



Digital Markets, Competition and Consumers Act 2024

2024 CHAPTER 13

PART 3

ENFORCEMENT OF CONSUMER PROTECTION LAW

CHAPTER 4

DIRECT ENFORCEMENT POWERS OF CMA

Undertakings

PROSPECTIVE

189 Final breach of undertakings enforcement notice

- (1) [This section](#) applies where—
 - (a) the CMA has given to the respondent a provisional breach of undertakings enforcement notice under [section 188](#),
 - (b) the time for the respondent to make representations to the CMA in accordance with that notice has expired, and
 - (c) after considering such representations (if any), the CMA is satisfied that the respondent has failed to comply with one or more of the terms of the undertaking.
- (2) The CMA may give to the respondent a notice under [this section](#) (a “final breach of undertakings enforcement notice”).
- (3) A final breach of undertakings enforcement notice may, subject to [subsection \(4\)](#), impose on the respondent a requirement to do either or both of the following—

Status: This version of this provision is prospective.

Changes to legislation: There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Section 189. (See end of Document for details)

- (a) to comply with such directions as the CMA considers appropriate for the purpose of securing that the respondent complies with [section 188\(5\)](#);
 - (b) to pay a monetary penalty in respect of the failure mentioned in [subsection \(1\)\(c\)](#).
- (4) A requirement under subsection (3)(b) to pay a monetary penalty may be imposed only if the CMA is satisfied that the failure in question is without reasonable excuse.
- (5) A final breach of undertakings enforcement notice must—
- (a) set out the grounds on which it is given, including the respondent’s acts or omissions giving rise to the failure mentioned in [subsection \(1\)\(c\)](#);
 - (b) state any further factors (in addition to those provided under [paragraph \(a\)](#)) which the CMA considers justify the giving of the notice;
 - (c) if directions are given under [subsection \(3\)\(a\)](#), specify the actions to be taken by the respondent in accordance with the directions;
 - (d) if a penalty is imposed under [subsection \(3\)\(b\)](#), specify the monetary penalty information (see [section 203](#));
 - (e) state that the respondent has a right to appeal against the notice and the main details of that right (so far as not stated in accordance with [paragraph \(d\)](#)).
- (6) The CMA may publish a final breach of undertakings enforcement notice in such manner, and to such extent, as the CMA considers appropriate.

Commencement Information

II S. 189 not in force at Royal Assent, see [s. 339\(1\)](#)

Status:

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Changes to legislation:

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