
Changes to legislation: There are currently no known outstanding effects for the Consumer Rights Act 2015, Paragraph 12. (See end of Document for details)

SCHEDULES

SCHEDULE 8

PRIVATE ACTIONS IN COMPETITION LAW

PART 1

COMPETITION ACT 1998

12 After section 49B (inserted by paragraph 11) insert—

“49C Approval of redress schemes by the CMA

- (1) A person may apply to the CMA for approval of a redress scheme.
- (2) The CMA may consider an application before the infringement decision to which the redress scheme relates has been made, but may approve the scheme only—
 - (a) after that decision has been made, or
 - (b) in the case of a decision of the CMA, at the same time as that decision is made.
- (3) In deciding whether to approve a redress scheme, the CMA may take into account the amount or value of compensation offered under the scheme.
- (4) The CMA may approve a redress scheme under subsection (2)(b) subject to a condition or conditions requiring the provision of further information about the operation of the scheme (including about the amount or value of compensation to be offered under the scheme or how this will be determined).
- (5) If the CMA approves a redress scheme subject to such a condition, it may—
 - (a) approve the scheme subject to other conditions;
 - (b) withdraw approval from the scheme if any conditions imposed under subsection (4) or paragraph (a) are not met;
 - (c) approve a redress scheme as a replacement for the original scheme (but may not approve that scheme subject to conditions).
- (6) An approved scheme may not be varied by the CMA or the compensating party.
- (7) But, where the CMA approves a redress scheme subject to a condition of the kind mentioned in subsection (4), subsection (6) does not prevent further information provided in accordance with the condition from forming part of the terms of the scheme.
- (8) The Secretary of State may make regulations relating to the approval of redress schemes, and the regulations may in particular—

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- (a) make provision as to the procedure governing an application for approval of a redress scheme, including the information to be provided with the application;
 - (b) provide that the CMA may approve a redress scheme only if it has been devised according to a process specified in the regulations;
 - (c) provide that the CMA may approve a redress scheme only if it is in a form, or contains terms, specified in the regulations (which may include terms requiring a settlement agreement under the scheme to be in a form, or contain terms, specified in the regulations);
 - (d) provide that the CMA may approve a redress scheme only if (so far as the CMA can judge from facts known to it) the scheme is intended to be administered in a manner specified in the regulations;
 - (e) describe factors which the CMA may or must take into account, or may not take into account, in deciding whether to approve a redress scheme.
- (9) The CMA must publish guidance with regard to—
- (a) applications for approval of redress schemes,
 - (b) the approval of redress schemes, and
 - (c) the enforcement of approved schemes, and in particular as to the criteria which the CMA intends to adopt in deciding whether to bring proceedings under section 49E(4).
- (10) Guidance under subsection (9) must be approved by the Secretary of State before it is published.
- (11) In this section and sections 49D and 49E—
- “approved scheme” means a redress scheme approved by the CMA,
 - “compensating party” means a person offering compensation under an approved scheme,
 - “infringement decision” means—
 - (a) a decision of the CMA that the Chapter I prohibition, the Chapter II prohibition, the prohibition in Article 101(1) or the prohibition in Article 102 has been infringed, or
 - (b) a decision of the Commission that the prohibition in Article 101(1) or the prohibition in Article 102 has been infringed, and
 - “redress scheme” means a scheme under which a person offers compensation in consequence of an infringement decision made in respect of that person.
- (12) For the purposes of this section and section 49E, “compensation”—
- (a) may be monetary or non-monetary, and
 - (b) may be offered to persons who have not suffered a loss as a result of the infringement decision to which the redress scheme relates.

49D Redress schemes: recovery of costs

- (1) The CMA may require a person making an application for approval of a redress scheme to pay some or all of the CMA’s reasonable costs relating to the application.

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- (2) A requirement to pay costs is imposed by giving that person written notice specifying—
 - (a) the amount to be paid,
 - (b) how that amount has been calculated, and
 - (c) by when that amount must be paid.
- (3) A person required to pay costs under this section may appeal to the Tribunal against the amount.
- (4) Where costs required to be paid under this section relate to an approved scheme, the CMA may withdraw approval from that scheme if the costs have not been paid by the date specified in accordance with subsection (2)(c).
- (5) Costs required to be paid under this section are recoverable by the CMA as a debt.

49E Enforcement of approved schemes

- (1) A compensating party is under a duty to comply with the terms of an approved scheme (“the duty”).
- (2) The duty is owed to any person entitled to compensation under the terms of the approved scheme.
- (3) Where such a person suffers loss or damage as a result of a breach of the duty, the person may bring civil proceedings before the court for damages, an injunction or interdict or any other appropriate relief or remedy.
- (4) Where the CMA considers that the compensating party is in breach of the duty, the CMA may bring civil proceedings before the court for an injunction or interdict or any other appropriate relief or remedy.
- (5) Subsection (4) is without prejudice to any right that a person has to bring proceedings under subsection (3).
- (6) In any proceedings brought under subsection (3) or (4), it is a defence for the compensating party to show that it took all reasonable steps to comply with the duty.
- (7) Where the CMA considers that it is no longer appropriate for the compensating party to be subject to the duty, the CMA may give notice in writing to that party stating that it is released from the duty.
- (8) Where a person has entered into a settlement agreement with the compensating party, that agreement remains enforceable notwithstanding the release of the compensating party under subsection (7) from the duty.
- (9) In this section “the court” means—
 - (a) in England and Wales, the High Court or the county court,
 - (b) in Northern Ireland, the High Court or a county court,
 - (c) in Scotland, the Court of Session or the sheriff.”

Commencement Information

II Sch. 8 para. 12 in force at 3.8.2015 for specified purposes by S.I. 2015/1584, art. 3(a)

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12 Sch. 8 para. 12 in force at 1.10.2015 in so far as not already in force by S.I. 2015/1630, art. 3(j)

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