

*Changes to legislation: There are currently no known outstanding effects for the Enterprise Act 2002, SCHEDULE 5. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 5

Section 21

#### PROCEEDINGS UNDER PART 1 OF THE 1998 ACT

- 1 Part 1 of the 1998 Act is amended as follows.
- 2 In section 46 (appealable decisions)—
- (a) in subsections (1) and (2), for “the Competition Commission” there is substituted “ the Tribunal ”;
  - (b) in subsection (3) (in the full-out words), after “other decision” there is inserted “ under this Part ”;
  - (c) subsection (3)(h) shall cease to have effect.

#### Commencement Information

- II** Sch. 5 para. 2 partly in force; Sch. 5 para. 2 not in force at Royal assent see s. 279; Sch. 5 para. 2(a)(b) in force at 1.4.2003 by S.I. 2003/766, art. 2, Sch.

- 3 Section 48 (appeal tribunals) shall cease to have effect.
- 4 For section 49 there is substituted—

#### “49 Further appeals

- (1) An appeal lies to the appropriate court—
  - (a) from a decision of the Tribunal as to the amount of a penalty under section 36;
  - (b) from a decision of the Tribunal as to the award of damages or other sum in respect of a claim made in proceedings under section 47A or included in proceedings under section 47B (other than a decision on costs or expenses) or as to the amount of any such damages or other sum; and
  - (c) on a point of law arising from any other decision of the Tribunal on an appeal under section 46 or 47.
- (2) An appeal under this section—
  - (a) may be brought by a party to the proceedings before the Tribunal or by a person who has a sufficient interest in the matter; and
  - (b) requires the permission of the Tribunal or the appropriate court.
- (3) In this section “the appropriate court” means the Court of Appeal or, in the case of an appeal from Tribunal proceedings in Scotland, the Court of Session.”

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### Commencement Information

- I2** Sch. 5 para. 4 wholly in force at 18.7.2004; Sch. 5 para. 4 not in force at Royal Assent see s. 279; Sch. 5 para. 4 in force for certain purposes at 1.4.2003 by S.I. 2003/766, art. 2, Sch., Sch. 5 para. 4 in force for remaining purposes at 18.7.2004 by S.I. 2004/1866 {art. 2}

- 5 In section 58(1) (findings of fact by director)—
- (a) in paragraph (a), after “appeal” there is inserted “ under section 46 or 47 ”; and
  - (b) in paragraph (b), for “an appeal tribunal” there is substituted “ the Tribunal ”.
- 6 In section 59(1) (interpretation of Part 1)—
- (a) the definition of “appeal tribunal” shall cease to have effect;
  - (b) after the definition of “the Treaty” there is inserted—
 

““the Tribunal” means the Competition Appeal Tribunal;

“Tribunal rules” means rules under section 15 of the Enterprise Act 2002.”
- 7 (1) Schedule 7 (the Competition Commission) is amended as follows.
- (2) In paragraph 1 (interpretation)—
    - (a) the definitions of “appeal panel member” and “the President” shall cease to have effect; and
    - (b) in the definition of “general functions”, paragraph (a) and the word “or” after it shall cease to have effect.
  - (3) In paragraph 2 (membership), sub-paragraphs (1)(a), (3)(a) and (4) shall cease to have effect.
  - (4) Paragraph 4 (the President) shall cease to have effect.
  - (5) In paragraph 5 (the Council)—
    - (a) sub-paragraph (2)(b), and
    - (b) in sub-paragraph (3), the words “and paragraph 5 of Schedule 8”, shall cease to have effect.
  - (6) Part 3 (appeals) shall cease to have effect.
- 8 (1) Schedule 8 (appeals) is amended as follows.
- (2) Paragraph 1 shall cease to have effect.
  - (3) In paragraph 2 (general procedure for appeals under Part 1)—
    - (a) in sub-paragraph (1), for the words from “Competition” to “Commission” (in the second place it appears) there is substituted “ Tribunal under section 46 or 47 must be made by sending a notice of appeal to it ”;
    - (b) in sub-paragraph (3), for “tribunal” there is substituted “ Tribunal ”; and
    - (c) after sub-paragraph (3) there is inserted—
 

“(4) In this paragraph references to the Tribunal are to the Tribunal as constituted (in accordance with section 14 of the Enterprise Act 2002) for the purposes of the proceedings in question.

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- (5) Nothing in this paragraph restricts the power under section 15 of the Enterprise Act 2002 (Tribunal rules) to make provision as to the manner of instituting proceedings before the Tribunal.”
- (4) In paragraph 3, for “tribunal” (in each place) there is substituted “ Tribunal ”.
- (5) Paragraphs 4 to 14 shall cease to have effect.

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