

SCHEDULES

SCHEDULE 9

Section 77

REQUIREMENTS UNDER SECTION 77: UNDERTAKINGS

Procedure

- 1 (1) Monitor must publish a procedure for entering into section 77 undertakings.
 - (2) Monitor may revise the procedure and, if it does so, Monitor must publish the procedure as revised.
 - (3) Monitor must consult such persons as it considers appropriate before publishing or revising the procedure.
- 2 (1) Where Monitor accepts a section 77 undertaking, Monitor must publish the undertaking.
 - (2) But Monitor must not under sub-paragraph (1) publish any part of a section 77 undertaking which contains information which it is satisfied is—
 - (a) commercial information the disclosure of which would, or might, significantly harm the legitimate business interests of the person to whom it relates;
 - (b) information relating to the private affairs of an individual the disclosure of which would, or might, significantly harm that person's interests.

Variation of terms

- 3 The terms of a section 77 undertaking (including, in particular, the action specified under it and the period so specified within which the action must be taken) may be varied if both the person giving the undertaking and Monitor agree.

Compliance certificates

- 4 (1) Where Monitor is satisfied that a section 77 undertaking has been complied with, Monitor must issue a certificate to that effect (referred to in this Schedule as a “compliance certificate”).
 - (2) A person who has given a section 77 undertaking may at any time make an application to Monitor for a compliance certificate.
 - (3) The application must be made in such form, and accompanied by such information, as Monitor requires.
 - (4) Monitor must decide whether or not to issue a compliance certificate, and give notice to the applicant of its decision, before the end of the period of 14 days beginning with the day after that on which the application is received.

Status: This is the original version (as it was originally enacted).

- 5 (1) An appeal lies to the First-tier Tribunal against a decision of Monitor to refuse an application for a compliance certificate.
- (2) The grounds for an appeal under this paragraph are that the decision was—
- (a) based on an error of fact,
 - (b) wrong in law, or
 - (c) unfair or unreasonable.
- (3) On an appeal under this paragraph, the Tribunal may confirm Monitor’s decision or direct that it is not to have effect.

Inaccurate, incomplete or misleading information

- 6 Where Monitor is satisfied that a person who has given a section 77 undertaking has supplied Monitor with inaccurate, misleading or incorrect information in relation to the undertaking—
- (a) Monitor may treat the person as having failed to comply with the undertaking, and
 - (b) if Monitor decides so to treat the person, Monitor must by notice revoke any certificate of compliance given to that person.