

SCHEDULE

AMENDMENTS, REPEALS AND REVOCATIONS

EEC Merger Control (Distinct Market Investigations) Regulations 1990

17.—(1) The EEC Merger Control (Distinct Market Investigations) Regulations 1990(1) are amended as follows.

(2) In regulation 2—

- (a) for the words “Director General of Fair Trading (“the Director”)” are substituted the words “Office of Fair Trading (“the OFT”)” and for the words “by him” are substituted the words “on behalf of the OFT”;
- (b) in paragraphs (a) and (b) for the word “Director” is substituted the word “OFT”; and
- (c) in paragraph (a) for the word “him” are substituted the words “the OFT”.

(3) For regulation 3 there is substituted—

“**3.**—(1) The court may, on an application by the OFT, enquire into whether any person (“the defaulter”) has refused or otherwise failed, without reasonable excuse, to comply with a notice under regulation 2.

(2) An application under paragraph (1) shall include details of the possible failure which the OFT considers has occurred.

(3) In enquiring into a case under paragraph (1), the court shall hear any witness who may be produced against or on behalf of the defaulter and any statement which may be offered in defence.

(4) Paragraphs (5) and (6) apply where the court is satisfied, after hearing any witnesses and statements as mentioned in paragraph (3), that the defaulter has refused or otherwise failed, without reasonable excuse, to comply with a notice under regulation 2.

(5) The court may punish the defaulter as it would have been able to punish him had he been guilty of contempt of court but in punishing the defaulter the court shall not impose any penalty which could not be imposed on summary conviction for an offence created in exercise of the powers conferred by section 2(2) of the European Communities Act 1972.

(6) Where the defaulter is a body corporate or is a partnership constituted under the law of Scotland, the court may punish any director, officer or (as the case may be) partner of the defaulter as it would have been able to punish that director, officer or partner had he been guilty of contempt of court.

(7) In this regulation “the court”—

- (a) in relation to England and Wales or Northern Ireland, means the High Court, and
- (b) in relation to Scotland, means the Court of Session.”.

(4) For regulation 4 there is substituted—

“**4.**—(1) A person commits an offence if he intentionally alters, suppresses or destroys a document which he has been required to produce by a notice under regulation 2.

(2) A person who commits an offence under paragraph (1) shall be liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum;

(1) S.I. 1990/1715.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.”.

(5) After regulation 4 there is inserted—

“**5** —Section 117 (false or misleading information) and Part 9 (information) of the Enterprise Act 2002 shall apply as if these Regulations were contained in Part 3 of that Act.”.