
Changes to legislation: There are currently no known outstanding effects for the Enterprise Act 2002, Paragraph 12. (See end of Document for details)

SCHEDULES

SCHEDULE 25

MINOR AND CONSEQUENTIAL AMENDMENTS

Agricultural Marketing (Northern Ireland) Order 1982 (S.I. 1982/1080 (N.I. 12))

- 12 (1) The Agricultural Marketing (Northern Ireland) Order 1982 is amended as follows.
- (2) For article 23 (action following report by Commission) there is substituted—

Action following report by Competition Commission

“23 (1) Paragraph (5) applies in any of the following cases.

- (2) The first case is where section 138(2) of the Enterprise Act 2002 (duty to remedy adverse effects following market investigation reference) applies and whatever is to be remedied, mitigated or prevented relates to any provision of a scheme or any act or omission of a board administering a scheme.
- (3) The second case is where section 147(2) of the Enterprise Act 2002 (power to remedy adverse effects in public interest cases) applies and whatever is to be remedied, mitigated or prevented relates to any provision of a scheme or any act or omission of a board administering a scheme.
- (4) The third case is where—
- (a) a report of the Competition Commission under section 11 of the Competition Act 1980 (c. 21) (references of public bodies etc.), as laid before Parliament, contains conclusions to the effect that—
 - (i) certain matters indicated in the report operate against the public interest, and
 - (ii) those matters consist of or include any provision of a scheme or any act or omission of a board administering a scheme, and
 - (b) none of the conclusions is to be disregarded by virtue of section 11C(3) of that Act (requirement for two-thirds majority).
- (5) The Department shall have the like power to make orders under Article 22 as if a report of a committee of investigation had contained the conclusion that the provision of the scheme in question, or the act or omission in question, is contrary to the interests of consumers of the regulated product.
- (6) An order made by virtue of this Article in a case falling within paragraph (2) or (3) shall be treated, for the purposes of sections 162(1) and 166(3) of the Enterprise Act 2002 (duties to register and keep under review enforcement orders etc.), as if it were made under the relevant power in Part 4 of that Act to make an enforcement order (within the meaning of that Part).”

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(3) In article 42 (action following report by Commission)—

(a) for paragraph (1) there is substituted—

“(1) Paragraph (1D) applies in any of the following cases.

(1A) The first case is where section 138(2) of the Enterprise Act 2002 (duty to remedy adverse effects following market investigation reference) applies and whatever is to be remedied, mitigated or prevented relates to any provision of a scheme or any act or omission of a board administering a scheme.

(1B) The second case is where section 147(2) of the Enterprise Act 2002 (power to remedy adverse effects in public interest cases) applies and whatever is to be remedied, mitigated or prevented relates to any provision of a scheme or any act or omission of a board administering a scheme.

(1C) The third case is where—

(a) a report of the Competition Commission under section 11 of the Competition Act 1980 (c. 21) (references of public bodies etc.), as laid before Parliament, contains conclusions to the effect that—

(i) certain matters indicated in the report operate against the public interest, and

(ii) those matters consist of or include any provision of a scheme or any act or omission of a board administering a scheme, and

(b) none of the conclusions is to be disregarded by virtue of section 11C(3) of that Act (requirement for two-thirds majority).

(1D) The Department, if it thinks fit so to do—

(a) may by order make such amendments in the scheme as it considers necessary or expedient for the purpose of rectifying the matter;

(b) may by order revoke the scheme;

(c) in the event of the matter being one which it is within the power of the board to rectify, may by order direct the board to take such steps to rectify the matter as may be specified in the order, and thereupon it shall be the duty of the board forthwith to comply with the order.”;

(b) in paragraph (2) for “paragraph (1)” there is substituted “ paragraph (1D) ”;

(c) in paragraph (3) for “paragraph (1)(b)(iii)” there is substituted “ paragraph (1D)(c) ”;

(d) in paragraph (5)—

(i) for “paragraph (1)(i) or (iii)” there is substituted “ paragraph (1D)(a) or (c) ”;

(ii) for “paragraph (1)(ii)” there is substituted “ paragraph (1D)(b) ”;

(e) after paragraph (5) there is inserted—

“(5A) Any order made under this Article in a case falling within paragraph (1A) or (1B) shall be treated, for the purposes of sections

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162(1) and 166(3) of the Enterprise Act 2002 (duties to register and keep under review enforcement orders etc.), as if it were made under the relevant power in Part 4 of that Act to make an enforcement order (within the meaning of that Part).”

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