

## SCHEDULES

### SCHEDULE 5

Section 12(2).

#### NOTIFICATION UNDER CHAPTER I: PROCEDURE

##### *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 Director under section 51; and
  - “specified” means specified in the rules.

##### *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.

##### *Preliminary investigation*

- 3
- (1) If, after a preliminary investigation of an application, the Director 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,he may make a decision (“a provisional decision”) under this paragraph.
  - (2) If the Director makes a provisional decision—
    - (a) the Director must notify the applicant in writing of his 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 Director must follow such procedure as may be specified.

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*Status: This is the original version (as it was originally enacted).*

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- (4) A provisional decision does not affect the final determination of an application.
- (5) If the Director 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.

*Procedure on application for guidance*

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

*Procedure on application for a decision*

- 5 (1) When determining an application for a decision, the Director must follow such procedure as may be specified.
- (2) The Director must arrange for the application to be published in such a way as he thinks most suitable for bringing it to the attention of those likely to be affected by it, unless he is satisfied that it will be sufficient for him to seek information from one or more particular persons other than the applicant.
- (3) In determining the application, the Director must take into account any representations made to him by persons other than the applicant.

*Publication of decisions*

- 6 If the Director determines an application for a decision he must publish his decision, together with his reasons for making it, in such manner as may be specified.

*Delay by the Director*

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