

SCHEDULES

SCHEDULE 12

Section 74(1).

MINOR AND CONSEQUENTIAL AMENDMENTS

The Fair Trading Act 1973 (c. 41)

- 1 (1) The Fair Trading Act 1973 is amended as follows.
- (2) Omit section 4 and Schedule 3 (which make provision in respect of the Monopolies and Mergers Commission).
- (3) Omit—
 - (a) section 10(2),
 - (b) section 54(5),
 - (c) section 78(3),
 - (d) paragraph 3(1) and (2) of Schedule 8,(which fall with the repeal of the Restrictive Trade Practices Act 1976).
- (4) In section 10 (supplementary provisions about monopoly situations), in subsection (8), for “to (7)” substitute “and (3) to (7)”.
- (5) In sections 35 and 37 to 41, for “the Restrictive Practices Court”, in each place, substitute “a relevant Court”.
- (6) After section 41, insert—

“41A Meaning of “relevant Court”

In this Part of this Act, “relevant Court”, in relation to proceedings in respect of a course of conduct maintained in the course of a business, means any of the following courts in whose jurisdiction that business is carried on—

 - (a) in England and Wales or Northern Ireland, the High Court;
 - (b) in Scotland, the Court of Session.”
- (7) In section 42 (appeals from decisions or orders of courts under Part III)—
 - (a) in subsection (1), at the end, add “; but this subsection is subject to subsection (3) of this section”;
 - (b) in subsection (2)(b), after “Scotland,” insert “from the sheriff court”; and
 - (c) after subsection (2), add—

“(3) A decision or order of the Court of Session as the relevant Court may be reviewed, whether on a question of fact or on a question of law, by reclaiming to the Inner House.”
- (8) Omit section 45 (power of the Director to require information about complex monopoly situations).

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- (9) In section 81 (procedure in carrying out investigations)—
- (a) in subsection (1)—
 - (i) in the words before paragraph (a), omit from “and the Commission” to “of this Act”;
 - (ii) in paragraph (b), omit “or the Commission, as the case may be,” and “or of the Commission”;
 - (b) in subsection (2), omit “or the Commission” and “or of the Commission”; and
 - (c) in subsection (3), omit from “and, in the case,” to “85 of this Act” and “or the Commission, as the case may be,”.
- (10) In section 85 (attendance of witnesses and production of documents on investigations by Competition Commission of references under the Fair Trading Act 1973), in subsection (1)(b)—
- (a) after “purpose”, insert “(i)”; and
 - (b) after the second “notice”, insert “or
 - (ii) any document which falls within a category of document which is specified, or described, in the notice,”.
- (11) In section 85, in subsection (1)(c), after “estimates” (in both places), insert “forecasts”.
- (12) In section 85, after subsection (1), insert—
- “(1A) For the purposes of subsection (1) above—
- (a) “document” includes information recorded in any form;
 - (b) the power to require the production of documents includes power to take copies of, or extracts from, any document produced; and
 - (c) in relation to information recorded otherwise than in legible form, the power to require it to be produced includes power to require it to be produced in legible form, so far as the means to do so are within the custody or under the control of the person on whom the requirement is imposed.”
- (13) In section 85(2), for “any such investigation” substitute “an investigation of the kind mentioned in subsection (1)”.
- (14) In section 133 (general restrictions on disclosure of information), in subsection (2) (a), after “the Coal Industry Act 1994” insert “or the Competition Act 1998”.
- (15) In section 135(1) (financial provisions)—
- (a) in the words before paragraph (a) and in paragraph (b), omit “or the Commission”; and
 - (b) omit paragraph (a).

The Energy Act 1976 (c. 76)

- 2 In the Energy Act 1976, omit section 5 (temporary relief from restrictive practices law in relation to certain agreements connected with petroleum).

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

The Estate Agents Act 1979 (c. 38)

- 3 In section 10(3) of the Estate Agents Act 1979 (restriction on disclosure of information), in paragraph (a)—
- (a) omit “or the Restrictive Trade Practices Act 1976”; and
 - (b) after “the Coal Industry Act 1994”, insert “or the Competition Act 1998”.

The Competition Act 1980 (c. 21)

- 4 (1) The Competition Act 1980 is amended as follows.
- (2) In section 11(8) (public bodies and other persons referred to the Commission), omit paragraph (b) and the “and” immediately before it.
- (3) For section 11(9) (which makes provision for certain functions of the Competition Commission under the Fair Trading Act 1973 to apply in relation to references under the Competition Act 1980) substitute—
- “(9) The provisions mentioned in subsection (9A) are to apply in relation to a reference under this section as if—
- (a) the functions of the Competition Commission under this section were functions under the Fair Trading Act 1973;
 - (b) the expression “merger reference” included a reference to the Commission under this section; and
 - (c) in paragraph 20(2)(a) of Schedule 7 to the Competition Act 1998, the reference to section 56 of the Fair Trading Act 1973 were a reference to section 12 below.
- (9A) The provisions are—
- (a) sections 70 (time limit for report on merger), 84 (public interest) and 85 (attendance of witnesses and production of documents) of the Fair Trading Act 1973; and
 - (b) Part II of Schedule 7 to the Competition Act 1998 (performance of the Competition Commission’s general functions).”
- (4) In section 13 (investigation of prices directed by Secretary of State)—
- (a) in subsection (1), omit from “but the giving” to the end;
 - (b) for subsection (6) substitute—
- “(6) For the purposes of an investigation under this section the Director may, by notice in writing signed by him—
- (a) require any person to produce—
 - (i) at a time and a place specified in the notice,
 - (ii) to the Director or to any person appointed by him for the purpose,any documents which are specified or described in the notice and which are documents in his custody or under his control and relating to any matter relevant to the investigation; or
 - (b) require any person carrying on any business to—
 - (i) furnish to the Director such estimates, forecasts, returns or other information as may be specified or described in the notice; and

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- (ii) specify the time, manner and form in which any such estimates, forecasts, returns or information are to be furnished.
- (7) No person shall be compelled, for the purpose of any investigation under this section—
- (a) to produce any document which he could not be compelled to produce in civil proceedings before the High Court or, in Scotland, the Court of Session; or
 - (b) in complying with any requirement for the furnishing of information, to give any information which he could not be compelled to give in evidence in such proceedings.
- (8) Subsections (6) to (8) of section 85 of the Fair Trading Act 1973 (enforcement provisions relating to notices requiring production of documents etc.) shall apply in relation to a notice under subsection (6) above as they apply in relation to a notice under section 85(1) but as if, in section 85(7), for the words from “any one” to “the Commission” there were substituted “the Director.””
- (5) In section 15 (special provisions for agricultural schemes) omit subsections (2)(b), (3) and (4).
- (6) In section 16 (reports), omit subsection (3).
- (7) In section 17 (publication etc. of reports)—
- (a) in subsections (1) and (3) to (5), omit “8(1)”;
 - (b) in subsection (2), omit “8(1) or”;
 - (c) in subsection (6), for “sections 9, 10 or” substitute “section”.
- (8) In section 19(3) (restriction on disclosure of information), omit paragraphs (d) and (e).
- (9) In section 19(3), after paragraph (q), insert—
- “(r) the Competition Act 1998”.
- (10) In section 19(5)(a), omit “or in anything published under section 4(2)(a) above”.
- (11) Omit section 22 (which amends the Fair Trading Act 1973).
- (12) In section 24(1) (modifications of provisions about performance of Commission’s functions), for from “Part II” to the first “Commission” substitute “Part II of Schedule 7 to the Competition Act 1998 (performance of the Competition Commission’s general functions)”.
- (13) Omit sections 25 to 30 (amendments of the Restrictive Trade Practices Act 1976).
- (14) In section 31 (orders and regulations)—
- (a) omit subsection (2); and
 - (b) in subsection (3), omit “10”.
- (15) In section 33 (short title etc)—
- (a) in subsection (2), for “sections 2 to 24” substitute “sections 11 to 13 and sections 15 to 24”;
 - (b) omit subsections (3) and (4).

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Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26))

- 5 In Schedule 6 to the Magistrates' Courts (Northern Ireland) Order 1981, omit paragraphs 42 and 43 (which amend the Restrictive Trade Practices Act 1976).

Agricultural Marketing (Northern Ireland) Order 1982 (S.I. 1982/1080 (N.I. 12))

- 6 In Schedule 8 to the Agricultural Marketing (Northern Ireland) Order 1982—
- (a) omit the entry relating to paragraph 16(2) of Schedule 3 to the Fair Trading Act 1973; and
 - (b) in the entry relating to the Competition Act 1980—
 - (i) for “sections” substitute “section”;
 - (ii) omit “and 15(3)”.

The Airports Act 1986 (c. 31)

- 7 (1) The Airports Act 1986 is amended as follows.
- (2) In section 44 (which makes provision about references by the CAA to the Competition Commission), for subsection (3) substitute—
- “(3) The provisions mentioned in subsection (3A) are to apply in relation to references under this section as if—
- (a) the functions of the Competition Commission in relation to those references were functions under the 1973 Act;
 - (b) the expression “merger reference” included a reference under this section;
 - (c) in section 70 of the 1973 Act—
 - (i) references to the Secretary of State were references to the CAA, and
 - (ii) the reference to three months were a reference to six months.
- (3A) The provisions are—
- (a) sections 70 (time limit for report on merger) and 85 (attendance of witnesses and production of documents) of the 1973 Act;
 - (b) Part II of Schedule 7 to the Competition Act 1998 (performance of the Competition Commission’s general functions); and
 - (c) section 24 of the 1980 Act (modification of provisions about performance of such functions).”
- (3) In section 45, omit subsection (3) (which falls with the repeal of the Restrictive Trade Practices Act 1976).
- (4) In section 54 (orders under the 1973 Act or 1980 Act modifying or revoking conditions)—
- (a) in subsection (1), omit “or section 10(2)(a) of the 1980 Act”;
 - (b) in subsection (3), omit paragraph (c) and the “or” immediately before it;
 - (c) in subsection (4), omit “or the 1980 Act”.
- (5) In section 56 (co-ordination of exercise of functions by CAA and Director General of Fair Trading), in paragraph (a)(ii), omit “or the 1980 Act”.

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The Financial Services Act 1986 (c. 60)

- 8 In Schedule 11 to the Financial Services Act 1986, in paragraph 12—
- (a) in sub-paragraph (1), omit “126”;
 - (b) omit sub-paragraph (2).

*The Companies Consolidation (Consequential Provisions)
 (Northern Ireland) Order 1986 (S.I. 1986/1035 (N.I. 9))*

- 9 In Part II of Schedule 1 to the Companies Consolidation (Consequential Provisions) (Northern Ireland) Order 1986, omit the entries relating to the Restrictive Trade Practices Act 1976 and the Resale Prices Act 1976.

The Consumer Protection Act 1987 (c. 43)

- 10 In section 38(3) of the Consumer Protection Act 1987 (restrictions on disclosure of information)—
- (a) omit paragraphs (e) and (f); and
 - (b) after paragraph (o), insert—
 - “(p) the Competition Act 1998.”

The Channel Tunnel Act 1987 (c. 53)

- 11 In section 33 of the Channel Tunnel Act 1987—
- (a) in subsection (2), omit paragraph (c) and the “and” immediately before it;
 - (b) in subsection (5), omit paragraphs (b) and (c).

The Road Traffic (Consequential Provisions) Act 1988 (c. 54)

- 12 In Schedule 3 to the Road Traffic (Consequential Provisions) Act 1988 (consequential amendments), omit paragraph 19.

The Companies Act 1989 (c. 40)

- 13 In Schedule 20 to the Companies Act 1989 (amendments about mergers and related matters), omit paragraphs 21 to 24.

The Broadcasting Act 1990 (c. 42)

- 14 (1) The Broadcasting Act 1990 is amended as follows.
- (2) In section 193 (modification of networking arrangements in consequence of reports under competition legislation)—
- (a) in subsection (2), omit paragraph (c) and the “and” immediately before it;
 - (b) in subsection (4), omit “or the Competition Act 1980”.
- (3) In Schedule 4 (which makes provision for references to the Director or the Competition Commission in respect of networking arrangements), in paragraph 4, for sub-paragraph (7) substitute—
- “(7) The provisions mentioned in sub-paragraph (7A) are to apply in relation to references under this paragraph as if—

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- (a) the functions of the Competition Commission in relation to those references were functions under the Fair Trading Act 1973;
- (b) the expression “merger reference” included a reference under this paragraph.

(7A) The provisions are—

- (a) section 85 of the Fair Trading Act 1973 (attendance of witnesses and production of documents);
- (b) Part II of Schedule 7 to the Competition Act 1998 (performance of the Competition Commission’s general functions); and
- (c) section 24 of the Competition Act 1980 (modification of provisions about performance of such functions).”

The Tribunals and Inquiries Act 1992 (c. 53)

- 15 In Schedule 1 to the Tribunals and Inquiries Act 1992 (tribunals under the supervision of the Council on Tribunals), after paragraph 9, insert—

“Competition	9A. An appeal tribunal established under section 48 of the Competition Act 1998.”
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The Osteopaths Act 1993 (c. 21)

- 16 Section 33 of the Osteopaths Act 1993 (competition and anti-competitive practices) is amended as follows—
- (a) in subsection (4), omit paragraph (b) and the “or” immediately before it;
 - (b) in subsection (5), omit “or section 10 of the Act of 1980”.

The Chiropractors Act 1994 (c. 17)

- 17 Section 33 of the Chiropractors Act 1994 (competition and anti-competitive practices) is amended as follows—
- (a) in subsection (4), omit paragraph (b) and the “or” immediately before it;
 - (b) in subsection (5), omit “or section 10 of the Act of 1980”.

The Coal Industry Act 1994 (c. 21)

- 18 In section 59(4) of the Coal Industry Act 1994 (information to be kept confidential by the Coal Authority)—
- (a) omit paragraphs (e) and (f); and
 - (b) after paragraph (m), insert—
 - “(n) the Competition Act 1998.”

The Deregulation and Contracting Out Act 1994 (c. 40)

- 19 (1) The Deregulation and Contracting Out Act 1994 is amended as follows.
- (2) Omit—
- (a) section 10 (restrictive trade practices: non-notifiable agreements); and
 - (b) section 11 (registration of commercially sensitive information).

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- (3) In section 12 (anti-competitive practices: competition references), omit subsections (1) to (6).
- (4) In Schedule 4, omit paragraph 1.
- (5) In Schedule 11 (miscellaneous deregulatory provisions: consequential amendments), in paragraph 4, omit sub-paragraphs (3) to (7).
- The Airports (Northern Ireland) Order 1994 (S.I. 1994/426 (N.I. 1))*
- 20 (1) The Airports (Northern Ireland) Order 1994 is amended as follows.
- (2) In Article 35 (which makes provision about references by the CAA to the Competition Commission), for paragraph (3) substitute—
- “(3) The provisions mentioned in paragraph (3A) are to apply in relation to references under Article 34 as if—
- (a) the functions of the Competition Commission in relation to those references were functions under the 1973 Act;
- (b) the expression “merger reference” included a reference under that Article;
- (c) in section 70 of the 1973 Act—
- (i) references to the Secretary of State were references to the Director, and
- (ii) the reference to three months were a reference to six months.
- (3A) The provisions are—
- (a) sections 70 (time limit for report on merger) and 85 (attendance of witnesses and production of documents) of the 1973 Act;
- (b) Part II of Schedule 7 to the Competition Act 1998 (performance of the Competition Commission’s general functions); and
- (c) section 24 of the 1980 Act (modification of provisions about performance of such functions).”
- (3) In Article 36, omit paragraph (3) (which falls with the repeal of the Restrictive Trade Practices Act 1976).
- (4) In Article 45 (orders under the 1973 Act or 1980 Act modifying or revoking conditions)—
- (a) in paragraph (1), omit “or section 10(2)(a) of the 1980 Act”;
- (b) in paragraph (3), omit sub-paragraph (c) and the “or” immediately before it;
- (c) in paragraph (4), omit “or the 1980 Act”.
- (5) In Article 47 (co-ordination of exercise of functions by CAA and Director of Fair Trading), in paragraph (a)(ii), omit “or the 1980 Act”.
- (6) In Schedule 9, omit paragraph 5 (which amends the Restrictive Trade Practices Act 1976).

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The Broadcasting Act 1996 (c. 55)

- 21 In section 77 of the Broadcasting Act 1996 (which modifies the Restrictive Trade Practices Act 1976 in its application to agreements relating to Channel 3 news provision), omit subsection (2).