

SCHEDULE 3

Article 15

OTHER PROVISIONS OF THE ACT APPLICABLE TO THE ORDER

1.—(1) The following sections of Part 3 of the Act shall apply, with the modifications mentioned in sub-paragraphs (2) to (27) below, for the purposes of this Order—

- (a) section 69 (newspaper mergers);
- (b) section 86 (enforcement orders: general provisions);
- (c) section 87 (delegated power of directions);
- (d) section 88 (contents of certain enforcement orders);
- (e) section 89 (subject-matter of undertakings);
- (f) section 91 (register of undertakings and orders);
- (g) section 92 (duty of OFT to monitor undertakings and orders);
- (h) section 93 (further role of OFT in relation to undertakings and orders);
- (i) section 94 (rights to enforce undertakings and orders);
- (j) section 95 (rights to enforce statutory restrictions);
- (k) section 103 (duty of expedition in relation to references);
- (l) section 104 (certain duties of relevant authorities to consult);
- (m) section 105 (general information duties of OFT and Commission);
- (n) section 108 (defamation);
- (o) section 109 (attendance of witnesses and production of documents etc.);
- (p) section 110 (enforcement of powers under section 109: general);
- (q) section 111 (penalties);
- (r) section 112 (penalties: main procedural requirements);
- (s) section 113 (payments and interest by instalments);
- (t) section 114 (appeals in relation to penalties);
- (u) section 115 (recovery of penalties);
- (v) section 116 (statement of policy);
- (w) section 117 (false or misleading information);
- (x) section 118 (excisions from reports);
- (y) section 119 (minority reports of Commission);
- (z) section 120 (review of decisions under Part 3);
- (aa) section 124 (orders and regulations under Part 3);
- (bb) section 125 (offences by bodies corporate);
- (cc) section 126 (service of documents);
- (dd) section 127 (associated persons);
- (ee) section 128 (supply of services and market for services etc.); and
- (ff) section 129 (other interpretation provisions).

(2) Section 69 shall apply as if in subsection (1) for the words “section 22, 33, 45 or 62” there were substituted “article 5 of the Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003”.

(3) Section 86 shall apply as if—

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- (a) subsection (5) were omitted; and
- (b) in subsection (6)—
 - (i) the words from “section 72” to “under”, where it appears for the second time, were omitted; and
 - (ii) for the words “Schedule 7” there were substituted “Schedule 2 to the Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003”.
- (4) Section 88 shall apply as if in subsection (1)—
 - (a) the words from “section 75” to “under” were omitted; and
 - (b) for the words “Schedule 7” there were substituted “Schedule 2 to the Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003”.
- (5) Section 89 shall apply as if in subsection (2)—
 - (a) the words from “section 71” to “under”, where it appears for the second time, were omitted; and
 - (b) for the words “Schedule 7” there were substituted “Schedule 2 to the Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003”.
- (6) Section 91 shall apply as if—
 - (a) in subsections (1), (3)(a) and (b) for the words “this Part” there were substituted “the Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003”;
 - (b) in subsection (3)(d)—
 - (i) the words from “by the Commission” to “78(2) or” were omitted; and
 - (ii) for the words “Schedule 7” there were substituted “Schedule 2 to the Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003”; and
 - (c) in subsection (5)—
 - (i) the words “Commission and the” were omitted; and
 - (ii) for the words “them” in all three places where they appear there were substituted “him”.
- (7) Section 92 shall apply as if—
 - (a) in subsections (1)(b), (3)(f) and (4)(f)—
 - (i) the words from “in sections 77(2)” to “78(2) and” were omitted; and
 - (ii) for the words “Schedule 7” there were substituted “Schedule 2 to the Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003”;
 - (b) in subsection (3) the words “the Commission or (as the case may be)”, in all places where they appear, were omitted;
 - (c) in subsection (3)(a) the words “it or (as the case may be)” were omitted;
 - (d) in subsection (3)(e) for the word “to” there were substituted “and”;
 - (e) in subsection (3)(f) the words “(4) and” were omitted;
 - (f) subsections (4)(a) to (d) were omitted; and
 - (g) in subsection (5) for the words “this Part” in both places where they appear there were substituted “the Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003”.
- (8) Section 93 shall apply as if—
 - (a) subsection (1)(a) were omitted;
 - (b) in subsections (1)(b), (2) and (4) for the words “Schedule 7” there were substituted “Schedule 2 to the Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003”;

- (c) in subsection (2) the words “Commission or (as the case may be) the” were omitted; and
 - (d) in subsections (2) and (4) the words “section 80 or 82 or (as the case may be)” were omitted.
- (9) Section 94 shall apply as if—
- (a) subsection (7) were omitted;
 - (b) in subsection (8) for the words “Schedule 7” there were substituted “Schedule 2 to the Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003”;
 - (c) in subsection (9) for the words “to (8)” there were substituted “and (8)”.
- (10) Section 95 shall apply as if—
- (a) in subsections (1), (3) and (6)—
 - (i) the words from “section 77(2)” to “78(2) or” were omitted; and
 - (ii) for the words “Schedule 7” there were substituted “Schedule 2 to the Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003”;
 - (b) subsection (4) were omitted;
 - (c) in subsection (5) for the words “Schedule 7” there were substituted “Schedule 2 to the Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003”; and
 - (d) in subsection (6) for the words “Subsections (4) and” there were substituted “Subsection”.
- (11) Section 103 shall apply as if—
- (a) subsection (1) were omitted; and
 - (b) in subsection (2) for the words “section 45 or 62” there were substituted “article 5 of the Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003”.
- (12) Section 104 shall apply as if—
- (a) in subsection (5) for the words “this Part” there were substituted “the Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003”;
 - (b) in subsection (6) the words “the OFT,” where they appear for the first time were omitted;
 - (c) paragraph (a) in the definition of “relevant decision” in subsection (6) were omitted;
 - (d) in paragraph (b) in the definition of “relevant decision” in subsection (6), for the words from “section 35(1)” to “63” there were substituted “article 6 of the Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003”;
 - (e) in paragraph (c)(i) in the definition of “relevant decision” in subsection (6), for the words “section 45 or 62” there were substituted “article 5 of the Enterprise Act 2002 (Protection of Legitimate Interests Order) 2003”; and
 - (f) in paragraph (c)(ii) in the definition of “relevant decision” in subsection (6), for the words “section 49 or (as the case may be) 64” there were substituted “article 7 of the Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003”.
- (13) Section 105 shall apply as if—
- (a) in subsection (1)—
 - (i) for the words from “so as to enable” to “44 or 61” there were substituted “so as to make a report under article 4 of the Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003”; and
 - (ii) for the words from “relevant merger situation” to the end of that subsection there were substituted “European relevant merger situation concerned”;
 - (b) subsection (2) were omitted; and

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(c) in subsections (3)(a) and (3)(b), (4), (5)(a) and (5)(b) and (6) for the words “this Part” there were substituted “the Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003”.

(14) Section 108 shall apply as if for the words “this Part” there were substituted “the Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003”.

(15) Section 109 shall apply as if in subsections (1), (2), (3), (5) and (6) for the words “this Part” there were substituted “the Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003”.

(16) Section 110 shall apply as if in subsections (2) and (9) for the words from “section 39(4)” to “65(3)” there were substituted “article 9(3) of the Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003”.

(17) Section 111 shall apply as if in subsection (5)(b)(ii) for the words from “published”, where it appears for the first time, to “(or given)”, where it appears for the second time, there were substituted “given under article 8 of the Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003, or, if no such report is given within the period permitted for that purpose by that Order, the latest day on which the report may be given”.

(18) Section 117 shall apply as if in subsections (1)(a) and (2) for the words “this Part” there were substituted “the Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003”.

(19) Section 118 shall apply as if—

- (a) in subsection (1)(a) for the words “section 44 or 61” there were substituted “article 4 of the Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003”;
- (b) in subsection (1)(b) for the words “section 50 or 65” there were substituted “article 8 of the Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003”; and
- (c) in subsection (5) for the words “sections 38(4) and 107(11)” there were substituted “article 14(8) of the Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003”.

(20) Section 119 shall apply as if in subsection (1) for the words “this Part”, in both places where they appear, there were substituted “the Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003”.

(21) Section 120 shall apply as if—

- (a) in subsections (1) and (2)(b) for the words “this Part” there were substituted “the Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003”; and
- (b) in subsection (1) for the words “relevant merger situation or a special merger situation” there were substituted “European relevant merger situation”.

(22) Section 124 shall apply as if—

- (a) in subsections (1) and (2) for the words “this Part” there were substituted “the Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003”;
- (b) subsections (3) and (4) and (6) to (10) were omitted; and
- (c) for subsection (5) there were substituted—
 - “(5) An order made by the Secretary of State under section 28, 111(4) or (6) or 114(3) (b) or (4)(b) as applied by the Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003, or under Schedule 2 to that Order shall be subject to annulment in pursuance of a resolution of either House of Parliament.”.

(23) Section 125 shall apply as if in subsections (1) and (3) for the words “this Part” there were substituted “the Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003”.

(24) Section 126 shall apply as if in subsections (1), (4) and (6) for the words “this Part” there were substituted “the Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003”.

(25) Section 127 shall apply as if in subsection (3) for the words “section 22, 33, 45 or 62” there were substituted “article 5 of the Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003”.

(26) Section 128 shall apply as if in subsection (1) for the words “this Part” where they appear on both occasions there were substituted “the Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003”.

(27) Section 129 shall apply as if in subsections (1) to (4) for the words “this Part” where they appear on all occasions there were substituted “the Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003”.

2.—(1) The following Schedules of the Act shall apply, with the modifications mentioned in subparagraphs (2) and (3) below, for the purposes of this Order—

- (a) Schedule 8 (provision that may be contained in certain enforcement orders); and
- (b) Schedule 10 (procedural requirements for certain enforcement undertakings and orders).

(2) Schedule 8 shall apply as if—

- (a) in paragraph 1 for the words “this Part and Part 4” there were substituted “the Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003”;
- (b) in paragraph 14—
 - (i) the words “an order under section 75, 83, 84, 160 or 161, or” were omitted; and
 - (ii) for the words “Schedule 7” there were substituted “Schedule 2 to the Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003”; and
- (c) in paragraph 24 for paragraphs (a) to (c) there were substituted “the Secretary of State”.

(3) Schedule 10 shall apply as if—

- (a) in paragraphs 1(a) and 6(a)—
 - (i) the words “section 73 or 82 or” were omitted; and
 - (ii) for the words “Schedule 7” there were substituted “Schedule 2 to the Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003”;
- (b) in paragraphs 1(b) and 6(b)—
 - (i) the words “section 75, 83 or 84 or” were omitted; and
 - (ii) for the words “Schedule 7” there were substituted “Schedule 2 to the Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003”; and
- (c) in paragraph 2(1) the words “the OFT, the Commission or (as the case may be)” were omitted.

3. Section 243(1) of the Act (overseas disclosures) shall not apply to information which comes to a public authority in connection with an investigation under this Order.