
STATUTORY INSTRUMENTS

2014 No. 891

The Enterprise Act 2002 (Protection of Legitimate Interests) (Amendment) Order 2014

Amendments to the Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003

18.—(1) Schedule 3 is amended as follows.

(2) In paragraph 1(1)—

- (a) omit paragraph (a);
- (b) in paragraphs (g) and (h), for “OFT” (in each place where it occurs) substitute “CMA”;
- (c) after paragraph (i) insert—
 - “(ia) section 94A (interim undertakings and orders: penalties)(1);”;
- (d) in paragraph (m), for “OFT and Commission” substitute “CMA”;
- (e) after paragraph (p) insert—
 - “(pa) section 110A (restriction on powers to impose penalties under section 110)(2);
 - (pb) section 110B (section 110A: supplemental provision)(3);” and
- (f) in paragraph (y), for “Commission” substitute “CMA”.

(3) Omit paragraph 1(2).

(4) In paragraph 1(5)(a), for “section 71” substitute “section 73”.

(5) In paragraph 1(6)—

- (a) in paragraph (b)(i), for “Commission” substitute “CMA”; and
- (b) omit paragraph (c).

(6) In paragraph 1(7), omit paragraphs (b) and (c).

(7) In paragraph 1(8), omit paragraphs (a), (c) and (d).

(8) Omit paragraph 1(9)(a).

(9) After paragraph 1(9) insert—

“(9A) Section 94A(4) shall apply as if—

- (a) in subsection (1)—
 - (i) for the words “the appropriate authority” there were substituted “the Secretary of State”; and
 - (ii) for the word “it” (in both places where it occurs) there were substituted “the Secretary of State”;
- (b) in subsection (5), for “the appropriate authority” there were substituted “the Secretary of State”;

(1) Section 94A was inserted by section 31 of the Enterprise and Regulatory Reform Act 2013.
(2) Section 110A was inserted by section 29 of the Enterprise and Regulatory Reform Act 2013.
(3) Section 110B was inserted by section 29 of the Enterprise and Regulatory Reform Act 2013.
(4) Section 94A was inserted by section 31 of the Enterprise and Regulatory Reform Act 2013.

- (c) in subsection (7), for the words “the person who imposed the penalty under this section” there were substituted “the Secretary of State”; and
- (d) for subsection (8) there were substituted—
 - “(8) In this section, “interim measure” means an order under paragraph 2 of Schedule 2 to the Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003.””
- (10) In paragraph 1(12)—
 - (a) omit paragraph (b);
 - (b) for paragraph (c) substitute—
 - “(c) for paragraph (a) in the definition of “relevant decision” there were substituted—
 - “(a) in the case of the CMA, any decision by the CMA on the questions mentioned in article 6 of the Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003;”” and
 - (c) omit paragraph (d).
- (11) In paragraph 1(12A)(a), for “Commission” substitute “CMA”.
- (12) In paragraph 1(13A)(a), in paragraph (a) of the subsection treated as substituted for section 106B(1) of the Enterprise Act 2002(5), for “Commission” substitute “CMA”.
- (13) For paragraph 1(15) substitute—
 - “(15) Section 109(6) shall apply as if—
 - (a) for subsection (A1) there were substituted—
 - “(A1) For the purposes of this section, the permitted purposes are assisting the CMA or the Secretary of State in carrying out any functions, including enforcement functions, of the CMA or (as the case may be) the Secretary of State under or by virtue of the Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003 in connection with a matter that is or has been the subject of a reference or possible reference under article 5 of that Order.”; and
 - (b) in subsection (8A)—
 - (i) paragraph (a)(ii) were omitted;
 - (ii) in paragraph (a)(iii), the words “75, 76, 83 or” were omitted; and
 - (iii) in paragraph (b)(iii), for the words “Schedule 7” there were substituted “Schedule 2 to the Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003”.”
- (14) After paragraph 1(16) insert—
 - “(16A) Section 110A(7) shall apply as if—
 - (a) subsections (5) and (6) were omitted;
 - (b) in subsections (7) and (8)—
 - (i) for the words “section 109(A1)(b)” (in both places where those words occur) there were substituted “section 109(A1)”;

(5) Section 106B was inserted by section 384 of the Communications Act 2003 and amended by paragraph 140 of Schedule 5 to the Enterprise and Regulatory Reform Act 2013.

(6) Section 109 was amended by section 29 of and paragraph 143 of Schedule 5 to the Enterprise and Regulatory Reform Act 2013.

(7) Section 110A was inserted by section 29 of the Enterprise and Regulatory Reform Act 2013.

(ii) for the words “section 45 or 62” (in both places where those words occur) there were substituted “article 5 of the Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003”.

(16B) Section 110B(8) shall apply as if—

- (a) subsections (1) and (2) were omitted;
- (b) in subsection (3), in the words before paragraph (a), for the words “section 45 or 62” there were substituted “article 5 of the Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003”;
- (c) in subsection (3)(b), for the words “Schedule 7” there were substituted “Schedule 2 to the Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003”;
- (d) in subsection (3)(c), for the words “Schedule 7” there were substituted “Schedule 2 to the Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003”;
- (e) subsection (3)(d) were omitted;
- (f) in subsection (4), in the words before paragraph (a), for the words “section 45 or 62” there were substituted “article 5 of the Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003”;
- (g) subsection (4)(d) were omitted; and
- (h) for subsections (5) and (6) there were substituted—

“(5) Paragraph 7(8) and (9) of Schedule 2 to the Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003 applies for deciding if and when a reference under article 5(2) of that Order is finally determined for the purpose of section 110A(8) as it applies for deciding those questions for the purpose of paragraph 7 of that Schedule.

(6) Paragraph 8(7) and (8) of Schedule 2 to the Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003 applies for deciding if and when a reference under article 5(3) of that Order is finally determined for the purpose of section 110A(8) as it applies for deciding those questions for the purpose of the definition of “relevant period” in paragraph 8(6) of that Schedule.””

(15) Omit paragraph 1(17).

(16) In paragraph 1(19), after paragraph (a) insert—

“(aa) in subsection (1)(aa)(9) for the words “section 44A or 61A” there were substituted “article 4A of the Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003”;

(17) In paragraph 1(22)(c), in the words treated as substituted for section 124(5) of the Enterprise Act 2002, after “section 28,” insert “94A(3) or (6),”.

(18) In paragraph 2(3)(c), for the words “the OFT, the Commission or (as the case may be)” substitute “the CMA or (as the case may be)”.

(8) Section 110B was inserted by section 29 of the Enterprise and Regulatory Reform Act 2013.

(9) Section 118(1)(aa) of the Enterprise Act 2002 was inserted by paragraph 21 of Schedule 16 to the Communications Act 2003.