



United Kingdom Internal Market Act 2020

2020 CHAPTER 27

PART 4

INDEPENDENT ADVICE ON AND MONITORING OF UK INTERNAL MARKET

Information-gathering powers

41 Information-gathering powers

- (1) The powers under this section may be exercised for the purpose of assisting the CMA in carrying out any of its functions under—
 - (a) section 33, 34, 35 or 36; or
 - (b) section 5 of the Enterprise Act 2002 (acquisition of information etc) in connection with a matter in relation to which the CMA proposes to undertake a review, prepare a report, or give advice under any of the sections mentioned in paragraph (a).
- (2) The CMA may by notice in writing require a person to produce any document which—
 - (a) is specified or otherwise identified in the notice; and
 - (b) is in that person's custody or under that person's control.
- (3) The CMA may by notice in writing require any person who carries on a business to provide such estimates, forecasts, returns or other information as may be specified or otherwise described in the notice.
- (4) A notice under subsection (2) or (3) may specify—
 - (a) the time and place at which,
 - (b) the form and manner in which, and
 - (c) the person to whom,a document or information is to be produced or provided.
- (5) A notice under subsection (2) or (3) may require the provision of a legible and intelligible copy of information which is recorded otherwise than in legible form.

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- (6) A notice under subsection (2) or (3) must—
 - (a) state the purpose for which the notice is given, including which of the functions mentioned in subsection (1) is relevant; and
 - (b) include information about the potential consequences of not complying with the notice.
- (7) The person to whom any document is produced in accordance with a notice under subsection (2) or (3) may copy the document.
- (8) A notice under subsection (2) or (3) may not require a person—
 - (a) to produce or provide any document or information which the person could not be compelled to produce, or give in evidence, in civil proceedings before the court; or
 - (b) to go more than 10 miles from the person’s place of residence, unless the person’s necessary travelling expenses are paid or offered to them.
- (9) In this section “the court” means—
 - (a) in relation to England and Wales or Northern Ireland, the High Court; and
 - (b) in relation to Scotland, the Court of Session.
- (10) In Schedule 14 to the Enterprise Act 2002 (disclosure of information: specified functions) at the appropriate place insert—

“Part 4 of the United Kingdom Internal Market Act 2020.”.

42 Enforcement

- (1) Where the CMA considers that a person has, without reasonable excuse, failed to comply with any requirement of a notice under section 41, it may impose a penalty in accordance with section 43.
- (2) Where the CMA considers that a person has intentionally obstructed or delayed any person in the exercise of the power under section 41(7), it may impose a penalty in accordance with section 43.
- (3) In deciding whether and, if so, how to proceed under subsection (1) or (2), the CMA must have regard to the statement of policy which was most recently published under subsection (6) or (8) at the time the failure or (as the case may be) the obstruction or delay concerned occurred.
- (4) Subject to subsection (5), no penalty may be imposed by virtue of subsection (1) or (2) after the end of the period of 4 weeks beginning with—
 - (a) where the penalty is imposed in connection with the exercise of the CMA’s functions under section 33—
 - (i) if that exercise involves the publication of a report in accordance with subsection (3) of that section, the day on which the report is published,
 - (ii) if that exercise involves arranging for a copy of a report to be laid in accordance with subsection (7) of that section, the day on which the laying mentioned in paragraphs (a) to (d) of that subsection is fully accomplished, or
 - (iii) in the case of a review under subsection (1) of that section which does not involve the publication or laying of a report as mentioned in subparagraph (i) or (ii), the day on which the review is concluded,

- (b) where the penalty is imposed in connection with the exercise of the CMA's functions under section 34, the day on which the advice or report is given or provided in accordance with subsection (1) of that section,
 - (c) where the penalty is imposed in connection with the exercise of the CMA's functions under section 35, the day on which the report is provided in accordance with subsection (1) of that section,
 - (d) where the penalty is imposed in connection with the exercise of the CMA's functions under section 36, the day on which the report is provided in accordance with subsection (1) of that section, or
 - (e) where the penalty is imposed in connection with the exercise of the CMA's functions under section 5 of the Enterprise Act 2002 in the circumstances mentioned in section 41(1)(b), the day on which the CMA finally concludes the carrying out of those functions.
- (5) Subsection (4) does not apply in relation to any variation or substitution of the penalty which is permitted by virtue of section 43(11).
- (6) The CMA must prepare and publish a statement of policy in relation to the enforcement of notices given under section 41.
- (7) The statement must include a statement about the considerations relevant to the determination of the nature and amount of any penalty imposed under subsection (1) or (2).
- (8) The CMA may revise its statement of policy under subsection (6) and, where it does so, it must publish the revised statement.
- (9) The CMA must consult—
- (a) each relevant national authority, and
 - (b) such other persons as it considers appropriate,
- when preparing or revising its statement of policy under subsection (6) or (8).
- (10) Any statement or revised statement published by the CMA under this section is to be published in such manner as the CMA considers appropriate.

43 Penalties

- (1) A penalty imposed under section 42(1) or (2) may be of such amount as the CMA considers appropriate.
- (2) The amount of a penalty imposed under section 42(1) may be—
- (a) a fixed amount,
 - (b) an amount calculated by reference to a daily rate, or
 - (c) a combination of a fixed amount and an amount calculated by reference to a daily rate.
- (3) The amount of a penalty imposed under section 42(2) must be a fixed amount.
- (4) A penalty imposed under section 42(1) may not exceed—
- (a) in the case of a fixed amount, such amount as the Secretary of State may specify in regulations,
 - (b) in the case of an amount calculated by reference to a daily rate, such amount per day as the Secretary of State may so specify, and

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- (c) in the case of a fixed amount and an amount calculated by reference to a daily rate, such fixed amount and such amount per day as the Secretary of State may so specify.
- (5) A penalty imposed under section 42(2) may not exceed such amount as the Secretary of State may specify in regulations.
- (6) Regulations under subsection (4) or (5) may not specify—
 - (a) in the case of a fixed amount, an amount exceeding £30,000,
 - (b) in the case of an amount calculated by reference to a daily rate, an amount per day exceeding £15,000, and
 - (c) in the case of a fixed amount and an amount calculated by reference to a daily rate, a fixed amount exceeding £30,000 and an amount per day exceeding £15,000.
- (7) Regulations under subsection (4) or (5) are subject to negative resolution procedure.
- (8) Before making regulations under subsection (4) or (5) the Secretary of State must consult—
 - (a) the CMA,
 - (b) each other relevant national authority, and
 - (c) such other persons as the Secretary of State considers appropriate.
- (9) In imposing a penalty by reference to a daily rate—
 - (a) no account is to be taken of any days before the service on the person concerned of notice of the penalty under section 112 of the Enterprise Act 2002 (as applied by subsection (11)), and
 - (b) unless the CMA determines an earlier date (whether before or after the penalty is imposed), the amount payable ceases to accumulate at the beginning of the earliest of the days mentioned in subsection (10).
- (10) The days mentioned in subsection (9) are—
 - (a) the day on which the requirement of the notice concerned under section 41 is satisfied;
 - (b) the day referred to in paragraph (a)(i), (a)(ii), or (a)(iii), (b), (c), (d) or (e) (as the case may be) of section 42(4).
- (11) Sections 112 to 115 of the Enterprise Act 2002 (procedural requirements, appeals etc in relation to penalties) apply in relation to a penalty imposed under section 42(1) or (2) as they apply in relation to a penalty imposed under section 110(1) of that Act.