

SCHEDULES

SCHEDULE 8

PRIVATE ACTIONS IN COMPETITION LAW

PART 2

ENTERPRISE ACT 2002

31 After paragraph 15 insert—

“Fast-track procedure

- 15A (1) Tribunal rules may make provision in relation to a fast-track procedure for claims made in proceedings under section 47A of the 1998 Act, including describing the factors relevant to determining whether a claim is suitable to be dealt with according to that procedure.
- (2) Tribunal rules may make different provision for claims in proceedings under section 47A of the 1998 Act which are and which are not subject to the fast-track procedure.
- (3) Tribunal rules may, in particular, provide for the Tribunal to—
- (a) grant an interim injunction on a claim in proceedings under section 47A of the 1998 Act which is subject to the fast-track procedure to a person who has not given an undertaking as to damages, or
 - (b) impose a cap on the amount that a person may be required to pay under an undertaking as to damages given on the granting of such an interim injunction.
- (4) In sub-paragraph (3) “an undertaking as to damages” means an undertaking to pay damages which a person sustains as a result of the interim injunction and which the Tribunal considers the person to whom the injunction is granted should pay.

Collective proceedings

- 15B (1) Tribunal rules may make provision in relation to collective proceedings under section 47B of the 1998 Act.
- (2) Rules under sub-paragraph (1) must in particular make provision as to the following matters—
- (a) the procedure governing an application for a collective proceedings order;
 - (b) the factors which the Tribunal must take into account in deciding whether a claim is suitable to be brought in collective

Status: This is the original version (as it was originally enacted).

- proceedings (but rules need not make provision in connection with the determination as to whether claims raise the same, similar or related issues of fact or law);
- (c) the factors which the Tribunal must take into account in deciding whether to authorise a person to act as a representative in collective proceedings;
 - (d) the procedure by which the Tribunal is to reach a decision as to whether to make a collective proceedings order;
 - (e) the procedure by which a person may opt in or opt out of collective proceedings;
 - (f) the factors which the Tribunal must take into account in deciding whether to vary or revoke a collective proceedings order;
 - (g) the assessment of damages in collective proceedings;
 - (h) the payment of damages in collective proceedings, including the procedure for publicising an award of damages;
 - (i) the effect of judgments and orders in collective proceedings.

Collective settlements

- 15C (1) Tribunal rules may make provision in relation to collective settlements under sections 49A and 49B of the 1998 Act.
- (2) Rules under sub-paragraph (1) must in particular make provision as to the following matters—
- (a) the procedure governing an application for approval of a proposed collective settlement;
 - (b) where section 49B applies, the factors which the Tribunal must take into account in deciding whether to make a collective settlement order (but rules need not make provision in connection with the determination as to whether claims raise the same, similar or related issues of fact or law);
 - (c) where section 49B applies, the factors which the Tribunal must take into account in deciding whether to authorise a person to act as a settlement representative in relation to a collective settlement;
 - (d) where section 49B applies, the procedure by which the Tribunal is to reach a decision as to whether to make a collective settlement order;
 - (e) the factors which the Tribunal must take into account in deciding whether to approve a proposed collective settlement;
 - (f) the procedure by which the Tribunal is to reach a decision as to whether to approve a collective settlement;
 - (g) the procedure by which a person may opt in or opt out of a collective settlement;
 - (h) the payment of compensation under a collective settlement, including the procedure for publicising a compensation award.”