

SCHEDULES

SCHEDULE 10

REFERENCES BY MONITOR TO THE COMPETITION COMMISSION

Powers of investigation

- 10 (1) The following sections of Part 3 of the Enterprise Act 2002 (mergers) apply, with the modifications in sub-paragraphs (3), (5), (6) and (8) to (11) for the purposes of a reference as they apply for the purposes of references under that Part—
- (a) section 109 (attendance of witnesses and production of documents),
 - (b) section 110 (enforcement of powers under section 109: general),
 - (c) section 111 (penalties),
 - (d) section 112 (penalties: main procedural requirements),
 - (e) section 113 (payments and interest by instalments),
 - (f) section 114 (appeals in relation to penalties),
 - (g) section 115 (recovery of penalties),
 - (h) section 116 (statement of policy),
 - (i) section 117 (offence of supplying false or misleading information), and
 - (j) section 125 (offences by bodies corporate) so far as relating to section 117.
- (2) Those sections of that Part of that Act apply, with the modifications in sub-paragraphs (4), (5) and (7) to (11), for the purposes of an investigation by the Competition Commission in the exercise of its functions under paragraph 8, as they apply for the purposes of an investigation on references under that Part.
- (3) Section 110, in its application by virtue of sub-paragraph (1), has effect as if—
- (a) subsection (2) were omitted,
 - (b) for subsections (5) to (8) there were substituted—
 - “(5) Where the Commission considers that a person has intentionally altered, suppressed or destroyed a document which he has been required to produce under section 109, it may impose a penalty in accordance with section 111.”, and
 - (c) in subsection (9), for the words from “or (3)” to “section 65(3)” there were substituted “, (3) or (5)”.
- (4) Section 110, in its application by virtue of sub-paragraph (2), has effect as if—
- (a) the modifications in sub-paragraph (3) were made,
 - (b) in subsection (4), for the words “the publication of the report of the Commission on the reference concerned” there were substituted “the relevant day”, and
 - (c) after that subsection there were inserted—
 - “(4A) The relevant day for the purposes of subsection (4) is—

Status: This is the original version (as it was originally enacted).

- (a) the day on which the Commission published a notice under paragraph 8(12) of Schedule 10 to the Health and Social Care Act 2012 in connection with the reference concerned, or
 - (b) if it has not given a direction under paragraph 8(1) of that Schedule in connection with the reference and within the permitted period, the latest day on which it was possible to give such a notice within that period.”
- (5) Section 111, in its application by virtue of sub-paragraph (1) or (2), has effect as if—
- (a) in subsection (1), for “or (3)” there were substituted “, (3) or (5)”, and
 - (b) in subsections (3) and (6), after “110(3)” there were inserted “or (5)”.
- (6) Section 111(5)(b)(ii), in its application by virtue of sub-paragraph (1), has effect as if—
- (a) for the words from “published (or, in the case of a report under section 50 or 65, given)” there were substituted “made”,
 - (b) for the words “published (or given)”, in each place they appear, there were substituted “made”, and
 - (c) the words “by this Part” were omitted.
- (7) Section 111(5)(b)(ii), in its application by virtue of sub-paragraph (2), has effect as if for sub-paragraph (ii) there were substituted—
- “(ii) if earlier, the relevant day (which for the purposes of this subsection is to be construed in accordance with section 110(4A)).”
- (8) Section 112, in its application by virtue of sub-paragraph (1) or (2), has effect as if, in subsection (1), for “or (3)” there were substituted “, (3) or (5)”.
- (9) Section 114, in its application by virtue of sub-paragraph (1) or (2), has effect as if, in subsection (1), for “or (3)” there were substituted “, (3) or (5)”.
- (10) Section 115, in its application by virtue of sub-paragraph (1) or (2), has effect as if for “or (3)” there were substituted “, (3) or (5)”.
- (11) Section 116, in its application by virtue of sub-paragraph (1) or (2), has effect as if, in subsection (2), for “or (3)” there were substituted “, (3) or (5)”.
- (12) Provisions of Part 3 of the Enterprise Act 2002 which have effect for the purposes of sections 109 to 116 of that Act (including, in particular, provisions relating to the making of orders) have effect for the purposes of the application of those sections by virtue of sub-paragraph (1) or (2) in relation to those sections as applied by virtue of the sub-paragraph concerned.
- (13) Accordingly, corresponding provisions of this Act do not have effect in relation to those sections as applied by virtue of the sub-paragraph concerned.