

SCHEDULES

SCHEDULE 8

PRIVATE ACTIONS IN COMPETITION LAW

PART 1

COMPETITION ACT 1998

6 After section 47B (as substituted by paragraph 5) insert—

“47C Collective proceedings: damages and costs

- (1) The Tribunal may not award exemplary damages in collective proceedings.
- (2) The Tribunal may make an award of damages in collective proceedings without undertaking an assessment of the amount of damages recoverable in respect of the claim of each represented person.
- (3) Where the Tribunal makes an award of damages in opt-out collective proceedings, the Tribunal must make an order providing for the damages to be paid on behalf of the represented persons to—
 - (a) the representative, or
 - (b) such person other than a represented person as the Tribunal thinks fit.
- (4) Where the Tribunal makes an award of damages in opt-in collective proceedings, the Tribunal may make an order as described in subsection (3).
- (5) Subject to subsection (6), where the Tribunal makes an award of damages in opt-out collective proceedings, any damages not claimed by the represented persons within a specified period must be paid to the charity for the time being prescribed by order made by the Lord Chancellor under section 194(8) of the Legal Services Act 2007.
- (6) In a case within subsection (5) the Tribunal may order that all or part of any damages not claimed by the represented persons within a specified period is instead to be paid to the representative in respect of all or part of the costs or expenses incurred by the representative in connection with the proceedings.
- (7) The Secretary of State may by order amend subsection (5) so as to substitute a different charity for the one for the time being specified in that subsection.
- (8) A damages-based agreement is unenforceable if it relates to opt-out collective proceedings.
- (9) In this section—

Status: This is the original version (as it was originally enacted).

- (a) “charity” means a body, or the trustees of a trust, established for charitable purposes only;
- (b) “damages” (except in the term “exemplary damages”) includes any sum of money which may be awarded by the Tribunal in collective proceedings (other than costs or expenses);
- (c) “damages-based agreement” has the meaning given in section 58AA(3) of the Courts and Legal Services Act 1990.”