



# Digital Markets, Competition and Consumers Act 2024

## 2024 CHAPTER 13

### PART 2

#### COMPETITION

### CHAPTER 3

#### MARKETS

#### **138 Final undertakings and orders: power to conduct trials**

- (1) [Schedule 9](#) makes provision amending Part 4 of EA 2002 allowing the CMA or the Secretary of State to conduct trials to assess the likely effectiveness of final undertakings and orders that the CMA or the Secretary of State is minded to accept or impose under that Part.
- (2) The Secretary of State may by regulations amend—
  - (a) any sectoral enactment, or
  - (b) section 168 of EA 2002 (regulated markets),in connection with provision made by [Schedule 9](#).
- (3) The power to make regulations under [subsection \(2\)](#) includes power to make provision for the CMA or Secretary of State to be able to modify, or request that another person modifies, any agreement, arrangement, condition, licence, statement (or anything of a similar nature) in connection with an implementation trial measure (within the meaning of Part 4 of EA 2002, as amended by [Schedule 9](#)).
- (4) But so far as the power to make regulations under [subsection \(2\)](#) is exercised to amend a sectoral enactment that is mentioned in section 168 of EA 2002 (regulated markets), the power may only make provision in connection with a relevant action mentioned in subsection (3) of that section.

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*Changes to legislation:* There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Section 138. (See end of Document for details)

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- (5) For the purposes of this section the sectoral enactments are—
- (a) the Civil Aviation Act 2012;
  - (b) the Health and Social Care Act 2012;
  - (c) the Transport Act 2000;
  - (d) the Chiropractors Act 1994;
  - (e) the Railways Act 1993;
  - (f) the Osteopaths Act 1993;
  - (g) the Water Industry Act 1991;
  - (h) the Broadcasting Act 1990;
  - (i) the Electricity Act 1989;
  - (j) the Copyright, Designs and Patents Act 1988;
  - (k) the Gas Act 1986;
  - (l) the Patents Act 1977;
  - (m) the Registered Designs Act 1949;
  - (n) the Water and Sewerage Services (Northern Ireland) Order 2006 ([S.I. 2006/3336 \(N.I. 21\)](#));
  - (o) the Gas (Northern Ireland) Order 1996 ([S.I. 1996/275 \(N.I. 2\)](#));
  - (p) the Electricity (Northern Ireland) Order 1992 ([S.I. 1992/231 \(N.I. 1\)](#)).
- (6) The Secretary of State must, before making regulations under [subsection \(2\)](#) that—
- (a) amend a sectoral enactment, consult the relevant sectoral authority;
  - (b) amend section 168 of EA 2002, consult any relevant sectoral authority whom the Secretary of State considers is likely to have an interest in the amendment.
- (7) For the purposes of [subsection \(6\)](#) the relevant sectoral authorities are—
- (a) in relation to the Civil Aviation Act 2012, the Civil Aviation Authority;
  - (b) in relation to the Health and Social Care Act 2012, NHS England;
  - (c) in relation to the Transport Act 2000, the Civil Aviation Authority;
  - (d) in relation to the Chiropractors Act 1994, the General Chiropractic Council;
  - (e) in relation to the Railways Act 1993, the Office of Rail and Road;
  - (f) in relation to the Osteopaths Act 1993, the General Osteopathic Council;
  - (g) in relation to the Water Industry Act 1991, the Water Services Regulation Authority;
  - (h) in relation to the Broadcasting Act 1990, the Office of Communications;
  - (i) in relation to the Electricity Act 1989 and the Gas Act 1986, the Gas and Electricity Markets Authority;
  - (j) in relation to the Copyright, Designs and Patents Act 1988, the Patents Act 1977 and the Registered Designs Act 1949, the Comptroller-General of Patents, Designs and Trade Marks;
  - (k) in relation to the Water and Sewerage Services (Northern Ireland) Order 2006, the Gas (Northern Ireland) Order 1996 and the Electricity (Northern Ireland) Order 1992, the Northern Ireland Authority for Utility Regulation.
- (8) The Secretary of State may by regulations—
- (a) amend [subsection \(5\)](#) so as to add or remove an enactment;
  - (b) amend [subsection \(7\)](#) so as to add, vary or remove an entry.
- (9) Regulations under this section are subject to the affirmative procedure.

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**Commencement Information**

**II** S. 138 in force at Royal Assent, see [s. 339\(2\)\(c\)](#)

**Changes to legislation:**

There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Section 138.