
Changes to legislation: There are currently no known outstanding effects for the Enterprise Act 2002, Paragraph 13. (See end of Document for details)

SCHEDULES

SCHEDULE 25

MINOR AND CONSEQUENTIAL AMENDMENTS

Telecommunications Act 1984 (c. 12)

- 13 (1) The Telecommunications Act 1984 is amended as follows.
- (2) ^{[F1}In section 3 (general duties of Secretary of State and Director), in subsection (3C), for “the Director General of Fair Trading” there is substituted “ the Office of Fair Trading ”.]
- (3) ^{[F1}In section 13 (licence modification references to Commission), subsections (9) and (9A) shall cease to have effect.]
- (4) ^{[F1}After section 13 there is inserted—

“ **References under section 13: time limits**

- (1) Every reference under section 13 above shall specify a period (not longer than six months beginning with the date of the reference) within which a report on the reference is to be made.
- (2) A report of the Commission on a reference under section 13 above shall not have effect (and no action shall be taken in relation to it under section 15 below) unless the report is made before the end of the period specified in the reference or such further period (if any) as may be allowed by the Director under subsection (3) below.
- (3) The Director may, if he has received representations on the subject from the Commission and is satisfied that there are special reasons why the report cannot be made within the period specified in the reference, extend that period by no more than six months.
- (4) No more than one extension is possible under subsection (3) above in relation to the same reference.
- (5) The Director shall, in the case of an extension made by him under subsection (3) above—
- (a) publish that extension in such manner as he considers appropriate for the purpose of bringing it to the attention of persons likely to be affected by it; and
- (b) in the case of a licence granted to a particular person, send to that person a copy of what has been published by him under paragraph (a) above.

Changes to legislation: There are currently no known outstanding effects for the Enterprise Act 2002, Paragraph 13. (See end of Document for details)

References under section 13: powers of investigation

- (1) The following sections of Part 3 of the Enterprise Act 2002 shall apply, with the modifications mentioned in subsections (2) and (3) below, for the purposes of references under section 13 above as they apply for the purposes of references under that Part—
 - (a) section 109 (attendance of witnesses and production of documents etc.);
 - (b) section 110 (enforcement of powers under section 109: general);
 - (c) section 111 (penalties);
 - (d) section 112 (penalties: main procedural requirements);
 - (e) section 113 (payments and interest by instalments);
 - (f) section 114 (appeals in relation to penalties);
 - (g) section 115 (recovery of penalties); and
 - (h) section 116 (statement of policy).
- (2) Section 110 shall, in its application by virtue of subsection (1) above, have effect as if—
 - (a) subsection (2) were omitted; and
 - (b) in subsection (9) the words from “or section” to “section 65(3))” were omitted.
- (3) Section 111(5)(b)(ii) shall, in its application by virtue of subsection (1) above, have effect as if—
 - (a) for the words “published (or, in the case of a report under section 50 or 65, given)” there were substituted “made”;
 - (b) for the words “published (or given)”, in both places where they appear, there were substituted “made”; and
 - (c) the words “by this Part” were omitted.
- (4) Provisions of Part 3 of the Enterprise Act 2002 which have effect for the purposes of sections 109 to 116 of that Act (including, in particular, provisions relating to offences and the making of orders) shall, for the purposes of the application of those sections by virtue of subsection (1) above, have effect in relation to those sections as applied by virtue of that subsection.
- (5) Accordingly, corresponding provisions of this Act shall not have effect in relation to those sections as applied by virtue of that subsection.”]
- (5) ^[F1]In section 14 (reports on licence modification references)—
 - (a) after subsection (1) there is inserted—
 - “(1A) For the purposes of section 15 below, a conclusion contained in a report of the Commission is to be disregarded if the conclusion is not that of at least two-thirds of the members of the group constituted in connection with the reference concerned in pursuance of paragraph 15 of Schedule 7 to the Competition Act 1998.
 - (1B) If a member of a group so constituted disagrees with any conclusions contained in a report made on a reference under section 13 above as the conclusions of the Commission, the report shall, if the member

Changes to legislation: There are currently no known outstanding effects for the Enterprise Act 2002, Paragraph 13. (See end of Document for details)

so wishes, include a statement of his disagreement and of his reasons for disagreeing.”;

(b) for subsection (3) there is substituted—

“(3) For the purposes of the law relating to defamation, absolute privilege attaches to any report made by the Commission on a reference under section 13 above.

(3A) In making any report on a reference under section 13 above the Commission must have regard to the following considerations before disclosing any information.

(3B) The first consideration is the need to exclude from disclosure (so far as practicable) any information whose disclosure the Commission thinks is contrary to the public interest.

(3C) The second consideration is the need to exclude from disclosure (so far as practicable)—

(a) commercial information whose disclosure the Commission thinks might significantly harm the legitimate business interests of the undertaking to which it relates, or

(b) information relating to the private affairs of an individual whose disclosure the Commission thinks might significantly harm the individual’s interests.

(3D) The third consideration is the extent to which the disclosure of the information mentioned in subsection (3C)(a) or (b) is necessary for the purposes of the report.”]

(6) [^{F1}In section 47 (general functions), in subsection (4)—

(a) for “the Director General of Fair Trading” there is substituted “ the Office of Fair Trading ”;

(b) for “that Director” there is substituted “ the Office of Fair Trading ”.]

(7) [^{F1}In section 48 (publication of information and advice), after subsection (3) there is inserted—

“(3A) The Office of Fair Trading shall consult the Director before publishing under section 6 of the Enterprise Act 2002 any information or advice which may be published by the Director under this section.”]

(8) [^{F1}In section 50 (functions under 1973 and 1980 Acts)—

(a) subsection (1) shall cease to have effect;

(b) in subsection (3)—

(i) for “the Director General of Fair Trading” there is substituted “ the Office of Fair Trading ”;

(ii) for “that Director” there is substituted “ the Office of Fair Trading ”;

(c) in subsection (3A), for “the Director General of Fair Trading” there is substituted “ the Office of Fair Trading ”;

(d) in subsection (6), for “the Director General of Fair Trading” there is substituted “ the Office of Fair Trading ”.]

(9) In section 101 (general restrictions on disclosure of information)—

Changes to legislation: There are currently no known outstanding effects for the Enterprise Act 2002, Paragraph 13. (See end of Document for details)

- (a) in subsection (2)(b), for “the Director General of Fair Trading” there is substituted “ the Office of Fair Trading ”;
 - (b) in subsection (3), after paragraph (o) there is inserted—
“ (p) the Enterprise Act 2002 ”;
 - (c) in subsection (6)—
 - (i) for “the Director General of Fair Trading” there is substituted “ the Office of Fair Trading ”;
 - (ii) for “sections 55 and 56 of that Act (disclosure)” there is substituted “ Part 9 of the Enterprise Act 2002 (Information) ”.
- (10) In section 103 (time limits for summary proceedings)—
- (a) that section shall be renumbered as subsection (1) of that section;
 - (b) after that subsection there is inserted—
“ (2) Subsection (1) above shall not apply for the purposes of an offence under any provision of the Enterprise Act 2002 as applied by virtue of section 13B above.”

Textual Amendments

- F1** Sch. 25 para. 13(2)-(8) repealed (25.7.2003 for certain purposes and 29.12.2003 for certain purposes) by Communications Act 2003 (c. 21), ss. 406(7), 411(2)(3), Sch. 19(1) (with transitional provisions in Sch. 18 and with Sch. 19 Note 1); S.I. 2003/1900, art. 2(1), Sch. 1 (with arts. 3-6 (as amended (8.12.2003) by S.I. 2003/3142, art. 1(3))); S.I. 2003/3142, art. 3(1), Sch. 1 (with arts. 3(3), 11)

Commencement Information

- I1** Sch. 25 para. 13 wholly in force at 20.6.2003; Sch. 25 para. 13 not in force at Royal Assent see s. 279; Sch. 25 para. 13(1) in force for certain purposes and Sch. 25 para. 13(2)(6)(8)(b)-(d)(9)(a)(b)(c)(i) at 1.4.2003 by S.I. 2003/766, art. 2, Sch., Sch. 25 para. 13(1)(3)-(5)(7)(8)(a)(9)(c)(ii)(10) in force for remaining purposes at 20.6.2003 by S.I. 2003/1397, art. 2(1), Sch.

Changes to legislation:

There are currently no known outstanding effects for the Enterprise Act 2002, Paragraph 13.