaceutical Services Regulations (Northern Ireland) 1997 (S.R. (N.I.) 1997 No. 381).

4 (1) A contract for the supply of goods, services or digital content by a health care professional or a person included in a relevant list in circumstances where—

(a) the supply of goods, services or digital content is under arrangements for the supply of services as part of the health service, and

(b) the goods, services or digital content are, at least in some circumstances, supplied under such arrangements free of charge or on prescription.

(2) In sub-paragraph (1)—

“health care professional” means a member of a profession which is regulated by—

(a) a body mentioned in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002 but as if subsection (3A) of that section were omitted;

(b) Social Care Wales;

(c) the Scottish Social Services Council;

(d) the Northern Ireland Social Care Council;

“health service” means the health service or system of health care continued under—

(a) section 1(1) of the National Health Service Act 2006;

(b) section 1(1) of the National Health Service (Wales) Act 2006;

(c) section 1(1) of the National Health Service (Scotland) Act 1978;

(d) section 2(1) of the Health and Social Care (Reform) Act (Northern Ireland) 2009;

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“relevant list” means—

- (a) in relation to arrangements which are part of the health service in England—
  - (i) a relevant list for the purposes of the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 ([S.I. 2013/349](#)) (see regulation 2(1));
  - (ii) a list maintained under those Regulations;
- (b) in relation to arrangements which are part of the health service in Wales—
  - (i) a relevant list for the purposes of the National Health Service (Pharmaceutical Services) (Wales) Regulations 2020 ([S.I. 2020/1073 \(W. 241\)](#));
  - (ii) a list maintained under those Regulations;
- (c) in relation to arrangements which are part of the health service in Scotland—
  - (i) the pharmaceutical list prepared under regulation 5 of the National Health Service (Pharmaceutical Services) (Scotland) Regulations 2009 ([S.S.I. 2009/183](#));
  - (ii) the provisional pharmaceutical list prepared under regulation 8 of those Regulations;
  - (iii) the primary medical services performers list prepared under regulation 4 of the National Health Service (Primary Medical Services Performers List) (Scotland) Regulations 2004 ([S.S.I. 2004/114](#));
  - (iv) the dental list prepared under regulation 4 of the National Health Service (General Dental Services) (Scotland) Regulations ([S.S.I. 2010/208](#));
- (d) in relation to arrangements which are part of the health service in Northern Ireland, the pharmaceutical list prepared under regulation 6 of the Pharmaceutical Services Regulations (Northern Ireland) 1997 ([S.R. \(N.I.\) 1997 No. 381](#)).

#### *Contracts regulated by OFCOM*

- 5 A contract for the supply of goods, services or digital content by a person who is bound, in relation to that supply, by a general condition set by OFCOM under section 45 of the Communications Act 2003.
- 6 (1) A contract for the supply of a premium rate service by a person who is bound, in relation to the supply of that service, by conditions set by OFCOM under section 120 of the Communications Act 2003.  
(2) In sub-paragraph (1), “premium rate service” has the meaning given by section 120(7) of the Communications Act 2003.
- 7 In paragraphs 5 and 6, “OFCOM” means the Office of Communications.

#### *Rent of residential accommodation*

- 8 A contract under which accommodation is rented for residential purposes.

*Delivery of foodstuffs etc. by micro-entity*

- 9 (1) A contract between a trader whose business is a micro-entity and a consumer for the supply of foodstuffs, beverages or other goods intended for current consumption in the household where the condition in sub-paragraph (2) or (3) is met.
- (2) The condition is that the foodstuffs, beverages or other goods—
- (a) are to be supplied by way of a frequent or regular delivery to the consumer’s home, residence or workplace, and
  - (b) are not to be delivered wholly or mainly by a third party.
- (3) The condition is that the foodstuffs, beverages or other goods are to be supplied by way of the consumer collecting the goods from the trader’s business premises.
- (4) For the purposes of sub-paragraph (1), a business is a micro-entity in each financial year, other than its first financial year, that the condition in sub-paragraph (5) or (6) is met in relation to the business.
- (5) The condition in this sub-paragraph is met if—
- (a) the business is carried on by a company, and
  - (b) the company qualified as a micro-entity in accordance with section 384A of the Companies Act 2006 in relation to the preceding financial year.
- (6) The condition in this sub-paragraph is met if—
- (a) the business is not carried on by a company, but
  - (b) if the business had been carried on by a company, the company would have qualified as a micro-entity in accordance with that section in relation to the preceding financial year.
- (7) In the first financial year of a business, the business is a micro-entity for the purposes of sub-paragraph (1) if (and for so long as) the person carrying on the business believes on reasonable grounds that the person will qualify as a micro-entity in accordance with section 384A of the Companies Act 2006 in relation to that financial year (or would do so if the person were a company).
- (8) For the purposes of sub-paragraph (2)(b) goods are delivered by a third party if they are delivered by a person acting for purposes relating to a business other than the trader’s business.
- (9) In this paragraph—
- “company” has the same meaning as in the Companies Act 2006 (see section 1 of that Act);
  - “financial year”—
- (a) in relation to a business which is carried on by a company, means the company’s financial year in accordance with sections 390 to 392 of that Act;
  - (b) in relation to a business which is not carried on by a company, means a year, beginning on 6 April and ending on the following 5 April;
- “first financial year”—
- (a) in relation to a business which is carried on by a company, means the company’s first financial year in accordance with sections 390 to 392 of the Companies Act 2006;
  - (b) in relation to a business which is not carried on by a company, means the first financial year in which the business begins trading.

*Package holidays etc*

- 10 A package travel contract within the meaning of the Package Travel and Linked Travel Arrangements Regulation 2018 ([S.I. 2018/634](#)).

*Timeshares etc*

- 11 A contract which is a regulated contract within the meaning of the Timeshare, Holiday Products Resale and Exchange Contracts 2010 ([S.I. 2010/2960](#)).

*Childcare (including school age education)*

- 12 (1) A contract for the supply of goods, services or digital content for, or in connection with, the provision of childcare by a relevant childcare provider.
- (2) In relation to the provision of childcare in England and Wales, a “relevant childcare provider” means—
- (a) a person who—
    - (i) in relation to England, is registered, or required to be registered, under Part 3 of the Childcare Act 2006 in relation to the childcare provided;
    - (ii) in relation to England, is not required to register under that Part in relation to the childcare provided because the childcare is excepted from the definition of “childcare” in section 18 of that Act;
    - (iii) in relation to England, is not required to register under that Part in relation to the childcare provided as a result of Article 2 of the Childcare (Exemptions from Registration) Order 2008 ([S.I. 2008/979](#)) by reference to the circumstances specified in Article 3, 5 or 8 of that Order;
    - (iv) in relation to Wales, is registered, or required to be registered, under Part 2 of the [Children and Family \(Wales\) Measure 2010 \(nawm 1\)](#);
    - (v) in relation to Wales, is not required to register under that Part because the person is not acting as a child minder, or is not providing day care, for the purposes of that Part by virtue of an Order made under section 19 of that Measure;
  - (b) the governing body of a maintained school;
  - (c) the proprietor of an Academy school or an Alternative provision Academy;
  - (d) the proprietor of a school that is approved under section 342 of the Education Act 1996 (non-maintained special schools);
  - (e) the proprietor of any educational institution not falling within paragraph (c) that is registered under section 95 of the Education and Skills Act 2008 (register of independent educational institutions).
- (3) In relation to the provision of childcare in Scotland, a “relevant childcare provider” means—
- (a) a person who—
    - (i) is registered, or required to be registered, under Part 5 of the Public Services Reform (Scotland) Act 2010 ([asp 8](#)) in relation to the childcare provided;
    - (ii) is not required to register under that Part in relation to the childcare provided because that childcare is excepted from the definition of



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- a care service by Schedule 12 to that Act or by regulations made under that Schedule;
- (b) an education authority acting in its role as manager of a public school;
- (c) the proprietor of an independent school;
- (d) the managers of a grant-aided school.
- (4) In relation to the provision of childcare in Northern Ireland, a “relevant childcare provider” means—
- (a) a person who—
- (i) is registered, or required to be registered, under Part 11 of the Children (Northern Ireland) Order 1995 (S.I. 1995/755 (N.I. 2));
- (ii) is not required to register under that Part in relation to the childcare provided because the person is not acting as a childminder when carrying out that childcare by virtue of Article 119 of that Order, or is not providing day care for children when carrying out that childcare by virtue of Article 120 of that Order;
- (iii) is not required to register under that Part in relation to the childcare provided because of an exemption under Article 121 of that Order;
- (b) the Board of Governors of a grant-aided school;
- (c) the proprietor of an independent school.
- (5) In this paragraph—
- “Academy school” has the meaning given by section 1A of the Academies Act 2010;
- “Alternative provision Academy” has the meaning given by section 1C of the Academies Act 2010;
- “Board of Governors” has the same meaning as in the Education and Libraries (Northern Ireland) Order 1986 (S.I. 1986/594 (N.I. 3));
- “child” means a person under the age of 18;
- “childcare” means any form of care for a child, including—
- (a) education for a child, and
- (b) any other supervised activity for a child;
- “education authority” has the meaning given by section 135(1) of the Education (Scotland) Act 1980;
- “governing body”, in relation to a maintained school, means the governing body referred to in relation to the school in section 19 of the Education Act 2002;
- “grant-aided school”—
- (a) in relation to Scotland, has the meaning given by section 135(1) of the Education (Scotland) Act 1980;
- (b) in relation to Northern Ireland, has the meaning given by Article 2(2) of the of the Education and Libraries (Northern Ireland) Order 1986;
- “independent school”—
- (a) in relation to Scotland, has the meaning given by section 135(1) of the Education (Scotland) Act 1980;
- (b) in relation to Northern Ireland, has the meaning given by Article 2(2) of the of the Education and Libraries (Northern Ireland) Order 1986;
- “maintained school” means—



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- (a) a community, foundation or voluntary school (within the meaning of the School Standards and Framework Act 1998);
  - (b) a community or foundation special school (within the meaning of that Act);
  - (c) a maintained nursery school (as defined by section 22(9) of that Act);  
“proprietor”—
  - (a) in relation to a maintained school, has the meaning given by section 579(1) of the Education Act 1996;
  - (b) in relation to an educational institution registered under section 95 of the Education and Skills Act 2008, has the meaning given by section 138(1) of that Act;
  - (c) in relation to an independent school in Scotland, has the meaning given by section 135(1) of the Education (Scotland) Act 1980;
  - (d) in relation to an independent school in Northern Ireland, has the meaning given by Article 2(2) of the of the Education and Libraries (Northern Ireland) Order 1986;
- “public school” has the meaning given by section 135(1) of the Education (Scotland) Act 1980.

### *Gambling contracts*

- 13 (1) In England and Wales and Scotland, a contract for—
- (a) gambling, within the meaning of the Gambling Act 2005;
  - (b) participating in the National Lottery, within the meaning of the National Lottery etc. Act 1993.
- (2) In Northern Ireland, a contract for betting, gaming or participating in a lawful lottery within the meaning of the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 (S.I. 1985/1204 (N.I. 11)).

## SCHEDULE 23

Section 256

### PRE-CONTRACT INFORMATION AND REMINDER NOTICES

#### PART 1

##### KEY PRE-CONTRACT INFORMATION

- 1 The information referred to in section 256(1)(a) is as follows.
- 2 If section 254(2) applies to the contract—
- (a) that the contract will continue, or continue for a fixed term, unless the consumer takes steps to bring the contract to an end, or to an earlier end,
  - (b) that until the contract comes to an end the consumer will continue to incur liabilities under the contract, and
  - (c) any minimum period that must elapse before the consumer can bring the contract to an end.
- 3 If section 254(3) applies to the contract—

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- (a) that the consumer will be charged, or charged at a higher rate, for the supply of goods, services or digital content unless the consumer takes steps to bring the contract to an end before liability for any charge, or higher charge, is incurred by the consumer, and
  - (b) the date on which the consumer will become liable for the first charge, or first higher charge.
- 4 The frequency with which the consumer will become liable for payments under the contract and the minimum amount that the consumer will become liable for on each occasion, or how that amount is to be calculated if the amount cannot reasonably be calculated in advance.
- 5 If different to the information referred to in paragraph 4, the amount that the consumer would become liable for each month if payments under the contract fell due monthly.
- 6 The minimum total amount for which the consumer will become liable under the contract.
- 7 Whether the contract provides for—
- (a) any changes to the frequency or the amount of payments that the consumer will become liable for under the contract, or
  - (b) any option under the contract for the trader to change the frequency or amount of those payments,
- and if it does, the detail of those changes or that option.
- 8 The steps that the consumer must take to bring the contract to an end including any address (including a website or email address) or other contact details the consumer may need in order to take those steps.
- 9 The amount of notice that the consumer must give to bring the contract to an end.
- 10 The period within which reminder notices in relation to the contract will be given in accordance with section 259(3).
- 11 A summary of—
- (a) the consumer’s right to cancel the contract during the initial cooling-off period (or if the consumer may lose that right, that information), and
  - (b) any right the consumer has to cancel during a renewal cooling-off period,
- and the fact that further details about the rights are set out in the full pre-contract information.

## PART 2

### FULL PRE-CONTRACT INFORMATION

- 12 The information referred to in section 256(1)(b) is as follows.
- 13 The information set out in Part 1 of this Schedule.
- 14 The main characteristics of the goods, services or digital content, to the extent appropriate to the medium of communication and to the nature of the goods, services or digital content.
- 15 (1) The identity of the trader and the identity of any other person on whose behalf the trader is acting.

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- (2) For the purposes of sub-paragraph (1), “identity” in relation to a trader, means—
- (a) the name of the trader, and
  - (b) if different, the name under which the trader trades.
- 16 (1) The business address and, if different, the service address of the trader, and any business email address and business telephone number of the trader.
- (2) For the purposes of sub-paragraph (1) and paragraph 17—
- “business address”, in relation to a person, means—
- (a) where the person is a body corporate, the address of its registered or principal office,
  - (b) where the person is a firm that is not a body corporate, the address of the principal office of the firm,
  - (c) in a case where neither paragraphs (a) or (b) apply, the address of the person’s principal place of business;
- “business email address”, in relation to a person, means any email address used by the trader for conducting business;
- “business telephone number”, in relation to a person, means any telephone number used by the trader for conducting business;
- “service address”, in relation to a person, means the address at which the person will accept service of documents.
- 17 In relation to any other person on whose behalf the trader is acting—
- (a) the person’s business address, business email address and business telephone number (if the person has such addresses or such a number), and
  - (b) if different to the person’s business address, the person’s service address.
- 18 All additional delivery charges and any other costs or, where those charges cannot reasonably be calculated in advance, the fact that such additional charges may be payable.
- 19 The arrangements for payment, delivery, performance, and the time by which the trader undertakes to deliver the goods, to perform the services or to supply the digital content.
- 20 The trader’s complaint handling policy.
- 21 The following information about the consumer’s right to cancel the subscription contract during the initial cooling-off period—
- (a) when that period begins and ends;
  - (b) how the consumer may exercise the right;
  - (c) if the consumer may lose the right, the circumstances under which that will happen;
  - (d) the consequences of the consumer exercising the right, including—
    - (i) any refund the consumer may be entitled to,
    - (ii) any reason that refund might be diminished, and
    - (iii) in respect of a contract for the supply of goods, whether the consumer will be responsible for returning those goods to the trader, including the likely cost of returning the goods if they cannot normally be returned by post.
- 22 The following information about any right the consumer has to cancel the subscription contract during a renewal cooling-off period—

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- (a) when the first renewal cooling-off period will begin and end;
  - (b) whether there will be further renewal cooling-off periods and, if so, when each will begin and end;
  - (c) how the consumer may exercise the right;
  - (d) if the consumer may lose that right, the circumstances under which that will happen;
  - (e) the consequences of the consumer exercising the right, including—
    - (i) any refund the consumer may be entitled to,
    - (ii) any reason that refund might be diminished,
    - (iii) in respect of a contract for the supply of goods, whether the consumer will be responsible for returning those goods to the trader.
- 23 A reminder of the statutory rights of the consumer under Part 1 of the Consumer Rights Act 2015.
- 24 (1) The existence and conditions of after-sale customer assistance, after-sales services and commercial guarantees.
- (2) In sub-paragraph (1), “commercial guarantee”, in relation to a contract, means any undertaking by the trader or producer to the consumer (in addition to the trader’s duty to supply goods that are in conformity with the contract) to reimburse the price paid or to replace, repair or service goods in any way if they do not meet the specifications or any other requirements not related to conformity set out in the guarantee statement or in the relevant advertising available at the time of the contract or before it is entered into.
- 25 (1) The existence of relevant codes of conduct and how copies of them can be obtained.
- (2) In sub-paragraph (1), “code of conduct” has the meaning it has in [section 249](#).
- 26 The existence and the conditions of deposits or other financial guarantees to be paid or provided by the consumer at the request of the trader.
- 27 (1) The functionality, including applicable technical protection measures, of digital content and any relevant compatibility of digital content with hardware and software that the trader is aware of or can reasonably be expected to have been aware of.
- (2) In sub-paragraph (1), “functionality”, in relation to digital content, includes region coding, restrictions incorporated for the purposes of digital rights management, and other technical restrictions.
- 28 The possibility of having recourse to an out-of-court complaint and redress mechanism, to which the trader is subject, and the methods for having access to it.

### PART 3

#### REMINDER NOTICES

- 29 The information referred to in [section 259\(1\)\(a\)](#) (information that must be contained in a reminder notice) is as follows.
- 30 That the consumer will become liable for the renewal payment to which the notice relates unless the consumer takes steps to bring the contract to an end.

- 31 The date (“the renewal date”) on which the consumer will become liable for the renewal payment and its amount.
- 32 The amount of the previous renewal payment for which the consumer became liable under the contract (if any).
- 33 If the renewal payment to which the notice relates is a higher amount than that previous renewal payment, that information and the difference in the amount.
- 34 If, having not brought the contract to an end before the renewal date, the consumer will become automatically liable for one or more further payments under the contract (ignoring any subsequent renewal payment)—
- (a) the frequency with which the consumer will become liable for those payments, and
  - (b) the minimum amount that the consumer will become liable for on each occasion (or how that amount is to be calculated if it cannot reasonably be calculated in advance).
- 35 The amount of any payments equivalent to those mentioned in paragraph 34 for which the consumer became liable after the previous renewal payment.
- 36 If the payments mentioned in paragraph 34 are (or may be) of a higher amount than any equivalent payments for which the consumer became liable after the previous renewal payment, that information and the difference in the amount (or the difference in how the amount will be calculated).
- 37 The minimum total amount for which the consumer will become liable under the contract if the consumer does not bring the contract to an end before the renewal date (ignoring any liability that has arisen, or will arise, before that date), or how that amount is to be calculated if the amount cannot reasonably be calculated in advance.
- 38 The date on which the consumer will become liable for the next renewal payment, or if the consumer will not become liable for any further renewal payment, the date on which the contract will come to an end.
- 39 The steps that the consumer may take to bring the subscription contract to an end so as to avoid becoming liable for any further payment under the contract, including—
- (a) any address (including a website or email address) or other contact details the consumer may need in order to take those steps, and
  - (b) the date by which any steps must be taken so as to avoid that liability.

## SCHEDULE 24

Section 284

### EXCLUDED ARRANGEMENTS

#### *Regulated financial services activity*

- 1 (1) A contract between a consumer and a trader where—
- (a) the contract is entered into by the trader in the course of carrying on a regulated financial services activity, and
  - (b) the trader is authorised to carry on that activity.
- (2) In sub-paragraph (1)(a), a regulated financial services activity means—

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- (a) a regulated activity for the purposes of section 19 of the Financial Services and Markets Act 2000;
  - (b) a payment service within the meaning of regulation 2(1) of the Payment Services Regulations 2017 (S.I. 2017/752);
  - (c) the issue of electronic money.
- (3) For the purposes of [sub-paragraph \(1\)\(b\)](#), a person is authorised to carry on a regulated financial services activity if—
- (a) the person is an authorised person in relation to the activity for the purposes of section 19 of the Financial Services and Markets Act 2000;
  - (b) the person is exempt from the general prohibition in relation to the activity under section 39(1) of that Act;
  - (c) the person is a payment service provider and the activity is a payment service for which the person is authorised or registered under Part 2 of the Payment Services Regulations 2017;
  - (d) the person is an electronic money issuer and the activity is the issue of electronic money for which the person is authorised or registered under Part 2 of the Electronic Money Regulations 2011 (S.I. 2011/99).
- (4) In this paragraph—
- “electronic money” has the meaning given by regulation 2(1) of the Electronic Money Regulations 2011 (and references to the issue of electronic money are to be construed in accordance with those regulations);
  - “electronic money issuer” has the meaning given in regulation 2(1) of those Regulations;
  - “the general prohibition” has the same meaning as in the Financial Services and Markets Act 2000 (see section 19(2) of that Act);
  - “payment service provider” has the meaning given in regulation 2(1) of the Payment Services Regulations 2017.

#### *Arrangements for the supply of utilities*

- 2 (1) Arrangements for—
- (a) the supply of water under a relevant duty to supply water;
  - (b) the supply of electricity under an electricity supply licence;
  - (c) the supply of gas under a gas supply licence;
  - (d) the supply of heating, cooling or hot water by means of a relevant heat network under a heat network authorisation.
- (2) In this paragraph—
- “electricity supply licence” means a licence granted under section 6 of the Electricity Act 1989 or Article 10 of the Electricity (Northern Ireland) Order 1992 (S.I. 1992/231 (N.I.1));
  - “gas supply licence” means a licence granted under section 7A(1) of the Gas Act 1986 or Article 8(1)(c) of the Gas (Northern Ireland) Order 1996 (S.I. 1996/275 (N.I.2));
  - “heat network authorisation” means an authorisation conferred under regulations made under section 219 of the Energy Act 2023;
  - “relevant duty to supply water” means the duty imposed by—
    - (a) section 52 of the Water Industry Act 1991;

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- (b) Article 91 of the Water and Sewerage Services (Northern Ireland) Order 2006 ([S.I. 2006/3336 \(N.I. 21\)](#));
- (c) section 6 of the Water (Scotland) Act 1980;  
“relevant heat network” has the same meaning as in Chapter 1 of Part 8 of the Energy Act 2023 (see section 216 of that Act).

#### *Contracts regulated by OFCOM*

- 3 (1) A contract for the supply of goods, services or digital content by a person who is bound, in relation to that supply, by a general condition set by OFCOM under section 45 of the Communications Act 2003.
- (2) In sub-paragraph (1), “OFCOM” means the Office of Communications.

#### *Contracts for prepaid passenger transport services*

- 4 A contract for prepaid passenger transport services.

#### *Small businesses*

- 5 (1) A contract between a consumer and a trader where—
- (a) the trader’s turnover in the trader’s last financial year was less than £1,000,000, and
  - (b) the trader does not enter into consumer savings scheme contracts which result in an account held by a trader for a consumer being credited with funds of more than £120 at any given time.
- (2) Where a trader is in their first year of trading, the exclusion in this paragraph applies if the test in sub-paragraph (1)(b) alone is satisfied.

#### *Childcare voucher schemes*

- 6 A contract between a consumer and a trader where the contract is entered into by a trader in the course of providing childcare vouchers within the meaning given in section 84 of the Income Tax (Earnings and Pensions) Act 2003 for the purposes of a scheme to which section 270A of that Act applies.

#### *Package holidays etc.*

- 7 A package travel contract within the meaning of the Package Travel and Linked Travel Arrangements Regulation 2018 ([S.I. 2018/634](#)).

## SCHEDULE 25

Section 295

## EXEMPT ADR PROVIDERS

**PART 1**

## LIST OF EXEMPT PERSONS

The Commission for Local Administration in England (also known as the Local Government and Social Care Ombudsman) and each Local Commissioner within the meaning of section 23(3) of the Local Government Act 1974

The Consumer Council for Water

The Health Service Commissioner for England

The Legal Ombudsman

The Northern Ireland Public Services Ombudsman

The Office of the Independent Adjudicator for Higher Education (registered company number 04823842) in relation to its functions as the designated operator under section 13 of the Higher Education Act 2004

The Parliamentary Commissioner for Administration

The Pensions Ombudsman

The Public Services Ombudsman for Wales or Ombwdsmon Gwasanaethau Cyhoeddus Cymru

The Scottish Legal Complaints Commission

The Scottish Public Services Ombudsman

**PART 2**

## EXEMPT REDRESS SCHEMES

An approved estate agents redress scheme

An approved postal operators redress scheme

An approved social housing ombudsman scheme

Approved public communications provider dispute procedures

The Financial Ombudsman Scheme

A qualifying lettings agency work redress scheme

A qualifying property management work redress scheme

A qualifying redress scheme for the gas or electricity sector

**PART 3**

## SUPPLEMENTARY

1 In this Schedule—

“approved estate agents redress scheme” means an approved redress scheme within the meaning of section 23A of the Estate Agents Act 1979;

“approved postal operators redress scheme” means an approved redress scheme for investigating and determining complaints about postal operators (see section 52 of the Postal Services Act 2011);



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“approved public communications provider dispute procedures” means dispute procedures maintained by public communications providers that are approved under section 54 of the Communications Act 2003 for the purposes of section 52(5) of that Act;

“approved social housing ombudsman scheme” means a scheme which is approved for the purposes of Schedule 2 to the Housing Act 1996;

“qualifying lettings agency work redress scheme” means a redress scheme which is approved as mentioned in section 83(1)(a), or is a government scheme for the purposes of section 83(1)(b), of the Enterprise and Regulatory Reform Act 2013;

“qualifying property management work redress scheme” means a redress scheme which is approved as mentioned in section 84(1)(a), or is a government administered redress scheme for the purposes of section 84(1)(b), of the Enterprise and Regulatory Reform Act 2013;

“qualifying redress scheme for the gas or electricity sector” means a redress scheme which is approved as mentioned in section 47(1)(a), or is administered and designated as mentioned in section 47(1)(b), of the Consumers, Estate Agents and Redress Act 2007.

## SCHEDULE 26

Section 301

### ACCREDITATION CRITERIA

#### PART 1

##### THE CRITERIA APPLICABLE TO AN ACCREDITED ADR PROVIDER

###### *Criterion 1: information for consumers*

- 1 (1) The ADR provider provides consumers generally with accessible information about the ADR that it carries out or for which it makes special ADR arrangements.
- (2) The information provided should include (among other things) information about—
  - (a) the kinds of ADR it carries out or for which it makes special ADR arrangements (including the possible outcomes of each kind);
  - (b) the types of dispute it deals with (whether by carrying out ADR or making special ADR arrangements);
  - (c) the procedures adopted in relation to ADR carried out by it or for which it makes special ADR arrangements;
  - (d) any fees or costs payable by either party to a dispute that is referred for ADR.

###### *Criterion 2: readiness to carry out ADR*

- 2 The ADR provider does not unreasonably refuse to carry out ADR or, as the case may be, to make special ADR arrangements, in relation to disputes referred to it.

###### *Criterion 3: expertise*

- 3 The ADR provider has appropriate knowledge and skills—

- (a) for carrying out the ADR that it carries out, in relation to the disputes it deals with, or
- (b) for making the special ADR arrangements that it makes.

*Criterion 4: facilities for consumers and traders to participate*

- 4 (1) The ADR provider provides accessible means for consumers to refer disputes to it.
- (2) The ADR provider or, as the case may be, any other ADR provider with whom it makes special ADR arrangements, ensures there are accessible means for the parties to participate in the ADR carried out in relation to their dispute.

*Criterion 5: fair ADR procedures*

- 5 (1) The ADR provider or, as the case may be, any other ADR provider with whom it makes special ADR arrangements, adopts and follows fair procedures in carrying out ADR.
- (2) The procedures adopted should, in particular, be easy to use, transparent, non-discriminatory and effective.
- (3) They should include procedures for securing that each party to a dispute referred for ADR—
  - (a) has a reasonable opportunity—
    - (i) to express its point of view in relation to the matters in dispute and the outcome it seeks;
    - (ii) to consider the views, arguments and evidence put forward by the other party;
  - (b) is entitled to be represented or assisted by another person (and that it is immaterial whether or not that person is legally qualified).

*Criterion 6: independence and impartiality*

- 6 (1) The ADR provider or, as the case may be, any other ADR provider with whom it makes special ADR arrangements, acts independently and impartially before, and while, it carries out ADR.
- (2) The action to be taken should include—
  - (a) following appropriate procedures for identifying, and avoiding, any conflict of interest before carrying out ADR in relation to a dispute;
  - (b) taking steps to avoid conflicts of interest that may arise before, or while, it carries out ADR in relation to a dispute.

*Criterion 7: information for parties*

- 7 (1) The ADR provider or, as the case may be, any other ADR provider with whom it makes special ADR arrangements keeps the parties to a dispute informed about the conduct and progress of any ADR being carried out.
- (2) The action to be taken includes notifying the parties promptly in writing of the outcome of the ADR and, where applicable, of the grounds on which any decision has been reached.

## PART 2

### SUPPLEMENTARY

- 8 The following provisions have effect for the interpretation or application of [this Schedule](#).
- 9 The accreditation criteria only apply to the ADR provider so far as it is reasonable to regard them as applicable—
- (a) in relation to ADR of a kind that is carried out by the ADR provider or, as the case may be, by any other ADR provider with whom the ADR provider makes special ADR arrangements, or
  - (b) in relation to activities of the ADR provider in, or in connection with, making special ADR arrangements.
- 10 “Procedures”, in relation to ADR, means any rules, requirements or practices relating to the carrying out of ADR, including—
- (a) any time limits for referring disputes for ADR;
  - (b) any conditions or other requirements to be met by either (or both) of the parties before, or while, ADR is being carried out;
- 11 “Dispute” means a consumer contract dispute.

## SCHEDULE 27

Section 309

### CHAPTER 4 OF PART 4: CONSEQUENTIAL AMENDMENTS ETC

#### *Prescription and Limitation (Scotland) Act 1973*

- 1 (1) Section 14 of the Prescription and Limitation (Scotland) Act 1973 (computation of prescriptive periods) is amended as follows.
- (2) In the following places, for “relevant consumer dispute” or “relevant dispute” substitute “consumer contract dispute”—
- (a) subsection (1D);
  - (b) subsection (1F);
  - (c) subsection (1G) (in each place where it occurs).
- (3) In subsection (1D)—
- (a) after “this Act is” (in the opening words) insert “, in a case where ADR is carried out in respect of the dispute,”;
  - (b) in paragraph (a)—
    - (i) for “the non-binding ADR procedure” substitute “the ADR”, and
    - (ii) for “such a procedure” substitute “it”;
  - (c) in each of paragraphs (b) and (c), for “a non-binding ADR procedure” substitute “the ADR”.
- (4) In the following places, for “the non-binding ADR procedure” substitute “the ADR”—
- (a) subsection (1E);
  - (b) subsection (1G)(b) and (f);

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- (c) subsection (2) (in the definition of “qualifying request”).
- (5) In subsections (1F) and (1G), for “a non-binding ADR procedure” substitute “ADR”.
- (6) In subsection (2)—
  - (a) omit the following definitions—
    - “ADR entity”;
    - “ADR procedure”;
    - “consumer”;
    - “non-binding ADR procedure”;
    - “relevant consumer dispute”;
    - “sales contract”;
    - “service contract”;
    - “trader”;
  - (b) before the definition of “holiday” insert the following definitions—
    - ““ADR” has the same meaning as in [Chapter 4](#) of [Part 4](#) of the Digital Markets, Competition and Consumers Act 2024;
    - “ADR entity” means a person who carries out ADR in compliance with section [293\(1\)](#) of that Act (which prohibits persons from carrying out ADR unless exempt, accredited, or acting under special ADR arrangements, in accordance with [Chapter 4](#) of [Part 4](#) of that Act);
    - “consumer contract dispute” has the same meaning as in [Chapter 4](#) of [Part 4](#) of that Act.”

### *Limitation Act 1980*

- 2 (1) Section 33B of the Limitation Act 1980 (extension of time limits because of alternative dispute resolution) is amended as follows.
- (2) In the heading, for “cross border or domestic contractual” substitute “consumer contract”.
- (3) For subsection (1) substitute—
  - “(1) In this section—
    - “ADR” has the same meaning as in [Chapter 4](#) of [Part 4](#) of the Digital Markets, Competition and Consumers Act 2024;
    - “ADR entity” means a person who carries out ADR in compliance with section [293\(1\)](#) of that Act (which prohibits persons from carrying out ADR unless exempt, accredited, or acting under special ADR arrangements, in accordance with [Chapter 4](#) of [Part 4](#) of that Act);
    - “consumer contract dispute” has the same meaning as in [Chapter 4](#) of [Part 4](#) of that Act.”
- (4) In the following places, for “relevant dispute” substitute “consumer contract dispute”—
  - (a) subsection (2)(a) and (b);
  - (b) subsection (5);
  - (c) subsection (6);
  - (d) subsection (7) (in each place where it occurs);

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- (e) subsection (9).
- (5) In the following places, for “a non-binding ADR procedure” substitute “ADR”—
  - (a) subsection (2)(b);
  - (b) subsection (6);
  - (c) subsection (9).
- (6) In the following places, for “the non-binding ADR procedure” substitute “the ADR”—
  - (a) subsection (2)(c);
  - (b) subsection (3);
  - (c) subsection (7) (in each place where it occurs);
  - (d) subsection (8);
  - (e) subsection (9).

#### *Foreign Limitation Periods Act 1984*

- 3 (1) Section 1B of the Foreign Limitation Periods Act 1984 (extension of limitation periods because of alternative dispute resolution) is amended as follows.
- (2) In the heading, for “cross border or domestic contractual” substitute “consumer contract”.
- (3) For subsection (1) substitute—
- “(1) In this section—
- “ADR” has the same meaning as in [Chapter 4 of Part 4](#) of the Digital Markets, Competition and Consumers Act 2024;
- “ADR entity” means a person who carries out ADR in compliance with section [293\(1\)](#) of that Act (which prohibits persons from carrying out ADR unless exempt, accredited, or acting under special ADR arrangements, in accordance with [Chapter 4 of Part 4](#) of that Act);
- “consumer contract dispute” has the same meaning as in [Chapter 4 of Part 4](#) of that Act.”
- (4) In the following places, for “relevant dispute” substitute “consumer contract dispute”—
- (a) subsection (2)(a) and (b);
  - (b) subsection (5);
  - (c) subsection (6) (in each place where it occurs);
  - (d) subsection (8).
- (5) In the following places, for “a non-binding ADR procedure” substitute “ADR”—
- (a) subsection (2)(b);
  - (b) subsection (5);
  - (c) subsection (8).
- (6) In the following places, for “the non-binding ADR procedure” substitute “the ADR”—
- (a) subsection (2)(c);
  - (b) subsection (3);

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- (c) subsection (6) (in each place where it occurs);
- (d) subsection (7);
- (e) subsection (8).

*Limitation (Northern Ireland) Order 1989 (S.I. 1989/1339 (N.I. 11))*

- 4 (1) Article 51B of the Limitation (Northern Ireland) Order 1989 (extension of time limits: non-binding ADR procedure) is amended as follows.
- (2) In the heading, for “: Non-binding ADR procedure” substitute “because of alternative dispute resolution in certain consumer contract disputes”.
- (3) In paragraphs (1)(a) and (3), for “a non-binding ADR procedure” substitute “ADR”.
- (4) In the following places, for “the non-binding ADR procedure” substitute “the ADR”—
- (a) paragraph (1)(b) (in each place where it occurs);
  - (b) paragraph (2);
  - (c) paragraph (4) (in each place where it occurs).
- (5) In paragraph (1)(b)(i), for “that such a procedure” substitute “on which it”.
- (6) In the following places, for “relevant dispute” substitute “consumer contract dispute”—
- (a) paragraph (1)(a);
  - (b) paragraph (3);
  - (c) paragraph (4) (in each place where it occurs).
- (7) For paragraph (5) substitute—
- “(5) In this Article—
- “ADR” has the same meaning as in [Chapter 4 of Part 4](#) of the Digital Markets, Competition and Consumers Act 2024;
- “ADR entity” means a person who carries out ADR in compliance with section [293\(1\)](#) of that Act (which prohibits persons from carrying out ADR unless exempt, accredited, or acting under special ADR arrangements, in accordance with Chapter 4 of Part 4 of that Act);
- “consumer contract dispute” has the same meaning as in [Chapter 4 of Part 4](#) of that Act;
- “qualifying request” is a request by a party that another (A) confirm to all parties that A is continuing with the ADR.”

*Financial Services and Markets Act 2000*

- 5 In Schedule 17 to the Financial Services and Markets Act 2000 (ombudsman scheme), omit the following provisions—
- (a) in paragraph 1, the definition of “ADR entity”;
  - (b) paragraph 2(2);
  - (c) paragraph 14(3A).

### *Enterprise Act 2002*

- 6 In EA 2002—
- (a) in Schedule 14 (provisions about disclosure of information) at the appropriate place insert—  
“Chapter 4 of Part 4 of the Digital Markets, Competition and Consumers Act 2024.”;
  - (b) in Schedule 15 (enactments conferring functions) at the appropriate place insert—  
“Chapter 4 of Part 4 of the Digital Markets, Competition and Consumers Act 2024.”

### *Regulatory Enforcement and Sanctions Act 2008*

- 7 In Schedule 3 to the Regulatory Enforcement and Sanctions Act 2008 (enactments specified for the purposes of Part 1), at the appropriate place insert—  
“Digital Markets, Competition and Consumers Act 2024, Chapter 4 of Part 4”.

### *Equality Act 2010*

- 8 (1) Section 140AA of the Equality Act 2010 (extension of time limits because of alternative dispute resolution) is amended as follows.
- (2) In the heading, for “cross border or domestic contractual” substitute “consumer contract”.
- (3) For subsection (1) substitute—  
“(1) In this section—  
“ADR” has the same meaning as in Chapter 4 of Part 4 of the Digital Markets, Competition and Consumers Act 2024;  
“ADR entity” means a person who carries out ADR in compliance with section 293(1) of that Act (which prohibits persons from carrying out ADR unless exempt, accredited, or acting under special ADR arrangements, in accordance with Chapter 4 of Part 4 of that Act);  
“consumer contract dispute” has the same meaning as in Chapter 4 of Part 4 of that Act.”
- (4) In each of the following places, for “relevant dispute” substitute “consumer contract dispute”—
- (a) subsection (2)(a) and (b);
  - (b) subsection (5);
  - (c) subsection (6);
  - (d) subsection (7) (in each place where it occurs);
  - (e) subsection (9).
- (5) In each of the following places, for “a non-binding ADR procedure” substitute “ADR”—
- (a) subsection (2)(b);
  - (b) subsection (6);
  - (c) subsection (9).

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- (6) In each of the following places, for “the non-binding ADR procedure” substitute “the ADR”—
- (a) subsection (2)(c);
  - (b) subsection (3);
  - (c) subsection (7) (in each place where it occurs);
  - (d) subsection (8);
  - (e) subsection (9).
- (7) In subsection (8), for “(6)” substitute “(7)”.

*Consumer Rights Act 2015*

- 9 (1) Schedule 5 to CRA 2015 (investigatory powers etc) is amended as follows.
- (2) In the table in paragraph 11 (enforcer’s legislation: legislation mentioned in paragraph 9(1)(b)), at the appropriate place insert—

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“The Secretary of State	Chapter 4 of Part 4 of the Digital Markets, Competition and Consumers Act 2024 ”
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*Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015 (SI 2015/542)*

- 10 The Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015 (SI 2015/542) are revoked.

SCHEDULE 28

Section 325

PROVISION OF INVESTIGATIVE ASSISTANCE TO OVERSEAS REGULATORS

*Amendments to Part 3 of EA 2002*

- 1 Chapter 5 of Part 3 of EA 2002 (mergers: supplementary) is amended as follows.
- 2 In section 110A (restriction on powers to impose penalties under section 110), after subsection (9) insert—
- “(10) Where the section 109 power is exercised for the purposes of providing assistance to an overseas regulator (see Chapter 2 of Part 5 of the Digital Markets, Competition and Consumers Act 2024), the relevant day is the earlier of—
- (a) in the case of a penalty imposed by virtue of section 110(1)(a), the day on which the CMA gives notice to the relevant person that—
    - (i) the information or documents specified or described in the notice under section 109 have been produced or supplied to the satisfaction of the CMA, or
    - (ii) the relevant person has appeared as a witness in accordance with the requirements of the CMA;



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- (b) in the case of a penalty imposed by virtue of section 110(1)(b), the day on which the CMA gives notice to the relevant person that the CMA considers the obstruction or delay to have ceased; and
      - (c) in either case, the day one year on from the day specified in the notice under section 109 for the relevant person to comply with it.
    - (11) In [subsection \(10\)](#), “the relevant person” means the person given the notice under section 109.”
  - 3 In section 111 (penalties: amount) (as amended by [paragraph 17](#) of [Schedule 10](#)), in subsection (5), in paragraph (b)—
    - (a) in the words before sub-paragraph (i), after “at the beginning of” insert “the earliest of the following days”;
    - (b) omit the “or” at the end of sub-paragraph (i);
    - (c) in sub-paragraph (ii) omit “if earlier”;
    - (d) after that sub-paragraph insert—
      - “(iii) in a case where the penalty is imposed in connection with the provision by the CMA of assistance to an overseas regulator (see [Chapter 2](#) of [Part 5](#) of the Digital Markets, Competition and Consumers Act 2024), the day on which the overseas regulator no longer requires that assistance.”
  - 4 (1) Section 120 (reviews of decisions under Part 3) is amended as follows.
    - (2) In subsection (1A), after paragraph (b) insert—
      - “(c) a decision of the CMA or the Secretary of State for the purposes of [Chapter 2](#) of [Part 5](#) of the Digital Markets, Competition and Consumers Act 2024 in connection with a request from an overseas regulator (within the meaning of that Chapter) for the CMA to assist the regulator in carrying out functions of the regulator which correspond or are similar to the functions of the CMA under this Part.”
    - (3) In subsection (2), in paragraph (b)—
      - (a) the words after “permitted or required by” become sub-paragraph (i);
      - (b) after that sub-paragraph insert—
        - “(ii) [Chapter 2](#) of [Part 5](#) of the Digital Markets, Competition and Consumers Act 2024 in connection with a request from an overseas regulator (within the meaning of that Chapter) for the CMA to assist the regulator in carrying out functions of the regulator which correspond or are similar to the functions of the CMA under this Part.”
- Amendment to Part 9 of EA 2002*
- 5 In Part 9 of EA 2002 (information), in [section 243E](#) (directions by the Secretary of State relating to overseas disclosures) (inserted by [section 326\(2\)](#)), after subsection (2) insert—

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“(2A) The Secretary of State may not make a direction under this section in relation to a disclosure permitted under section 243A or 243B that relates to assistance provided by a relevant regulator to an overseas regulator by virtue of Chapter 2 of Part 5 of the Digital Markets, Competition and Consumers Act 2024.”

6 In Schedule 14 to EA 2002 (specified functions), at the appropriate place insert—  
 “Chapter 2 of Part 5 of the Digital Markets, Competition and Consumers Act 2024.”

7 In Schedule 15 to EA 2002 (enactments conferring functions), at the appropriate place insert—  
 “Chapter 2 of Part 5 of the Digital Markets, Competition and Consumers Act 2024.”

#### *Amendments to CA 1998*

8 CA 1998 is amended as follows.

9 (1) Section 25A (power of CMA to publish notice of investigation) is amended as follows.

(2) In the heading, at the end insert “etc”.

(3) After subsection (1) insert—

“(1A) Where the CMA assists an overseas regulator in carrying out any of its functions which correspond or are similar to the functions of the CMA under this Part (see Chapter 2 of Part 5 of the Digital Markets, Competition and Consumers Act 2024), the CMA may publish a notice which may, in particular—

- (a) state its decision to do so;
- (b) identify the overseas regulator concerned;
- (c) summarise the matter in respect of which the assistance is to be provided;
- (d) identify any undertaking in respect of which the assistance is to be provided;
- (e) identify the market which is or was affected by the matter in respect of which the assistance is to be provided.”

(4) In subsection (2)—

- (a) after “subsection (1)” insert “or (1A)”; and
- (b) for “that subsection” substitute “the subsection concerned”.

10 (1) Section 25B (duty to preserve documents relevant to investigations) (inserted by section 121) is amended as follows.

(2) In subsection (1)—

- (a) the words after “knows or suspects that” become paragraph (a);
- (b) after that paragraph insert “, or
- (b) the CMA is assisting, or is likely to assist, an overseas regulator in carrying out any of its functions which correspond or are similar to the functions of the CMA under

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this Part (see [Chapter 2](#) of [Part 5](#) of the Digital Markets, Competition and Consumers Act 2024).”;

(3) In subsection (2), at the end insert “or to the provision of such assistance”.

- 11 In section 40A (penalties: amount), in subsection (7), after paragraph (c) insert—
- “(d) in a case where the requirement was imposed in connection with the provision by the CMA of assistance to an overseas regulator (see [Chapter 2](#) of [Part 5](#) of the Digital Markets, Competition and Consumers Act 2024), the day on which the overseas regulator no longer requires that assistance.”

## SCHEDULE 29

Section 327

### DUTY OF EXPEDITION ON SECTORAL REGULATORS IN RESPECT OF THEIR COMPETITION FUNCTIONS

#### *The Civil Aviation Authority (CAA)*

- 1 (1) The Civil Aviation Act 2012 is amended as follows.
- (2) In section 61 (functions of the CAA under Part 4 of the Enterprise Act 2002: supplementary), after subsection (11) insert—
- “(12) In making any decision, or otherwise taking action, for the purposes of any relevant 2002 Act functions, the CAA must have regard to the need for making a decision, or taking action, as soon as reasonably practicable.”
- (3) In section 63 (functions of the CAA under the Competition Act 1998: supplementary), after subsection (3) insert—
- “(3A) In making any decision, or otherwise taking action, for the purposes of any relevant 1998 Act functions that are functions within [Schedule 4A](#) to the Enterprise and Regulatory Reform Act 2013 by virtue of [paragraph 5](#) of that Schedule, the CAA must have regard to the need for making a decision, or taking action, as soon as reasonably practicable.”
- 2 In section 86 of the Transport Act 2000 (functions of the CAA with respect to competition) after subsection (7) insert—
- “(8) In making any decision, or otherwise taking action, for the purposes of any of its functions that—
- (a) by virtue of this section, are functions exercisable concurrently with the CMA, and
- (b) in the case of functions under the Competition Act 1998, are functions within [Schedule 4A](#) to the Enterprise and Regulatory Reform Act 2013 by virtue of [paragraph 5](#) of that Schedule,
- the CAA must have regard to the need for making a decision, or taking action, as soon as reasonably practicable.”

#### *The Financial Conduct Authority (FCA)*

- 3 (1) The Financial Services and Markets Act 2000 is amended as follows.

(2) In section 234I (functions of the FCA under Part 4 of EA 2002), after subsection (8) insert—

“(9) In making any decision, or otherwise taking action, for the purposes of any of its functions that, by virtue of this section, are functions exercisable concurrently with the CMA, the FCA must have regard to the need for making a decision, or taking action, as soon as reasonably practicable.”

(3) In section 234J (functions of the FCA under CA 1998), after subsection (5) insert—

“(6) In making any decision, or otherwise taking action, for the purposes of any of its functions that—

(a) by virtue of this section, are functions exercisable concurrently with the CMA, and

(b) are functions within [Schedule 4A](#) to the Enterprise and Regulatory Reform Act 2013 by virtue of [paragraph 5](#) of that Schedule,

the FCA must have regard to the need for making a decision, or taking action, as soon as reasonably practicable.”

#### *The Northern Ireland Authority for Utility Regulation*

4 In Article 29 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 paragraph (10) insert—

“(11) In making any decision, or otherwise taking action, for the purposes of any of its functions that—

(a) by virtue of this Article, are functions exercisable concurrently with the CMA, and

(b) in the case of functions under the Competition Act 1998, are functions within [Schedule 4A](#) to the Enterprise and Regulatory Reform Act 2013 by virtue of [paragraph 5](#) of that Schedule,

the Authority must have regard to the need for making a decision, or taking action, as soon as reasonably practicable.”

5 In Article 23 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 paragraph (9) insert—

“(10) In making any decision, or otherwise taking action, for the purposes of any of its functions that—

(a) by virtue of this Article, are functions exercisable concurrently with the CMA, and

(b) in the case of functions under the Competition Act 1998, are functions within [Schedule 4A](#) to the Enterprise and Regulatory Reform Act 2013 by virtue of [paragraph 5](#) of that Schedule,

the Authority must have regard to the need for making a decision, or taking action, as soon as reasonably practicable.”

6 In Article 46 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), at the end insert—

- “(8) In making any decision, or otherwise taking action, for the purposes of any of its functions that—
- (a) by virtue of this Article, are functions exercisable concurrently with the CMA, and
  - (b) in the case of functions under the Competition Act 1998, are functions within [Schedule 4A](#) to the Enterprise and Regulatory Reform Act 2013 by virtue of [paragraph 5](#) of that Schedule,
- the Authority must have regard to the need for making a decision, or taking action, as soon as reasonably practicable.”

*The Office of Communications (OfCOM)*

- 7 (1) The Communications Act 2003 is amended as follows.
- (2) In section 370 (functions of OfCOM under Part 4 of EA 2002), after subsection (12) insert—
- “(13) In making any decision, or otherwise taking action, for the purposes of any of its functions that, by virtue of this section, are functions exercisable concurrently with the CMA, OfCOM must have regard to the need for making a decision, or taking action, as soon as reasonably practicable.”
- (3) In section 371 (functions of OfCOM under CA 1998), after subsection (12) insert—
- “(13) In making any decision, or otherwise taking action, for the purposes of any of its functions that—
- (a) by virtue of this section, are functions exercisable concurrently with the CMA, and
  - (b) are functions within [Schedule 4A](#) to the Enterprise and Regulatory Reform Act 2013 by virtue of [paragraph 5](#) of that Schedule,
- OfCOM must have regard to the need for making a decision, or taking action, as soon as reasonably practicable.”

*The Office of Gas and Electricity Markets (Ofgem)*

- 8 In section 36A of the Gas Act 1986 (functions of Ofgem with respect to competition), after subsection (10) insert—
- “(11) In making any decision, or otherwise taking action, for the purposes of any of its functions that—
- (a) by virtue of this section, are functions exercisable concurrently with the CMA, and
  - (b) in the case of functions under the Competition Act 1998, are functions within [Schedule 4A](#) to the Enterprise and Regulatory Reform Act 2013 by virtue of [paragraph 5](#) of that Schedule,
- the Authority must have regard to the need for making a decision, or taking action, as soon as reasonably practicable.”
- 9 In section 43 of the Electricity Act 1989 (functions of Ofgem with respect to competition) at the end insert—
- “(8) In making any decision, or otherwise taking action, for the purposes of any of its functions that, by virtue of this section—

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- (a) by virtue of this section, are functions exercisable concurrently with the CMA, and
  - (b) in the case of functions under the Competition Act 1998, are functions within [Schedule 4A](#) to the Enterprise and Regulatory Reform Act 2013 by virtue of [paragraph 5](#) of that Schedule,
- the Authority must have regard to the need for making a decision, or taking action, as soon as reasonably practicable.”

*The Office of Rail and Road (ORR)*

- 10 In section 67 of the Railways Act 1993 (functions of the ORR with respect to competition) at the end insert—
- “(11) In making any decision, or otherwise taking action, for the purposes of any of its functions that—
- (a) by virtue of this section, are functions exercisable concurrently with the CMA, and
  - (b) in the case of functions under the Competition Act 1998, are functions within [Schedule 4A](#) to the Enterprise and Regulatory Reform Act 2013 by virtue of [paragraph 5](#) of that Schedule,
- the Office of Rail and Road must have regard to the need for making a decision, or taking action, as soon as reasonably practicable.”

*The Payment Systems Regulator*

- 11 (1) The Financial Services (Banking Reform) Act 2013 is amended as follows.
- (2) In section 59 (functions of the Payment Systems Regulator under Part 4 of EA 2002), after subsection (6) insert—
- “(7) In making any decision, or otherwise taking action, for the purposes of any of its functions that, by virtue of this section, are functions exercisable concurrently with the CMA, the Payment Systems Regulator must have regard to the need for making a decision, or taking action, as soon as reasonably practicable.”
- (3) In section 61 (functions of the Payment Systems Regulator under CA 1998), after subsection (5) insert—
- “(6) In making any decision, or otherwise taking action, for the purposes of any of its functions that—
- (a) by virtue of this section, are functions exercisable concurrently with the CMA, and
  - (b) are functions within [Schedule 4A](#) to the Enterprise and Regulatory Reform Act 2013 by virtue of [paragraph 5](#) of that Schedule,
- the Payment Systems Regulator must have regard to the need for making a decision, or taking action, as soon as reasonably practicable.”

*The Water Services Regulation Authority (Ofwat)*

- 12 In section 31 of the Water Industry Act 1991 (functions of Ofwat with respect to competition) at the end insert—

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- “(10) In making any decision, or otherwise taking action, for the purposes of any of its functions that—
- (a) by virtue of this section, are functions exercisable concurrently with the CMA, and
  - (b) in the case of functions under the Competition Act 1998, are functions within [Schedule 4A](#) to the Enterprise and Regulatory Reform Act 2013 by virtue of [paragraph 5](#) of that Schedule,
- the Authority must have regard to the need for making a decision, or taking action, as soon as reasonably practicable.”

## SCHEDULE 30

Section 335

### MINOR AND CONSEQUENTIAL AMENDMENTS

#### PART 1

##### AMENDMENTS TO ACTS OF PARLIAMENT

###### *Competition Act 1980 (c. 21)*

- 1 The Competition Act 1980 is amended as follows.
- 2 In section 11B(1) (references under section 11: powers of investigation and penalties), in the words before paragraph (a)—
  - (a) after “shall apply,” insert “as they had effect immediately before the date on which [section 143](#) of the Digital Markets, Competition and Consumers Act 2024 came into force and,”;
  - (b) for “apply”, in the second place it occurs, substitute “applied immediately before that date”.
- 3 In section 11C(1) (references under section 11: further supplementary provisions), in the words before paragraph (a)—
  - (a) after “shall apply” insert “, as it had effect immediately before the date on which [section 143](#) of the Digital Markets, Competition and Consumers Act 2024 came into force,”; and
  - (b) for “applies” substitute “applied immediately before that date”.
- 4 In section 11D(7) (interim orders), in paragraph (d), after “penalties” insert “as it had effect immediately before the date on which [section 143](#) of the Digital Markets, Competition and Consumers Act 2024 came into force”.

###### *Telecommunications Act 1984 (c. 12)*

- 5 In section 101 of the Telecommunications Act 1984 (general restrictions on disclosure of information), in subsection (3)—
  - (a) omit paragraph (v);
  - (b) after paragraph (w) insert—
    - “(x) the following provisions of the Digital Markets, Competition and Consumers Act 2024—



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- (i) [Part 3](#);
- (ii) [Chapter 1 of Part 4](#);
- (iii) [Chapter 2 of Part 5](#).”

*Companies Act 1985 (c. 6)*

- 6 In paragraph 17 of Schedule 15D to the Companies Act 1985 (disclosures), after subparagraph (m) insert—
- “(n) the following provisions of the Digital Markets, Competition and Consumers Act 2024—
    - (i) [Part 3](#);
    - (ii) [Chapter 1 of Part 4](#);
    - (iii) [Chapter 2 of Part 5](#).”

*Airports Act 1986 (c. 31)*

- 7 In section 74 of the Airports Act 1986 (restriction on disclosure of information), in subsection (3)—
- (a) omit paragraph (v);
  - (b) after paragraph (y) insert—
    - “(z) the following provisions of the Digital Markets, Competition and Consumers Act 2024—
      - (i) [Part 3](#);
      - (ii) [Chapter 1 of Part 4](#);
      - (iii) [Chapter 2 of Part 5](#).”

*Gas Act 1986 (c. 44)*

- 8 (1) Section 41EB of the Gas Act 1986 (references under section 41E: application of EA 2002) is amended as follows.
- (2) In subsection (1), in the words before paragraph (a)—
- (a) after “shall apply,” insert “as they had effect immediately before the relevant date and”;
  - (b) for “apply”, in the second place it occurs, substitute “applied immediately before that date”.
- (3) In subsection (4)—
- (a) after “shall apply” insert “, as it had effect immediately before the relevant date,”;
  - (b) for “applies” substitute “applied immediately before that date”.
- (4) In subsection (5)—
- (a) for “have”, in the first place it occurs, substitute “, immediately before the relevant date, had”;
  - (b) at the end insert “as those provisions had effect immediately before that date”.
- (5) After subsection (6) insert—



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“(7) In this section “the relevant date” means the date on which [section 143](#) of the Digital Markets, Competition and Consumers Act 2024 came into force.”

#### *Water Act 1989 (c. 15)*

- 9 In section 174 of the Water Act 1989 (general restrictions on disclosure of information), in subsection (3)—
- (a) omit paragraph (lp);
  - (b) after paragraph (o) insert—
    - “(p) the following provisions of the Digital Markets, Competition and Consumers Act 2024—
      - (i) [Part 3](#);
      - (ii) [Chapter 1 of Part 4](#);
      - (iii) [Chapter 2 of Part 5](#).”

#### *Electricity Act 1989 (c. 29)*

- 10 (1) Section 56CB of the Electricity Act 1989 (references under section 56C: application of EA 2002) is amended as follows.
- (2) In subsection (1), in the words before paragraph (a)—
- (a) after “shall apply,” insert “as they had effect immediately before the relevant date and”;
  - (b) for “apply”, in the second place it occurs, substitute “applied immediately before that date”.
- (3) In subsection (4)—
- (a) after “shall apply” insert “, as it had effect immediately before the relevant date,”;
  - (b) for “applies” substitute “applied immediately before that date”.
- (4) In subsection (5)—
- (a) for “have”, in the first place it occurs, substitute “, immediately before the relevant date, had”;
  - (b) at the end insert “as those provisions had effect immediately before that date”.
- (5) After subsection (6) insert—
- “(7) In this section “the relevant date” means the date on which [section 143](#) of the Digital Markets, Competition and Consumers Act 2024 came into force.”

#### *Water Industry Act 1991 (c. 56)*

- 11 The Water Industry Act 1991 is amended as follows.
- 12 (1) Section 14B (references under section 14: powers of investigation) is amended as follows.
- (2) In subsection (1), in the words before paragraph (a)—
- (a) after “shall apply,” insert “as they had effect immediately before the relevant date and”;

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- (b) for “apply”, in the second place it occurs, substitute “applied immediately before that date”.
- (3) In subsection (4)—
  - (a) for “have”, in the first place it occurs, substitute “, immediately before the relevant date, had”
  - (b) at the end insert “as those provisions had effect immediately before that date”.
- (4) After subsection (5) insert—
 

“(6) In this section “the relevant date” means the date on which [section 143](#) of the Digital Markets, Competition and Consumers Act 2024 came into force.”
- 13 (1) Section 16B (CMA’s power of veto following report: supplementary) is amended as follows.
  - (2) In subsection (6), in the words before paragraph (a)—
    - (a) after “shall apply,” insert “as they had effect immediately before the relevant date and”;
    - (b) for “apply”, in the second place it occurs, substitute “applied immediately before that date”.
  - (3) In subsection (9)—
    - (a) for “have”, in the first place it occurs, substitute “, immediately before the relevant date, had”;
    - (b) at the end insert “as those provisions had effect immediately before that date”.
  - (4) After subsection (10) insert—
 

“(11) In this section “the relevant date” means the date on which [section 143](#) of the Digital Markets, Competition and Consumers Act 2024 came into force.”
- 14 (1) Section 17M (references under section 17K: powers of investigation) is amended as follows.
  - (2) In subsection (1), in the words before paragraph (a)—
    - (a) after “shall apply,” insert “as they had effect immediately before the relevant date and”;
    - (b) for “apply”, in the second place it occurs, substitute “applied immediately before that date”.
  - (3) In subsection (4)—
    - (a) for “have”, in the first place it occurs, substitute “, immediately before the relevant date, had”;
    - (b) at the end insert “as those provisions had effect immediately before that date”.
  - (4) After subsection (5) insert—
 

“(6) In this section “the relevant date” means the date on which [section 143](#) of the Digital Markets, Competition and Consumers Act 2024 came into force.”
- 15 (1) Section 17Q (section 17P: supplementary) is amended as follows.

- (2) In subsection (6), in the words before paragraph (a)—
- (a) after “shall apply,” insert “as they had effect immediately before the relevant date and”;
  - (b) for “apply”, in the second place it occurs, substitute “applied immediately before that date”.
- (3) In subsection (9)—
- (a) for “have”, in the first place it occurs, substitute “, immediately before the relevant date, had”;
  - (b) at the end insert “as those provisions had effect immediately before that date”.
- (4) After subsection (10) insert—
- “(11) In this section “the relevant date” means the date on which [section 143](#) of the Digital Markets, Competition and Consumers Act 2024 came into force.”

16 In Part 2 of Schedule 15 (enactments etc in respect of which disclosure may be made)

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- (a) at the end of the list insert—

“The following provisions of the Digital Markets, Competition and Consumers Act 2024—

    - (a) [Part 3](#);
    - (b) [Chapter 1](#) of [Part 4](#);
    - (c) [Chapter 2](#) of [Part 5](#).”;
  - (b) omit the entry for subordinate legislation made for the purpose of securing compliance with [Directive 2005/29/EC](#) of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market.

*Railways Act 1993 (c. 43)*

17 The Railways Act 1993 is amended as follows.

18 (1) Section 13B (references under section 13: application of EA 2002) is amended as follows.

- (2) In subsection (1), in the words before paragraph (a)—
- (a) after “shall apply,” insert “as they had effect immediately before the relevant date and”;
  - (b) for “apply”, in the second place it occurs, substitute “applied immediately before that date”.
- (3) In subsection (4)—
- (a) after “shall apply” insert “, as it had effect immediately before the relevant date,”;
  - (b) for “applies” substitute “applied immediately before that date”.
- (4) In subsection (5)—
- (a) for “have”, in the first place it occurs, substitute “, immediately before the relevant date, had”;

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- (b) at the end insert “as those provisions had effect immediately before that date”.
- (5) After subsection (6) insert—
- “(7) In this section “the relevant date” means the date on which [section 143](#) of the Digital Markets, Competition and Consumers Act 2024 came into force.”
- 19 (1) Section 15C (sections 15A and 15B: supplementary) is amended as follows.
- (2) In subsection (2D), in the words before paragraph (a)—
- (a) after “shall apply,” insert “as they had effect immediately before the relevant date and”;
- (b) for “apply”, in the second place it occurs, substitute “applied immediately before that date”.
- (3) In subsection (2G)—
- (a) after “shall apply” insert “, as it had effect immediately before the relevant date,”;
- (b) for “applies” substitute “applied immediately before that date”.
- (4) In subsection (2H)—
- (a) for “have”, in the first place it occurs, substitute “, immediately before the relevant date, had”;
- (b) at the end insert “as those provisions had effect immediately before that date”.
- (5) After subsection (4) insert—
- “(5) In this section “the relevant date” means the date on which [section 143](#) of the Digital Markets, Competition and Consumers Act 2024 came into force.”
- 20 In section 145 (general restrictions on disclosure of information), in subsection (3)—
- (a) omit paragraph (qu);
- (b) after paragraph (v) insert—
- “(w) the following provisions of the Digital Markets, Competition and Consumers Act 2024—
- (i) [Part 3](#);
- (ii) [Chapter 1 of Part 4](#);
- (iii) [Chapter 2 of Part 5](#).”
- 21 Schedule 4A (review of access charges by the Office of Rail and Road) is amended as follows.
- 22 (1) Paragraph 10A (references under paragraph 9: application of EA 2002) is amended as follows.
- (2) In sub-paragraph (1), in the words before paragraph (a)—
- (a) after “shall apply,” insert “as they had effect immediately before the relevant date and”;
- (b) for “apply”, in the second place it occurs, substitute “applied immediately before that date”.
- (3) In sub-paragraph (4)—

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- (a) after “shall apply” insert “, as it had effect immediately before the relevant date.”;
  - (b) for “applies” substitute “applied immediately before that date”.
- (4) In sub-paragraph (5)—
- (a) for “have”, in the first place it occurs, substitute “, immediately before the relevant date, had”;
  - (b) at the end insert “as those provisions had effect immediately before that date”.
- (5) After sub-paragraph (6) insert—
- “(7) In this paragraph “the relevant date” means the date on which [section 143](#) of the Digital Markets, Competition and Consumers Act 2024 came into force.”
- 23 (1) Paragraph 15 (paragraphs 13 and 14: supplementary) is amended as follows.
- (2) In sub-paragraph (2D), in the words before paragraph (a)—
- (a) after “shall apply,” insert “as they had effect immediately before the relevant date and”;
  - (b) for “apply”, in the second place it occurs, substitute “applied immediately before that date”.
- (3) In sub-paragraph (2G)—
- (a) after “shall apply” insert “, as it had effect immediately before the relevant date.”;
  - (b) for “applies” substitute “applied immediately before that date”.
- (4) In sub-paragraph (2H)—
- (a) for “have”, in the first place it occurs, substitute “, immediately before the relevant date, had”;
  - (b) at the end insert “as those provisions had effect immediately before that date”.
- (5) After sub-paragraph (4) insert—
- “(5) In this paragraph “the relevant date” means the date on which [section 143](#) of the Digital Markets, Competition and Consumers Act 2024 came into force.”

#### *Coal Industry Act 1994 (c. 21)*

- 24 In section 59 of the Coal Industry Act 1994 (information to be kept confidential by the Coal Authority), in subsection (4)—
- (a) omit paragraph (q);
  - (b) after paragraph (t) insert—
    - “(u) the following provisions of the Digital Markets, Competition and Consumers Act 2024—
      - (i) [Part 3](#);
      - (ii) [Chapter 1 of Part 4](#);
      - (iii) [Chapter 2 of Part 5](#).”

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*Greater London Authority Act 1999 (c. 29)*

- 25 In section 235 of the Greater London Authority Act 1999 (restrictions on disclosure of information), in subsection (3)—
- (a) omit paragraph (ru);
  - (b) after paragraph (v) insert—
    - “(w) the following provisions of the Digital Markets, Competition and Consumers Act 2024—
      - (i) [Part 3](#);
      - (ii) [Chapter 1 of Part 4](#);
      - (iii) [Chapter 2 of Part 5](#).”

*Utilities Act 2000 (c. 27)*

- 26 In section 105 of the Utilities Act 2000 (general restrictions on disclosure of information), in subsection (6)—
- (a) omit paragraph (w);
  - (b) after paragraph (z1) insert—
    - “(z2) the following provisions of the Digital Markets, Competition and Consumers Act 2024—
      - (i) [Part 3](#);
      - (ii) [Chapter 1 of Part 4](#);
      - (iii) [Chapter 2 of Part 5](#).”

*Transport Act 2000 (c. 38)*

- 27 In Schedule 9 to the Transport Act 2000 (air traffic: information), in paragraph 3(3)—
- (a) after paragraph (rh) insert—
    - “(ri) the following provisions of the Digital Markets, Competition and Consumers Act 2024—
      - (i) [Part 3](#);
      - (ii) [Chapter 1 of Part 4](#);
      - (iii) [Chapter 2 of Part 5](#).”
  - (b) omit paragraph (sa).

*Communications Act 2003 (c. 21)*

- 28 In section 393 of the Communications Act 2003 (general restrictions on disclosure of information), in subsection (5)—
- (a) omit paragraph (q);
  - (b) after paragraph (s) insert—
    - “(t) the following provisions of the Digital Markets, Competition and Consumers Act 2024—
      - (i) [Part 1](#);
      - (ii) [Part 3](#);
      - (iii) [Chapter 1 of Part 4](#);
      - (iv) [Chapter 2 of Part 5](#).”

*Wireless Telegraphy Act 2006 (c. 36)*

- 29 In section 111 of the Wireless Telegraphy Act 2006 (general restrictions), in subsection (6)—
- (a) omit paragraph (o);
  - (b) after paragraph (p) insert—
    - “(q) the following provisions of the Digital Markets, Competition and Consumers Act 2024—
      - (i) [Part 1](#);
      - (ii) [Part 3](#);
      - (iii) [Chapter 1 of Part 4](#);
      - (iv) [Chapter 2 of Part 5](#).”

*Companies Act 2006 (c. 46)*

- 30 In Part 2 of Schedule 2 to the Companies Act 2006 (specified descriptions of disclosures), in section (A) (United Kingdom), in paragraph 25, after paragraph (l) insert—
- “(m) the following provisions of the Digital Markets, Competition and Consumers Act 2024—
    - (i) [Part 3](#);
    - (ii) [Chapter 1 of Part 4](#);
    - (iii) [Chapter 2 of Part 5](#).”

*Legal Services Act 2007 (c. 29)*

- 31 In section 60(9) of the Legal Services Act 2007 (duties of the CMA), in the words before paragraph (a)—
- (a) after “apply”, in the first place it occurs, insert “, as they had effect immediately before the date on which [section 143](#) of the Digital Markets, Competition and Consumers Act 2024 came into force,”;
  - (b) for “apply”, in the second place it occurs, substitute “applied immediately before that date”.

*Postal Services Act 2011 (c. 5)*

- 32 In section 60(6) of the Postal Services Act 2011 (section 59: supplementary), in paragraph (a), after “CMA),” insert “as they had effect immediately before the date on which [section 143](#) of the Digital Markets, Competition and Consumers Act 2024 came into force,”.

*Civil Aviation Act 2012 (c. 19)*

- 33 In Schedule 6 to the Civil Aviation Act 2012 (restrictions on disclosure of information), in paragraph 4—
- (a) in sub-paragraph (3), in the list of relevant statutory provisions, after the entry for “Water Act 2014” insert—
    - “the following provisions of the Digital Markets, Competition and Consumers Act 2024—
      - (a) [Part 3](#);

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- (b) Chapter 1 of Part 4;
- (c) Chapter 2 of Part 5.”;
- (b) in sub-paragraph (4), omit paragraph (b).

## PART 2

### AMENDMENTS TO OTHER LEGISLATION

#### *Energy (Northern Ireland) Order 2003 (S.I. 2003/419 (N.I. 6))*

- 34 The Energy (Northern Ireland) Order 2003 is amended as follows.
- 35 In Article 63 (general restrictions on disclosure of information), in paragraph (6)—
- (a) omit sub-paragraph (w);
  - (b) after sub-paragraph (x) insert—
    - “(y) the following provisions of the Digital Markets, Competition and Consumers Act 2024—
    - (i) Part 3;
    - (ii) Chapter 1 of Part 4;
    - (iii) Chapter 2 of Part 5.”
- 36 (1) In Schedule 2 (orders altering licensable activities), paragraph 5 (references under paragraph 3: application of EA 2002) is amended as follows.
- (2) In sub-paragraph (1), in the words before paragraph (a)—
    - (a) after “shall apply,” insert “as they had effect immediately before the relevant date and”;
    - (b) for “apply”, in the second place it occurs, substitute “applied immediately before that date”.
  - (3) In sub-paragraph (4)—
    - (a) after “shall apply” insert “, as it had effect immediately before the relevant date,”;
    - (b) for “applies” substitute “applied immediately before that date”.
  - (4) In sub-paragraph (5)—
    - (a) for “have”, in the first place it occurs, substitute “, immediately before the relevant date, had”;
    - (b) at the end insert “as those provisions had effect immediately before that date”.
  - (5) After sub-paragraph (6) insert—
    - “(7) In this paragraph “the relevant date” means the date on which [section 143](#) of the Digital Markets, Competition and Consumers Act 2024 came into force.”

#### *Water Services etc. (Scotland) Act 2005 (Consequential Provisions and Modifications) Order 2005 (S.I. 2005/3172)*

- 37 The Water Services etc. (Scotland) Act 2005 (Consequential Provisions and Modifications) Order 2005 is amended as follows.



- 38 (1) Article 5 (references: powers of investigation) is amended as follows.
- (2) In paragraph (1), in the words before sub-paragraph (a)—
- (a) after “shall apply,” insert “as they had effect immediately before the relevant date and”;
  - (b) for “apply”, in the second place it occurs, substitute “applied immediately before that date”.
- (3) In paragraph (5)—
- (a) for “have”, in the first place it occurs, substitute “, immediately before the relevant date, had”;
  - (b) at the end insert “as those provisions had effect immediately before that date”.
- (4) After paragraph (5) insert—
- “(6) In this article “the relevant date” means the date on which [section 143](#) of the Digital Markets, Competition and Consumers Act 2024 came into force.”
- 39 (1) Article 10 (Article 9: supplementary) is amended as follows.
- (2) In paragraph (3), in the words before sub-paragraph (a)—
- (a) after “shall apply,” insert “as they had effect immediately before the relevant date and”;
  - (b) for “apply”, in the second place it occurs, substitute “applied immediately before that date”.
- (3) In paragraph (7)—
- (a) for “have”, in the first place it occurs, substitute “, immediately before the relevant date, had”;
  - (b) at the end insert “as those provisions had effect immediately before that date”.
- (4) After paragraph (7) insert—
- “(8) In this Article “the relevant date” means the date on which [section 143](#) of the Digital Markets, Competition and Consumers Act 2024 came into force.”

*Water and Sewerage Services (Northern Ireland) Order 2006 (S.I. 2006/3336 (N.I. 21))*

- 40 The Water and Sewerage Services (Northern Ireland) Order 2006 is amended as follows.
- 41 (1) Article 23 (references under Article 21: powers of investigation) is amended as follows.
- (2) In paragraph (1), in the words before sub-paragraph (a)—
- (a) after “shall apply,” insert “as they had effect immediately before the relevant date and”;
  - (b) for “apply”, in the second place it occurs, substitute “applied immediately before that date”.
- (3) In paragraph (4)—
- (a) for “have”, in the first place it occurs, substitute “, immediately before the relevant date, had”;

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- (b) at the end insert “as those provisions had effect immediately before that date”.
- (4) After paragraph (5) insert—
  - “(6) In this Article “the relevant date” means the date on which [section 143](#) of the Digital Markets, Competition and Consumers Act 2024 came into force.”
- 42 (1) Article 27 (CMA’s power of veto following report: supplementary) is amended as follows.
  - (2) In paragraph (6), in the words before sub-paragraph (a)—
    - (a) after “shall apply,” insert “as they had effect immediately before the relevant date and”;
    - (b) for “apply”, in the second place it occurs, substitute “applied immediately before that date”.
  - (3) In paragraph (9)—
    - (a) for “have”, in the first place it occurs, substitute “, immediately before the relevant date, had”;
    - (b) at the end insert “as those provisions had effect immediately before that date”.
  - (4) After paragraph (10) insert—
    - “(11) In this Article “the relevant date” means the date on which [section 143](#) of the Digital Markets, Competition and Consumers Act 2024 came into force.”
- 43 In Article 265 (restrictions on disclosure of information), in paragraph (5)—
  - (a) omit sub-paragraph (s);
  - (b) after sub-paragraph (t) insert—
    - “(u) the following provisions of the Digital Markets, Competition and Consumers Act 2024—
      - (i) [Part 3](#);
      - (ii) [Chapter 1 of Part 4](#);
      - (iii) [Chapter 2 of Part 5](#).”

*Postal Services (Appeals to the Competition Commission) (Investigations and Extension of Time Limits) Order 2011 (S.I. 2011/2749)*

- 44 In Article 3 of the Postal Services (Appeals to the Competition Commission) (Investigations and Extension of Time Limits) Order 2011 (application of sections 109 to 117 of the 2002 Act), in the words before paragraph (a), after “shall apply,” insert “as they had effect immediately before the date on which [section 143](#) of the Digital Markets, Competition and Consumers Act 2024 came into force and”.

*Postal Services Act 2011 (Disclosure of Information) Order 2012 (S.I. 2012/1128)*

- 45 In Article 4 of the Postal Services Act 2011 (Disclosure of Information) Order 2012, in the list of prescribed enactments—
  - (a) omit the entry for the Consumer Protection from Unfair Trading Regulations 2008;
  - (b) after the entry relating to the Consumer Rights Act 2015 insert—

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“the following provisions of the Digital Markets, Competition and Consumers Act 2024—

- (a) [Part 1](#);
- (b) [Part 3](#);
- (c) [Chapter 1 of Part 4](#);
- (d) [Chapter 2 of Part 5](#).”