

SCHEDULE 2

Regulation 3

PROVISIONS HAVING EFFECT IN PLACE OF CORRESPONDING PROVISIONS OF PART III OF THE ACT

1. The Director and any qualified entity shall have power to bring proceedings under section 35 of the Act in relation to any Community infringement.
2. Except where the Director considers that circumstances are such that proceedings should be brought without delay, he shall, before bringing such proceedings, try to achieve the cessation of the infringement in consultation with the person against whom he intends to bring the proceedings.
3. Except where the Director considers that circumstances are such that proceedings should be brought without delay, a qualified entity shall before bringing such proceedings try to achieve the cessation of the infringement in consultation with the Director and the person against whom it intends to bring the proceedings.
4. If the cessation of the infringement is not achieved within two weeks after the request for consultation is received, the qualified entity may bring the proceedings without further delay.
5. Section 36(2) of the Act shall apply in relation to acts contrary to the Directives as transposed into the internal legal order of a Member State as it applies in relation to a breach of contract or breach of duty as is mentioned in section 34(3) of the Act.
6. The relevant Court may make an order under section 37 of the Act where it finds that the respondent has engaged in conduct which constitutes a Community infringement or is likely to do so.
7. The order, which shall be known as a Stop Now Order, shall require the cessation of or prohibit the infringement.
8. The order shall be made with all due expediency, and in circumstances where it would grant an interim injunction (or in Scotland an interim interdict) to a public authority seeking to enforce the law where it has power to do so, the court may make an interim order.
9. The court may also order either publication of the decision to make an order (whether interim or final) in full or in part, in such form as deemed adequate or publication of a corrective statement with a view to eliminating the continuing effects of the infringement, or both.
10. In the case of a Community qualified entity the court may examine whether the purpose of the qualified entity justifies its taking action in the particular case and decline to make an order if it is not so satisfied.
11. Sections 38 and 39 of the Act shall apply in relation to any person consenting to or conniving at a Community infringement who at a material time fulfilled the relevant conditions in relation to a body corporate which has engaged in conduct which constitutes a Community infringement or is likely to do so (“an accessory”) as they apply to the conduct there mentioned and to consent to or connivance at it.
12. Paragraphs 2 to 4 above shall apply to proceedings under paragraph 11 above with the substitution for references to the cessation of the infringement to the cessation of consent to or connivance at the infringement.
13. An order made by virtue of paragraph 11 above shall direct the accessory to refrain from consenting to or conniving at the Community infringement, or engaging in conduct which constitutes the infringement in the course of any business which may at any time be carried on by him, and from consenting to or conniving at the engaging in any such conduct by any other body corporate in relation to which, when the conduct is engaged in, he fulfils the relevant conditions.
14. In circumstances where he or it has power to bring proceedings by virtue of this Schedule in relation to any Community infringement, the Director or qualified entity, as the case may be, may

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accept an undertaking from any person against whom the proceedings could be brought to cease engaging in conduct or not to engage in conduct or to refrain from consenting to or conniving at any person so doing.

15. Any person who has given an undertaking as mentioned in paragraph 14 above, shall be liable to civil proceedings in respect of any failure, or apprehended failure to fulfil the undertaking as if the obligations imposed by the undertaking on that person had been imposed by an order made by virtue of this Schedule.

16. Section 41 of the Act shall apply—

- (a) in relation to proceedings under paragraph 1 above as it applies in relation to proceedings under section 35 of the Act;
- (b) in relation to proceedings under paragraph 11 above as it applies to proceedings under section 38 of the Act.

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Changes and effects yet to be applied to :

- Regulations revoked by [2002 c. 40 Sch. 26](#)

Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- Sch. 1 para. 11 inserted by [S.I. 2002/2013 reg. 16\(3\)](#)
- reg. 2(3)(k) inserted by [S.I. 2002/2013 reg. 16\(2\)](#)

Commencement Orders yet to be applied to the The Stop Now Orders (E.C. Directive) Regulations 2001

Commencement Orders bringing legislation that affects this Instrument into force:

- [S.I. 2003/766 art. 2Sch.](#) commences ([2002 c. 40](#))
- [S.I. 2003/1397 art. 2\(1\)Sch.](#) commences ([2002 c. 40](#))