

Status: This version of this schedule contains provisions that are prospective.

Changes to legislation: Competition Act 1998, SCHEDULE 5 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULES

[^{F1}SCHEDULE 5

Section 12(2).

NOTIFICATION UNDER CHAPTER I: PROCEDURE

Textual Amendments

- F1** Sch. 5 ceased to have effect (1.5.2004) by virtue of [The Competition Act 1998 and Other Enactments \(Amendment\) Regulations 2004 \(S.I. 2004/1261\)](#), reg. 1(a), [Sch. 1 para. 51](#) (with reg. 6(2))

Modifications etc. (not altering text)

- C1** Sch. 5 applied (with modifications) (1.3.2000) by [S.I. 2000/263](#), [art. 8](#)

Commencement Information

- I1** Sch. 5 partly in force; Sch. 5 not in force at Royal Assent, see s. 431; Sch. 5 partly in force at 1.3.2000 by [S.I. 2000/344](#), [art. 2](#), [Sch.](#)

Terms used

- 1 In this Schedule—
- “applicant” means the person making an application to which this Schedule applies;
 - “application” means an application under section 13 or an application under section 14;
 - “application for guidance” means an application under section 13;
 - “application for a decision” means an application under section 14;
 - “rules” means rules made by the [^{F2}OFT] under section 51; and
 - “specified” means specified in the rules.

Textual Amendments

- F2** Words in Sch. 5 substituted (1.4.2003) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, [Sch. 25 para. 38\(52\)\(a\)](#); [S.I. 2003/766](#), [art. 2](#), [Sch.](#) (with [art. 3](#)) (as amended (20.7.2007) by [S.I. 2007/1846](#), reg. 3(2), [Sch.](#))

General rules about applications

- 2 (1) An application must be made in accordance with rules.
- (2) A party to an agreement who makes an application must take all reasonable steps to notify all other parties to the agreement of whom he is aware—
- (a) that the application has been made; and
 - (b) as to whether it is for guidance or a decision.
- (3) Notification under sub-paragraph (2) must be in the specified manner.

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Preliminary investigation

- 3 (1) If, after a preliminary investigation of an application, the [F²OFT] considers that it is likely—
- (a) that the agreement concerned will infringe the Chapter I prohibition, and
 - (b) that it would not be appropriate to grant the agreement an individual exemption,
- [F³it] may make a decision (“a provisional decision”) under this paragraph.
- (2) If the [F²OFT] makes a provisional decision—
- (a) the [F²OFT] must notify the applicant in writing of [F³its] provisional decision; and
 - (b) section 13(4) or (as the case may be) section 14(4) is to be taken as never having applied.
- (3) When making a provisional decision, the [F²OFT] must follow such procedure as may be specified.
- (4) A provisional decision does not affect the final determination of an application.
- (5) If the [F²OFT] has given notice to the applicant under sub-paragraph (2) in respect of an application for a decision, he may continue with the application under section 14.

Textual Amendments

- F2** Words in Sch. 5 substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 25 para. 38(52)(a); S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)
- F3** Words in Sch. 5 para. 3 substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 25 para. 38(52)(b); S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

Procedure on application for guidance

- 4 When determining an application for guidance, the [F²OFT] must follow such procedure as may be specified.

Textual Amendments

- F2** Words in Sch. 5 substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 25 para. 38(52)(a); S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

Procedure on application for a decision

- 5 (1) When determining an application for a decision, the [F²OFT] must follow such procedure as may be specified.
- (2) The [F²OFT] must arrange for the application to be published in such a way as [F⁴it thinks] most suitable for [F⁵bringing the application] to the attention of those likely to be affected by it, unless [F⁶the OFT is] satisfied that it will be sufficient F⁷... to seek information from one or more particular persons other than the applicant.

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- (3) In determining the application, the [F²OFT] must take into account any representations made to [F⁸it] by persons other than the applicant.

Textual Amendments

- F2** Words in Sch. 5 substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 25 para. 38(52)(a); S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)
- F4** Words in Sch. 5 para. 5(2) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 25 para. 38(52)(c)(i); S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)
- F5** Words in Sch. 5 para. 5(2) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 25 para. 38(52)(c)(ii); S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)
- F6** Words in Sch. 5 para. 5(2) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 25 para. 38(52)(c)(iii); S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)
- F7** Words in Sch. 5 para. 5(2) repealed (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 25 para. 38(52)(c)(iv), Sch. 26; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)
- F8** Word in Sch. 5 para. 5(3) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 25 para. 38(52)(d); S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

Publication of decisions

- 6 If the [F²OFT] determines an application for a decision [F⁹it] must publish [F⁹its] decision, together with [F⁹its] reasons for making it, in such manner as may be specified.

Textual Amendments

- F2** Words in Sch. 5 substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 25 para. 38(52)(a); S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)
- F9** Words in Sch. 5 para. 6 substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 25 para. 38(52)(e); S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

PROSPECTIVE

Delay by the [F²OFT]

- 7 (1) This paragraph applies if the court is satisfied, on the application of a person aggrieved by the failure of the [F²OFT] to determine an application for a decision in accordance with the specified procedure, that there has been undue delay on the part of the [F²OFT] in determining the application.
- (2) The court may give such directions to the [F²OFT] as it considers appropriate for securing that the application is determined without unnecessary further delay.]

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Blanket Amendment words substituted by [2005 c. 4 Sch. 11 para. 5](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 31G-31L and cross-heading inserted by S.I. 2019/93, reg. 8A (as inserted) by [S.I. 2019/1245 reg. 3](#) (This amendment not applied to [legislation.gov.uk](#). The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
- s. 46(3)(ha)(hb) inserted by S.I. 2019/93, reg. 14(d) (as inserted) by [S.I. 2019/1245 reg. 5](#) (This amendment not applied to [legislation.gov.uk](#). The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
- s. 47(1)(ca) inserted by S.I. 2019/93, reg. 15(b) (as substituted) by [S.I. 2019/1245 reg. 6](#) (This amendment not applied to [legislation.gov.uk](#). The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
- s. 60A(10) inserted by [2023 c. 28 s. 6\(10\)](#)
- Sch. 6A para. 1A inserted by S.I. 2019/93, reg. 29A(2) (as inserted) by [S.I. 2019/1245 reg. 7](#) (This amendment not applied to [legislation.gov.uk](#). The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
- Sch. 6A Pt. 3 inserted by S.I. 2019/93, reg. 29A(4) (as inserted) by [S.I. 2019/1245 reg. 7](#) (This amendment not applied to [legislation.gov.uk](#). The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)