

SCHEDULES

SCHEDULE 5

INVESTIGATORY POWERS ETC.

PART 1

BASIC CONCEPTS

Overview

- 1 (1) This Schedule confers investigatory powers on enforcers and specifies the purposes for which and the circumstances in which those powers may be exercised.
- (2) Part 1 of this Schedule contains interpretation provisions; in particular paragraphs 2 to 6 explain what is meant by an “enforcer”.
- (3) Part 2 of this Schedule explains what is meant by “the enforcer’s legislation”.
- (4) Part 3 of this Schedule contains powers in relation to the production of information; paragraph 13 sets out which enforcers may exercise those powers, and the purposes for which they may do so.
- (5) Part 4 of this Schedule contains further powers; paragraphs 19 and 20 set out which enforcers may exercise those powers, and the purposes for which they may do so.
- (6) Part 5 of this Schedule contains provisions that are supplementary to the powers in Parts 3 and 4 of this Schedule.
- (7) Part 6 of this Schedule makes provision about the exercise of functions by certain enforcers outside their area or district and the bringing of proceedings in relation to conduct outside an enforcer’s area or district.

Enforcers

- 2 (1) In this Schedule “enforcer” means—
 - (a) a domestic enforcer,
 - (b) an EU enforcer,
 - (c) a public designated enforcer, or
 - (d) an unfair contract terms enforcer.
- (2) But in Part 4 and paragraphs 38 and 41 of this Schedule “enforcer” means—
 - (a) a domestic enforcer, or
 - (b) an EU enforcer.
- (3) In paragraphs 13, 19 and 20 of this Schedule, a reference to an enforcer exercising a power includes a reference to an officer of the enforcer exercising that power.

Status: This is the original version (as it was originally enacted).

Domestic enforcers

- 3 (1) In this Schedule “domestic enforcer” means—
- (a) the Competition and Markets Authority,
 - (b) a local weights and measures authority in Great Britain,
 - (c) a district council in England,
 - (d) the Department of Enterprise, Trade and Investment in Northern Ireland,
 - (e) a district council in Northern Ireland,
 - (f) the Secretary of State,
 - (g) the Gas and Electricity Markets Authority,
 - (h) the British Hallmarking Council,
 - (i) an assay office within the meaning of the Hallmarking Act 1973, or
 - (j) any other person to whom the duty in subsection (1) of section 27 of the Consumer Protection Act 1987 (duty to enforce safety provisions) applies by virtue of regulations under subsection (2) of that section.
- (2) But the Gas and Electricity Markets Authority is not a domestic enforcer for the purposes of Part 4 of this Schedule.
- (3) The reference to the Department of Enterprise, Trade and Investment in Northern Ireland includes a person with whom the Department has made arrangements, under paragraph 3(1) of Schedule 15 to the Lifts Regulations 1997 ([SI 1997/831](#)) for enforcement of those regulations.

EU enforcers

- 4 In this Schedule “EU enforcer” means—
- (a) the Competition and Markets Authority,
 - (b) a local weights and measures authority in Great Britain,
 - (c) the Department of Enterprise, Trade and Investment in Northern Ireland,
 - (d) the Financial Conduct Authority,
 - (e) the Civil Aviation Authority,
 - (f) the Secretary of State,
 - (g) the Department of Health, Social Services and Public Safety in Northern Ireland,
 - (h) the Office of Communications,
 - (i) an enforcement authority within the meaning of section 120(15) of the Communications Act 2003 (regulation of premium rate services), or
 - (j) the Information Commissioner.

Public designated enforcers

- 5 In this Schedule “public designated enforcer” means a person or body which—
- (a) is designated by order under subsection (2) of section 213 of the Enterprise Act 2002, and
 - (b) has been designated by virtue of subsection (3) of that section (which provides that the Secretary of State may designate a public body only if satisfied that it is independent).

Unfair contract terms enforcer

- 6 In this Schedule “unfair contract terms enforcer” means a person or body which—
- (a) is for the time being listed in paragraph 8(1) of Schedule 3 (persons or bodies that may enforce provisions about unfair contract terms), and
 - (b) is a public authority within the meaning of section 6 of the Human Rights Act 1998.

Officers

- 7 (1) In this Schedule “officer”, in relation to an enforcer, means—
- (a) an inspector appointed by the enforcer to exercise powers under this Schedule, or authorised to do so,
 - (b) an officer of the enforcer appointed by the enforcer to exercise powers under this Schedule, or authorised to do so,
 - (c) an employee of the enforcer (other than an inspector or officer) appointed by the enforcer to exercise powers under this Schedule, or authorised to do so, or
 - (d) a person (other than an inspector, officer or employee of the enforcer) authorised by the enforcer to exercise powers under this Schedule.
- (2) But references in this Schedule to an officer in relation to a particular power only cover a person within sub-paragraph (1) if and to the extent that the person has been appointed or authorised to exercise that power.
- (3) A person who, immediately before the coming into force of this Schedule, was appointed or authorised to exercise a power replaced by a power in this Schedule is to be treated as having been appointed or authorised to exercise the new power.
- (4) In this paragraph “employee”, in relation to the Secretary of State, means a person employed in the civil service of the State.

Interpretation of other terms

- 8 In this Schedule—
- “Community infringement” has the same meaning as in section 212 of the Enterprise Act 2002;
 - “document” includes information recorded in any form;
 - “enforcement order” means an order under section 217 of the Enterprise Act 2002;
 - “interim enforcement order” means an order under section 218 of that Act;
 - “the Regulation on Accreditation and Market Surveillance” means Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93.