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*Changes to legislation: There are currently no known outstanding effects for the Enterprise Act 2002, Paragraph 18. (See end of Document for details)*

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## SCHEDULES

### SCHEDULE 25

#### MINOR AND CONSEQUENTIAL AMENDMENTS

##### *Copyright, Designs and Patents Act 1988 (c. 48)*

- 18 (1) The Copyright, Designs and Patents Act 1988 is amended as follows.
- (2) In section 144 (powers exercisable in consequence of report of Commission) for subsections (1) and (2) there is substituted—
- “(1) Subsection (1A) applies where whatever needs to be remedied, mitigated or prevented by the Secretary of State, the Office of Fair Trading or (as the case may be) the Competition Commission under section 12(5) of the Competition Act 1980 or section 41(2), 55(2), 66(6), 75(2), 83(2), 138(2), 147(2) or 160(2) of, or paragraph 5(2) or 10(2) of Schedule 7 to, the Enterprise Act 2002 (powers to take remedial action following references to the Commission in connection with public bodies and certain other persons, mergers or market investigations) consists of or includes—
- (a) conditions in licences granted by the owner of copyright in a work restricting the use of the work by the licensee or the right of the copyright owner to grant other licences; or
- (b) a refusal of a copyright owner to grant licences on reasonable terms.
- (1A) The powers conferred by Schedule 8 to the Enterprise Act 2002 include power to cancel or modify those conditions and, instead or in addition, to provide that licences in respect of the copyright shall be available as of right.
- (2) The references to anything permitted by Schedule 8 to the Enterprise Act 2002 in section 12(5A) of the Competition Act 1980 and in sections 75(4)(a), 83(4)(a), 84(2)(a), 89(1), 160(4)(a), 161(3)(a) and 164(1) of, and paragraphs 5, 10 and 11 of Schedule 7 to, the Act of 2002 shall be construed accordingly.”
- (3) In section 144(3)—
- (a) for “A Minister” there is substituted “The Secretary of State, the Office of Fair Trading or (as the case may be) the Competition Commission”;
- (b) after “he” there is inserted “or it”.
- (4) In section 238 (powers exercisable for protection of the public interest), for subsections (1) and (2) there is substituted—
- “(1) Subsection (1A) applies where whatever needs to be remedied, mitigated or prevented by the Secretary of State, the Competition Commission or (as the case may be) the Office of Fair Trading under section 12(5) of the Competition Act 1980 or section 41(2), 55(2), 66(6), 75(2), 83(2), 138(2), 147(2) or 160(2) of, or paragraph 5(2) or 10(2) of Schedule 7 to, the

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Enterprise Act 2002 (powers to take remedial action following references to the Commission in connection with public bodies and certain other persons, mergers or market investigations etc.) consists of or includes—

- (a) conditions in licences granted by a design right owner restricting the use of the design by the licensee or the right of the design right owner to grant other licences, or
- (b) a refusal of a design right owner to grant licences on reasonable terms.

(1A) The powers conferred by Schedule 8 to the Enterprise Act 2002 include power to cancel or modify those conditions and, instead or in addition, to provide that licences in respect of the design right shall be available as of right.

(2) The references to anything permitted by Schedule 8 to the Enterprise Act 2002 in section 12(5A) of the Competition Act 1980 and in sections 75(4)(a), 83(4)(a), 84(2)(a), 89(1), 160(4)(a), 161(3)(a) and 164(1) of, and paragraphs 5, 10 and 11 of Schedule 7 to, the Act of 2002 shall be construed accordingly.”

(5) In Schedule 2A, in paragraph 17 (powers exercisable in consequence of competition report)—

(a) for sub-paragraphs (1) and (2) there is substituted—

“(1) Sub-paragraph (1A) applies where whatever needs to be remedied, mitigated or prevented by the Secretary of State, the Competition Commission or (as the case may be) the Office of Fair Trading under section 12(5) of the Competition Act 1980 or section 41(2), 55(2), 66(6), 75(2), 83(2), 138(2), 147(2) or 160(2) of, or paragraph 5(2) or 10(2) of Schedule 7 to, the Enterprise Act 2002 (powers to take remedial action following references to the Commission in connection with public bodies and certain other persons, mergers or market investigations etc.) consists of or includes—

- (a) conditions in licences granted by the owner of a performer’s property rights restricting the use to which a recording may be put by the licensee or the right of the owner to grant other licenses, or
- (b) a refusal of an owner of a performer’s property rights to grant licences on reasonable terms.

(1A) The powers conferred by Schedule 8 to the Enterprise Act 2002 include power to cancel or modify those conditions and, instead or in addition, to provide that licences in respect of the performer’s property rights shall be available as of right.

(2) The references to anything permitted by Schedule 8 to the Enterprise Act 2002 in section 12(5A) of the Competition Act 1980 and in sections 75(4)(a), 83(4)(a), 84(2)(a), 89(1), 160(4)(a), 161(3)(a) and 164(1) of, and paragraphs 5, 10 and 11 of Schedule 7 to, the Act of 2002 shall be construed accordingly.”;

(b) in sub-paragraph (3)—

(i) for “A Minister” there is substituted “ The Secretary of State, the Competition Commission or (as the case may be) the Office of Fair Trading ”;

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(ii) after “he” there is inserted “ or it ”.

**Commencement Information**

- II** Sch. 25 para. 18 partly in force; Sch. 25 para. 18 not in force at Royal Assent see s. 279; Sch. 25 para. 18(1) in force for certain purposes at 20.6.2003 by S.I. 2003/1397, art. 2(1), Sch., Sch. 25 para. 18(1)-(5) in force for certain purposes at 29.12.2004 by S.I. 2004/3233, art. 2, Sch.

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