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*Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Competition (Amendment etc.) (EU Exit) Regulations 2019. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

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## STATUTORY INSTRUMENTS

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**2019 No. 93**

# **EXITING THE EUROPEAN UNION COMPETITION**

## **The Competition (Amendment etc.) (EU Exit) Regulations 2019**

*Made - - - - 22nd January 2019*

*Coming into force in accordance with regulation 1(1)*

The Secretary of State makes these Regulations in exercise of the powers conferred by section 8(1) of, paragraph 1(1) of Schedule 4 to, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018 <sup>M1</sup>.

In accordance with paragraph 3(1) of Schedule 4 to that Act, these Regulations are made with the consent of the Treasury.

In accordance with paragraphs 1(1) and 12(1) of Schedule 7 to that Act, a draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament.

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### **Marginal Citations**

**M1** [2018 c. 16.](#)

## **PART 1**

### **Introduction**

#### **Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Competition (Amendment etc.) (EU Exit) Regulations 2019 and come into force on exit day.

(2) An amendment, repeal or revocation made by these Regulations has the same extent as the provision to which it relates.

(3) Transitional or saving provision made by these Regulations has the same extent as the provision to which it relates.

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#### Commencement Information

- I1** Reg. 1 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(1)

## PART 2

### Amendment of the Competition Act 1998

2. The Competition Act 1998 <sup>M2</sup> is amended as follows.

#### Commencement Information

- I2** Reg. 2 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

#### Marginal Citations

- M2** [1998 c. 41](#).

- 3.—(1) Section 10 <sup>M3</sup> is amended as follows.
- (2) In the heading, for “Parallel exemptions” substitute “ Retained exemptions ”.
- (3) Before subsection (1) insert—
- “(A1) An agreement is exempt from the Chapter I prohibition if it falls within a category of agreements specified as exempt in a retained block exemption regulation.”.
- (4) Omit subsections (1) and (2).
- (5) In subsection (3), for “parallel exemption” substitute “ retained exemption ”.
- (6) In subsection (4)—
- (a) for “parallel exemption” substitute “ retained exemption ”;
- (b) omit paragraph (a) (together with the final “and”);
- (c) in paragraph (b), for “exemption from the Community prohibition” substitute “ retained block exemption ”.
- (7) In subsection (5)—
- (a) in paragraph (a)—
- (i) for “parallel exemption” substitute “ retained exemption ”;
- (ii) after “effect” insert “ in respect of an agreement ”;
- (b) in paragraph (d), after “exemption” insert “ in respect of an agreement ”.
- (8) Omit subsections (9) to (11).
- (9) After subsection (11), insert—
- “(12) In this Part, “retained block exemption regulation” means the following regulations as amended from time to time—
- (a) Council Regulation [\(EC\) 169/2009](#) applying rules of competition to transport by rail, road and inland waterway;

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- (b) Commission Regulation (EC) 906/2009 on the application of Article 81(3) of the Treaty to certain categories of agreements, decisions and concerted practices between liner shipping companies (consortia);
- (c) Commission Regulation (EU) 330/2010 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to categories of vertical agreements and concerted practices;
- (d) Commission Regulation (EU) 461/2010 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to categories of vertical agreements and concerted practices in the motor vehicle sector;
- (e) Commission Regulation (EU) 1217/2010 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to certain categories of research and development agreements;
- (f) Commission Regulation (EU) 1218/2010 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to certain categories of specialisation agreements;
- (g) Commission Regulation (EU) 316/2014 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to categories of technology transfer agreements.”.

#### Commencement Information

- I3** Reg. 3 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(1)

#### Marginal Citations

- M3** Section 10 was amended by paragraph 38(1) and (8) of Schedule 25 to the Enterprise Act 2002 (c. 40), paragraphs 1 and 4 of Schedule 5 to the Enterprise and Regulatory Reform Act 2013 (c. 24), S.I. 2004/1261 and S.I. 2012/1809.

#### 4. After section 10 insert—

##### “10A Power to vary etc retained block exemption regulations

(1) The Secretary of State may by regulations vary or revoke a retained block exemption regulation.

(2) In exercising the power under subsection (1), the Secretary of State must have regard to the conditions specified in section 9(1) for exemption from the Chapter 1 prohibition.

(3) If, in the opinion of the CMA, it is appropriate to vary or revoke a retained block exemption regulation, the CMA may make a recommendation to that effect to the Secretary of State.

(4) Before making a recommendation under subsection (3), the CMA must—

- (a) publish details of its proposed recommendation in such a way as it thinks most suitable for bringing it to the attention of those likely to be affected; and
- (b) consider any representations about it which are made to it.

(5) Before exercising the power to vary or revoke a retained block exemption regulation (in a case where there has been no recommendation under subsection (3)), the Secretary of State must—

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- (a) inform the CMA of the proposed variation or revocation; and
- (b) take into account any comments made by the CMA.”.

#### Commencement Information

- I4** Reg. 4 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

#### 5. Omit section 11 <sup>M4</sup>.

#### Commencement Information

- I5** Reg. 5 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

#### Marginal Citations

- M4** Section 11 was amended by [S.I. 2012/1809](#).

- 6.—(1) Section 25 <sup>M5</sup> is amended as follows.
- (2) Omit subsections (3), (5) and (7).
  - (3) In subsection (8)(a), for “parallel exemption” substitute “retained exemption”.
  - (4) Omit subsection (9).
  - (5) In subsection (10), for “parallel exemption” substitute “retained exemption”.
  - (6) Omit subsection (11).
  - (7) In subsection (12), omit “or (7)”.

#### Commencement Information

- I6** Reg. 6 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

#### Marginal Citations

- M5** Section 25 was substituted by [S.I. 2004/1261](#), and subsequently amended by paragraphs 1, 5(1), (2) and (3) of Schedule 5 to the Enterprise and Regulatory Reform Act 2013, [S.I. 2011/1043](#) and [S.I. 2012/1809](#).

7. In section 25A(1)(b) <sup>M6</sup>, for “subsections (2) to (7)” substitute “subsections (2), (4) and (6)”.

#### Commencement Information

- I7** Reg. 7 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

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#### Marginal Citations

**M6** Section 25A was inserted by section 42(1) and (2) of the Enterprise and Regulatory Reform Act 2013.

[<sup>F17A</sup>In section 30A(1), for “sections 26 and 27 to 28A” substitute “sections 26, 27 to 28A and 40ZD”.]

#### Textual Amendments

**F1** Reg. 7A inserted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), 3

#### Commencement Information

**I8** Reg. 7A in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

8. In section 31(2) <sup>M7</sup>—
- (a) at the end of paragraph (a), insert “ or ”;
  - (b) omit paragraphs (c) and (d).

#### Commencement Information

**I9** Reg. 8 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

#### Marginal Citations

**M7** Section 31(2) was amended by paragraphs 1 and 10 of Schedule 5 to the Enterprise and Regulatory Reform Act 2013 and by [S.I. 2012/1809](#).

9. In section 32(1) <sup>M8</sup>, omit “or that it infringes the prohibition in Article 101(1)”.

#### Commencement Information

**I10** Reg. 9 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

#### Marginal Citations

**M8** Section 32(1) was amended by paragraph 38(1) and (24) of Schedule 25 to the Enterprise Act 2002, paragraphs 1 and 16 of Schedule 5 to the Enterprise and Regulatory Reform Act 2013, [S.I. 2004/1261](#) and [S.I. 2012/1809](#).

10. In section 33(1) <sup>M9</sup>, omit “or that it infringes the prohibition in Article 102”.

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#### Commencement Information

**I11** Reg. 10 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

#### Marginal Citations

**M9** Section 33(1) was amended by paragraph 38(1) and (25) of Schedule 25 to the Enterprise Act 2002, paragraphs 1 and 17 of Schedule 5 to the Enterprise and Regulatory Reform Act 2013, [S.I. 2004/1261](#) and [S.I. 2012/1809](#).

**11.** In section 35 <sup>M10</sup>—

- (a) in subsection (1), for “subsections (8) and (9)” substitute “ subsection (8) ”;
- (b) in subsection (6), for “section 25(2), (3), (6) and (7)” substitute “ section 25(2) and (6) ”;
- (c) in subsection (7), for “section 25(4) and (5)” substitute “ section 25(4) ”;
- (d) omit subsection (9).

#### Commencement Information

**I12** Reg. 11 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

#### Marginal Citations

**M10** Section 35 was amended by paragraphs 1 and 19 of Schedule 5 to the Enterprise and Regulatory Reform Act 2013, [S.I. 2004/1261](#), [S.I. 2011/1043](#) and [S.I. 2012/1809](#).

**12.** In section 36 <sup>M11</sup>—

- (a) in subsection (1), omit “or that it has infringed the prohibition in Article 101(1)”;
- (b) in subsection (2), omit “or that it has infringed the prohibition in Article 102”;
- (c) in subsection (7A)(b)—
  - (i) in sub-paragraph (i), omit “or the prohibition in Article 81(1)”;
  - (ii) in sub-paragraph (ii), omit “or the prohibition in Article 82”.

#### Commencement Information

**I13** Reg. 12 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

#### Marginal Citations

**M11** Section 36 was amended by paragraph 38(1) and (28) of Schedule 25 to the Enterprise Act 2002, section 44 of, and paragraphs 1 and 20 of Schedule 5 to, the Enterprise and Regulatory Reform Act 2013, [S.I. 2004/1261](#) and [S.I. 2012/1809](#).

**13.** In section 38 <sup>M12</sup>—

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- (a) in subsection (1), for the words from “the Chapter 1 prohibition” to the end substitute “the Chapter 1 prohibition or the Chapter 2 prohibition.”;
- (b) omit subsection (1A);
- (c) omit subsections (9) and (10).

#### Commencement Information

**I14** Reg. 13 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(I)**), see [reg. 1\(1\)](#)

#### Marginal Citations

**M12** Section 38 was amended by section 40 of, and paragraphs 1 and 22 of Schedule 5 and paragraphs 8 and 10 of Schedule 15 to, the Enterprise and Regulatory Reform Act 2013, paragraph 65 of Schedule 9 to the [Constitutional Reform Act 2005 \(c. 4\)](#) and [S.I. 2004/1261](#). There are other amendments to section 38 but none is relevant to these Regulations.

[<sup>F2</sup>**13A.** After section 40, insert—

*“Transferred EU anti-trust commitments and transferred EU anti-trust directions*

#### Interpretation

(1) In this section and in sections 40ZB and 40ZD “transferred EU anti-trust commitments” means EU anti-trust commitments—

- (a) which are the subject of an Article 95(2) commitments transfer decision (and, where those commitments are modified by, or as contemplated by, that decision, or by a later Article 95(2) commitments transfer decision, means those commitments as so modified), and
- (b) which have not been wholly waived or substituted by the European Commission.

(2) In this section—

“Article 95(2) commitments transfer decision” means an instrument issued by the European Commission in accordance with Article 95(2) of the EU withdrawal agreement transferring responsibility for the monitoring and enforcement of EU anti-trust commitments to the CMA;

“EU anti-trust commitments” means commitments contained, pursuant to Article 9(1) of Regulation 1/2003, in a decision adopted by the European Commission under that Regulation.

(3) In this section and in sections 40ZC and 40ZD a “transferred EU anti-trust direction” means an EU anti-trust direction—

- (a) which is the subject of an Article 95(2) direction transfer decision (and, where that direction is modified by, or as contemplated by, that decision, or by a later Article 95(2) direction transfer decision, means that direction as so modified), and
- (b) which has not been wholly revoked by the European Commission.

(4) In this section—

“Article 95(2) direction transfer decision” means an instrument issued by the European Commission in accordance with Article 95(2) of the EU withdrawal agreement transferring responsibility for the monitoring and enforcement of an EU anti-trust direction to the CMA;

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“EU anti-trust direction” means a direction given pursuant to Article 7(1) of Regulation 1/2003 in a decision adopted by the European Commission under that Regulation;

“Regulation 1/2003” means Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty.

(5) So far as the context permits or requires, transferred EU anti-trust commitments and transferred EU anti-trust directions are to be treated for the purposes of this section and sections 40ZB to 40ZD as if—

- (a) any reference to the area of the European Union or of the European Economic Area included the United Kingdom;
- (b) any reference to the internal market included the United Kingdom;
- (c) any reference to a member State included the United Kingdom;
- (d) any reference to a party to the EEA agreement included the United Kingdom.

(6) Subsection (5) is subject to any different provision made by the Article 95(2) commitments transfer decision or Article 95(2) direction transfer decision in question.

#### **Transferred EU anti-trust commitments**

(1) The CMA has the function of monitoring compliance with transferred EU anti-trust commitments.

(2) If a person who is bound by transferred EU anti-trust commitments fails, without reasonable excuse, to adhere to those commitments, the CMA may apply to the court for an order—

- (a) requiring the defaulter to make good the default within a time specified in the order; or
- (b) if any of the transferred EU anti-trust commitments relate to anything to be done in the management or administration of an undertaking, requiring the undertaking or any of its officers to do it.

(3) An order of the court under subsection (2) may provide for all of the costs of, or incidental to, the application for the order to be borne by—

- (a) the person in default; or
- (b) any officer of an undertaking who is responsible for the default.

(4) In the application of subsection (3) to Scotland, the reference to “costs” is to be read as a reference to “expenses”.

(5) In this section, “transferred EU anti-trust commitments” has the meaning given by section 40ZA(1).

#### **Transferred EU anti-trust directions**

(1) The CMA has the function of monitoring compliance with transferred EU anti-trust directions.

(2) If a person fails, without reasonable excuse, to comply with a transferred EU anti-trust direction, the CMA may apply to the court for an order—

- (a) requiring the defaulter to make good the default within a time specified in the order; or



- (b) if the transferred EU anti-trust direction related to anything to be done in the management or administration of an undertaking, requiring the undertaking or any of its officers to do it.
- (3) An order of the court under subsection (2) may provide for all of the costs of, or incidental to, the application for the order to be borne by—
  - (a) the person in default; or
  - (b) any officer of an undertaking who is responsible for the default.
- (4) In the application of subsection (3) to Scotland, the reference to “costs” is to be read as a reference to “expenses”.
- (5) In this section, “transferred EU anti-trust direction” has the meaning given by section 40ZA(3).

**Information relating to transferred EU anti-trust commitments and transferred EU anti-trust directions**

- (1) The CMA may require any person to produce to the CMA a specified document, or to provide the CMA with specified information, for the purposes of assisting the CMA—
  - (a) to monitor compliance with transferred EU anti-trust commitments, or
  - (b) to decide whether to make an application under section 40ZB(2) in respect of those transferred EU anti-trust commitments.
- (2) The CMA may require any person to produce to the CMA a specified document, or to provide the CMA with specified information, for the purposes of assisting the CMA—
  - (a) to monitor compliance with a transferred EU anti-trust direction, or
  - (b) to decide whether to make an application under section 40ZC(2) in respect of a transferred EU anti-trust direction.
- (3) The powers conferred by subsections (1) and (2) are to be exercised by a notice in writing which indicates the subject matter and purpose of the demand (including identifying the transferred EU anti-trust commitments or transferred EU anti-trust direction in question).
- (4) The CMA may also specify in the notice—
  - (a) the time and place at which any document is to be produced or any information is to be provided;
  - (b) the manner and form in which it is to be produced or provided.
- (5) The power under this section to require a person to produce a document includes power—
  - (a) if the document is produced—
    - (i) to take copies of it or extracts from it;
    - (ii) to require that person, or any person who is a present or past officer of, or is or was at any time employed by, that person, to provide an explanation of the document;
  - (b) if the document is not produced, to require that person to state, to the best of their knowledge and belief, where it is.
- (6) In this section—
  - “specified” means—
    - (a) specified, or described, in the notice under subsection (3), or

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- (b) falling within a category which is specified, or described, in that notice;  
 “transferred EU anti-trust commitments” has the meaning given by section 40ZA(1);  
 “transferred EU anti-trust direction” has the meaning given by section 40ZA(3).”.

#### Textual Amendments

**F2** Regs. 13A, 13B inserted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), 4

#### Commencement Information

**I15** Reg. 13A in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

**13B.** In section 40A(1), for “28 or 28A” substitute “28, 28A or 40ZD”.]

#### Textual Amendments

**F2** Regs. 13A, 13B inserted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), 4

#### Commencement Information

**I16** Reg. 13B in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

**14.** In section 46(3) <sup>M13</sup>—

- (a) omit paragraphs (b) and (d);  
 (b) in paragraph (e), for “parallel exemption” substitute “retained exemption”;  
 (c) omit paragraph (f).

#### Commencement Information

**I17** Reg. 14 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

#### Marginal Citations

**M13** Section 46(3) was substituted by [S.I. 2004/1261](#) and subsequently amended by paragraphs 1 and 26 of Schedule 5 to the Enterprise and Regulatory Reform Act 2013 and [S.I. 2012/1809](#).

**15.** In section 47(1)(a) <sup>M14</sup>, for “paragraphs (a) to (f)” substitute “ paragraph (a), (c) or (e) ”.

#### Commencement Information

**I18** Reg. 15 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

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**M14** Section 47(1) was first substituted by section 17 of the [Enterprise Act 2002 \(c.40\)](#), further substituted by [S.I. 2004/1261](#), and subsequently amended by paragraphs 1 and 27 of Schedule 5 to the Enterprise and Regulatory Reform Act 2013.

**16.**—(1) Section 47A <sup>M15</sup> is amended as follows.

(2) In subsection (2)—

(a) at the end of paragraph (a), insert “ or ”;

(b) omit paragraphs (c) and (d).

(3) For subsection (6) substitute—

“(6) In this Part (except in section 49C) “infringement decision” means—

(a) a decision of the CMA that the Chapter I prohibition or the Chapter II prohibition has been infringed, or

(b) a decision of the Tribunal on an appeal from the decision of the CMA that the Chapter I prohibition or the Chapter II prohibition has been infringed.”.

#### **Commencement Information**

**I19** Reg. 16 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

#### **Marginal Citations**

**M15** Section 47A was initially inserted by section 18(1) of the Enterprise Act 2002, and subsequently substituted by paragraphs 1 and 4 of Schedule 8 to the [Consumer Rights Act 2015 \(c.15\)](#).

**17.** In section 49C(11) <sup>M16</sup>, for the definition of “infringement decision” (but not the final “and”) substitute—

““infringement decision” means a decision of the CMA that the Chapter I prohibition or the Chapter II prohibition has been infringed.”.

#### **Commencement Information**

**I20** Reg. 17 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

#### **Marginal Citations**

**M16** Section 49C was inserted by paragraphs 1 and 12 of Schedule 8 to the Consumer Rights Act 2015.

**18.** In section 52, omit subsection (1A) <sup>M17</sup>.

#### **Commencement Information**

**I21** Reg. 18 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

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**M17** Subsection (1A) was initially inserted into section 52 by [S.I. 2004/1261](#) and subsequently amended by paragraphs 1 and 32 of Schedule 5 to the Enterprise and Regulatory Reform Act 2013 and [S.I. 2012/1809](#).

**19.**—(1) Section 58(2) <sup>M18</sup> is amended as follows.

(2) In the definition of “Part I proceedings”—

- (a) at the end of paragraph (za), insert “ or ”;
- (b) omit paragraph (b) and the “or” before it.

(3) In the definition of “relevant party”—

- (a) in paragraph (a), omit “or the prohibition in Article 101(1)”;
- (b) in paragraph (b), omit “or the prohibition in Article 102”.

### Commencement Information

**I22** Reg. 19 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

### Marginal Citations

**M18** Section 58(2) was amended by paragraphs 1 and 36 of Schedule 5 to the Enterprise and Regulatory Reform Act 2013, paragraphs 1 and 13 of Schedule 8 to the Consumer Rights Act 2015, [S.I. 2004/1261](#) and [S.I. 2012/1809](#).

**20.** In section 58A <sup>M19</sup>, omit subsection (4).

### Commencement Information

**I23** Reg. 20 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

### Marginal Citations

**M19** Section 58A was inserted by section 20(1) of the Enterprise Act 2002 and subsequently substituted by paragraphs 1 and 14 of Schedule 8 to the Consumer Rights Act 2015 and further amended by [S.I. 2017/385](#).

**21.**—(1) Section 59(1) <sup>M20</sup> is amended as follows.

(2) Omit the definitions of—

- (a) “Article 101(1)”;
- (b) “Article 101(3)”;
- (c) “Article 102”;
- (d) “the Commission”;
- (e) “the Council”;
- (f) “the EEA Agreement”;

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- (g) “the European Court”;
- (h) “the EC Competition Regulation”;
- (i) “parallel exemption”;
- (j) “section 11 exemption” (including the final “and”);
- (k) “the Treaty”.

(3) In the definition of “the court”, for “60” substitute “ 60A ”.

(4) At the appropriate places, insert—

““retained block exemption regulation” has the meaning given in section 10(12);”;

““retained exemption” has the meaning given in section 10(3);”.

#### Commencement Information

**I24** Reg. 21 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

#### Marginal Citations

**M20** Section 59(1) was amended by section 20(3) of the Enterprise Act 2002, paragraphs 218 and 221 of Schedule 5 to the Enterprise and Regulatory Reform Act 2013, paragraphs 1 and 15 of Schedule 8 to the Consumer Rights Act 2015, [S.I. 2004/1261](#), [S.I. 2011/1043](#), [S.I. 2012/1809](#) and [S.I. 2017/385](#); there are other amendments to section 59 but none is relevant to these Regulations.

22. Omit section 60 <sup>M21</sup>).

#### Commencement Information

**I25** Reg. 22 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

#### Marginal Citations

**M21** Section 60 was amended by paragraphs 1 and 39 of Schedule 5 to the Enterprise and Regulatory Reform Act 2013 and [S.I. 2011/1043](#).

23. After section 60 insert—

#### “60A Certain principles etc to be considered or applied from [<sup>F3</sup>IP completion day]

(1) This section applies when one of the following persons determines a question arising under this Part in relation to competition within the United Kingdom—

- (a) a court or tribunal;
- (b) the CMA;
- (c) a person acting on behalf of the CMA in connection with a matter arising under this Part.

(2) The person must act (so far as is compatible with the provisions of this Part) with a view to securing that there is no inconsistency between—

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- (a) the principles that it applies, and the decision that it reaches, in determining the question, and
- (b) the principles laid down by the Treaty on the Functioning of the European Union and the European Court before [F<sup>3</sup>IP completion day], and any relevant decision made by that Court before [F<sup>3</sup>IP completion day], so far as applicable immediately before [F<sup>3</sup>IP completion day] in determining any corresponding question arising in EU law,

subject to subsections (4) to (7).

(3) The person must, in addition, have regard to any relevant decision or statement of the European Commission made before [F<sup>3</sup>IP completion day] and not withdrawn.

(4) Subsection (2) does not require the person to secure that there is no inconsistency with a principle or decision referred to in subsection (2)(b) so far as the principle or decision is excluded from the law of England and Wales, Scotland and Northern Ireland on or after [F<sup>3</sup>IP completion day].

(5) For the purposes of subsection (4), a principle or decision is to be treated as not excluded from the law of England and Wales, Scotland and Northern Ireland if it is excluded only by virtue of an exclusion or revocation in the Competition (Amendment etc.) (EU Exit) Regulations 2019.

(6) Subsection (2) does not apply so far as the person is bound by a principle laid down by, or a decision of, a court or tribunal in England and Wales, Scotland or Northern Ireland that requires the person to act otherwise.

(7) Subsection (2) does not apply if the person thinks that it is appropriate to act otherwise in the light of one or more of the following—

- (a) differences between the provisions of this Part under consideration and the corresponding provisions of EU law as those provisions of EU law had effect immediately before [F<sup>3</sup>IP completion day];
- (b) differences between markets in the United Kingdom and markets in the European Union;
- (c) developments in forms of economic activity since the time when the principle or decision referred to in subsection (2)(b) was laid down or made;
- (d) generally accepted principles of competition analysis or the generally accepted application of such principles;
- (e) a principle laid down, or decision made, by the European Court on or after [F<sup>3</sup>IP completion day];
- (f) the particular circumstances under consideration.

(8) In subsection (2)(b), the reference to principles laid down before [F<sup>3</sup>IP completion day] is a reference to such principles as they have effect in EU law immediately before [F<sup>3</sup>IP completion day], disregarding the effect of principles laid down, and decisions made, by the European Court on or after [F<sup>3</sup>IP completion day].

(9) In this section, references to a decision of the European Court or the European Commission include a decision as to—

- (a) the interpretation of a provision of EU law;
- (b) the civil liability of an undertaking for harm caused by its infringement of EU law.”.

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#### Textual Amendments

- F3** Words in reg. 23 substituted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), 5

#### Commencement Information

- I26** Reg. 23 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

#### 24. Omit Parts 2 and 2A <sup>M22</sup>.

#### Commencement Information

- I27** Reg. 24 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

#### Marginal Citations

- M22** Part 2 was substituted, and Part 2A was inserted, by [S.I. 2004/1261](#). There are amendments to those Parts, but none is relevant to these Regulations.

#### 25. In section 72(1) <sup>M23</sup>, omit “, 65 or 65L to 65N”.

#### Commencement Information

- I28** Reg. 25 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

#### Marginal Citations

- M23** Section 72(1) was amended by [S.I. 2004/1261](#).

#### 26.—(1) Section 73 <sup>M24</sup> is amended as follows.

##### (2) In subsection (4)—

- (a) omit “or 65D”;
- (b) in paragraph (a), omit “or (as the case may be) section 65F”;
- (c) in paragraph (b), for “none of sections 28, 28A, 65G and 65H applies” substitute “sections 28 and 28A do not apply”.

##### (3) Omit subsection (6).

##### (4) In subsection (6A), for “subsections (4) and (6)” substitute “subsection (4)”;

##### (5) In subsection (8)—

- (a) in paragraph (a), omit “or 65F”;
- (b) in paragraph (b), for “section 28, 28A, 62, 62A, 63, 65G or 65H” substitute “section 28 or 28A”.

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#### Commencement Information

**I29** Reg. 26 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

#### Marginal Citations

**M24** Section 73 was amended by [S.I. 2004/1261](#).

27. Omit section 75A <sup>M25</sup>.

#### Commencement Information

**I30** Reg. 27 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

#### Marginal Citations

**M25** Section 75A was inserted by [S.I. 2004/1261](#); there are amendments to section 75A, but none is relevant to these Regulations.

28. In Schedule 1, omit Part 2 <sup>M26</sup>.

#### Commencement Information

**I31** Reg. 28 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

#### Marginal Citations

**M26** There is an amendment to Part 2 but it is not relevant to these Regulations.

29.—(1) Schedule 3 is amended as follows.

(2) Omit paragraph 3 <sup>M27</sup> (and the italic heading before it).

[<sup>F4</sup>(3) In paragraph 5(3)—

(a) for paragraph (b) substitute—

“(b) imposed by or under the EU withdrawal agreement or the EEA EFTA separation agreement and having legal effect in the United Kingdom without further enactment (and in this paragraph, “EEA EFTA separation agreement” has the same meaning as in the European Union (Withdrawal Agreement) Act 2020 (see section 39(1) of that Act)).”;

(b) omit paragraph (c).]

#### Textual Amendments

**F4** Reg. 29(3) substituted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), [regs. 1\(1\), 6](#)



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### Commencement Information

**I32** Reg. 29 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

### Marginal Citations

**M27** Paragraph 3 was amended by [S.I. 2007/126](#) and [S.I. 2017/701](#).

- 30.**—(1) Schedule 8A <sup>M28</sup> is amended as follows.
- (2) In paragraph 2(1)—
- (a) at the end of paragraph (a), insert “ and ”;
  - (b) omit paragraphs (c) and (d).
- (3) In paragraph 3—
- (a) in sub-paragraph (1)—
    - (i) at the end of paragraph (a), insert “ and ”;
    - (ii) omit paragraphs (c) and (d);
  - (b) omit sub-paragraph (2);
  - (c) in sub-paragraph (4)—
    - (i) for “Subsections (3) and (4) of section 58A apply” substitute “ Section 58A(3) applies ”;
    - (ii) for “the CMA, a regulator or the Commission” substitute “ the CMA or a regulator ”;
  - (d) omit sub-paragraphs (5) and (6).
- (4) In paragraph 12—
- (a) in sub-paragraph (5), at the end insert “ (“the SME Annex”), subject to sub-paragraph (6) ”;
  - (b) after sub-paragraph (5), insert—
    - “(6) For the purposes of this paragraph, the SME Annex has effect as if—
    - (a) in Article 2(1), for “EUR 50 million and/or an annual balance sheet total not exceeding EUR 43 million” there were substituted “ £44,000,000 and/or an annual balance sheet total not exceeding £38,000,000 ”;
    - (b) in Article 2(2), for “EUR 10 million” there were substituted “ £8,800,000 ”;
    - (c) in Article 2(3), for “EUR 2 million” there were substituted “ £1,750,000 ”;
    - (d) in Article 3(2)(a), for “EUR 1 250 000” there were substituted “ £1,100,000 ”;
    - (e) in Article 3(2)(d), for “EUR 10 million” there were substituted “ £8,800,000 ”;
    - (f) in Article 3(5), for “by national or Community rules” there were substituted “ under the law of the United Kingdom (or any part of it) ”;
    - (g) in Article 5(b), for “national law” there were substituted “ the law of the United Kingdom (or any part of it) ”.”.
- (5) In paragraph 14(1)(a), omit “or the prohibition in Article 101(1)”.
- (6) Omit paragraph 35 (and the italic heading before it).

**Status:** Point in time view as at 31/12/2020. This version of this Instrument contains provisions that are prospective.

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#### Commencement Information

**I33** Reg. 30 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

#### Marginal Citations

**M28** Schedule 8A was inserted by [S.I. 2017/385](#).

**31.**—(1) Schedule 9 is amended as follows.

(2) In paragraph 5(1)(d) <sup>M29</sup>—

- (a) at the end of sub-paragraph (i), insert “ or ”;
- (b) omit sub-paragraph (ii);
- (c) omit sub-paragraph (iv) and the “or” before it.

(3) In paragraph 5(2) <sup>M30</sup>—

- (a) at the end of paragraph (a), insert “ or ”;
- (b) omit paragraph (b);
- (c) omit paragraph (d) and the “or” before it.

(4) In paragraph 8 <sup>M31</sup>, omit sub-paragraph (b);

(5) For the italic heading before paragraph 9 substitute “ *Retained exemptions* ”.

(6) In paragraph 9(a)(i), for “parallel exemption” substitute “retained exemption”.

(7) Omit paragraph 10 and the italic heading before it.

#### Commencement Information

**I34** Reg. 31 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

#### Marginal Citations

**M29** Paragraph 5(1)(d) was substituted by [S.I. 2004/1261](#) and subsequently amended by paragraph 58(1) and (4) of Schedule 5 to the Enterprise and Regulatory Reform Act 2013 and [S.I. 2012/1809](#).

**M30** Paragraph 5(2) was substituted by [S.I. 2004/1261](#) and subsequently amended by paragraph 58(1) and (4) of Schedule 5 to the Enterprise and Regulatory Reform Act 2013 and [S.I. 2012/1809](#).

**M31** Paragraph 8 was substituted by [S.I. 2004/1261](#).

## PART 3

### Amendment of the Enterprise Act 2002

**32.** The Enterprise Act 2002 <sup>M32</sup> is amended as follows.

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**Commencement Information**

**I35** Reg. 32 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

**Marginal Citations**

**M32** [2002 c. 40.](#)

- 33.** In section 16(6) <sup>M33</sup>, for the definition of “infringement issue” substitute—  
““infringement issue” means any question relating to whether or not an infringement of the Chapter I prohibition or the Chapter II prohibition has been or is being committed;”.

**Commencement Information**

**I36** Reg. 33 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

**Marginal Citations**

**M33** The definition of “infringement issue” in section 16(6) was amended by [S.I. 2012/1809](#).

- 34.**—(1) Section 22 <sup>M34</sup> is amended as follows.  
(2) In subsection (3)—  
(a) at the end of paragraph (c), insert “ or ”;  
(b) omit paragraphs (e) and (f).  
(3) Omit subsection (3A).

**Commencement Information**

**I37** Reg. 34 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

**Marginal Citations**

**M34** Section 22 was amended by section 406(7) of, and Schedule 19 to, the [Communications Act 2003 \(c. 21\)](#), [paragraphs 59 and 67 of Schedule 5](#), and paragraphs 1 and 2 of Schedule 8, to the Enterprise and Regulatory Reform Act 2013 and [S.I. 2004/1079](#); there are other amendments to section 22 but none is relevant to these Regulations.

- 35.** In section 25 <sup>M35</sup>—  
(a) omit subsections (6), (7) and (8);  
(b) in subsection (10)(b), for “subsections (2), (4) and (6)” substitute “ subsections (2) and (4) ”.

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#### Commencement Information

**I38** Reg. 35 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

#### Marginal Citations

**M35** Section 25 was amended by paragraphs 59 and 70 of Schedule 5 to the Enterprise and Regulatory Reform Act 2013 and [S.I. 2004/1079](#); there are other amendments to section 25 but none is relevant to these Regulations.

- 36.**—(1) Section 33 <sup>M36</sup> is amended as follows.
- (2) In subsection (3)—
- (a) at the end of paragraph (c), insert “ or ”;
  - (b) omit paragraphs (e) and (f).
- (3) Omit subsection (3A).

#### Commencement Information

**I39** Reg. 36 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

#### Marginal Citations

**M36** Section 33 was amended by section 406(7) of, and Schedule 19 to, the Communications Act 2003, paragraphs 59 and 72 of Schedule 5, and paragraphs 1 and 3 of Schedule 8, to the Enterprise and Regulatory Reform Act 2013 and [S.I. 2004/1079](#); there are other amendments to section 33 but none is relevant to these Regulations.

- 37.** In section 34(1)(b), for “, 59(2) or 67(2)” substitute “ or 59(2) ”.

#### Commencement Information

**I40** Reg. 37 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

- 38.** In section 34ZA <sup>M37</sup>, omit subsection (5).

#### Commencement Information

**I41** Reg. 38 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

#### Marginal Citations

**M37** Sections 34ZA to 34ZC were inserted by paragraphs 1 and 4 of Schedule 8 to the Enterprise and Regulatory Reform Act 2013.

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39. In section 34ZB, omit subsections (5) and (8).

#### Commencement Information

**I42** Reg. 39 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

40.—(1) Section 34ZC is amended as follows.

(2) In subsection (1), for “subsections (1), (4) or (5)” substitute “ subsections (1) or (4) ”.

(3) In subsection (3), for “section 34ZB(1), (4), or (5)” substitute “ section 34ZB(1) or (4) ”.

(4) In subsection (4)(b), for “one or more of subsections (1) and (5)” substitute “ subsection (1) ”.

#### Commencement Information

**I43** Reg. 40 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

41. Omit section 34A <sup>M38</sup> (and the italic heading before it).

#### Commencement Information

**I44** Reg. 41 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

#### Marginal Citations

**M38** Section 34A was inserted by [S.I. 2004/1079](#) and subsequently amended by paragraphs 59 and 73 of Schedule 5, and paragraphs 15 and 19 of Schedule 15, to the Enterprise and Regulatory Reform Act 2013 and by [S.I. 2011/1043](#).

42.—(1) Section 42 <sup>M39</sup> is amended as follows.

(2) In subsection (1)(d)—

(a) in sub-paragraph (i)—

(i) for “section 22(3)(za), (a) or (e)” substitute “ section 22(3)(za) or (a) ”;

(ii) for “33(3)(za), (a) or (e)” substitute “ 33(3)(za) or (a) ”;

(b) omit sub-paragraph (ii) and the “or” before it.

(3) In subsection (6)—

(a) in paragraph (b), omit “, (6) and (8)”;

(b) in paragraph (f), for “after the word “(4)” there were inserted “, (5A)”” substitute “for “ and (4) ” there were substituted “, (4) and (5A)””.

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#### Commencement Information

**I45** Reg. 42 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

#### Marginal Citations

**M39** Section 42 was amended by paragraphs 59 and 82 of Schedule 5, and paragraphs 15 and 21 of Schedule 15, to the Enterprise and Regulatory Reform Act 2013, [S.I. 2004/1079](#) and [S.I. 2011/1043](#).

**43.** In section 46 <sup>M40</sup>—

- (a) in subsection (1), omit paragraphs (b) and (c);
- (b) omit subsection (1A).

#### Commencement Information

**I46** Reg. 43 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

#### Marginal Citations

**M40** Section 46 was amended by section 406(7) of, and Schedule 19 to, the Communications Act 2003, paragraphs 59 and 86 of Schedule 5 to, and paragraphs 15 and 22 of Schedule 15 to, the Enterprise and Regulatory Reform Act 2013 and [S.I. 2004/1079](#).

**44.** Omit sections 46A <sup>M41</sup> and 46B (and the italic heading before section 46A).

#### Commencement Information

**I47** Reg. 44 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

#### Marginal Citations

**M41** Sections 46A and 46B were inserted by [S.I. 2004/1079](#) and subsequently amended by paragraphs 59 and 87 of Schedule 5, and paragraphs 15 and 23 of Schedule 15, to the Enterprise and Regulatory Reform Act 2013 and by [S.I. 2011/1043](#).

**45.** In section 58 <sup>M42</sup>—

- (a) in subsection (2), omit the words from “; and in this subsection” to the end;
- (b) in subsection (2D), omit the words from “(other than” to the end.

#### Commencement Information

**I48** Reg. 45 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

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### Marginal Citations

**M42** Section 58(2) was amended by [S.I. 2004/1079](#) and subsection (2D) of that section was inserted by [S.I. 2008/2645](#); there are other amendments to section 58 but none is relevant to these Regulations.

46. In section 59(6)(c) <sup>M43</sup>, omit “, (6) and (8)”.

### Commencement Information

**I49** Reg. 46 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

### Marginal Citations

**M43** Section 59(6) was amended by paragraphs 59 and 101 of Schedule 5, and paragraphs 15 and 26 of Schedule 15, to the Enterprise and Regulatory Reform Act 2013; there are other amendments to section 59 but none is relevant to these Regulations.

47. Omit sections 67 <sup>M44</sup> and 68 <sup>M45</sup> (and the italic heading before section 67).

### Commencement Information

**I50** Reg. 47 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

### Marginal Citations

**M44** Section 67 was amended by paragraph 16 of Schedule 16 to, and section 406(7) of, and Schedule 19 to, the Communications Act 2003, paragraphs 59 and 110 of Schedule 5, and paragraphs 15 and 28 of Schedule 15 to, the Enterprise and Regulatory Reform Act 2013, [S.I. 2004/1079](#) and [S.I. 2011/1043](#).

**M45** Section 68 was amended by paragraph 17 of Schedule 16 to, and section 406(7) of, and Schedule 19 to, the Communications Act 2003, paragraphs 59 and 111 of Schedule 5, and paragraphs 15 and 29 of Schedule 15 to the Enterprise and Regulatory Reform Act 2013 and by [S.I. 2004/1079](#) and [S.I. 2011/1043](#).

48. In section 73A(1) <sup>M46</sup>, omit paragraph (b) and the “or” before it.

### Commencement Information

**I51** Reg. 48 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

### Marginal Citations

**M46** Section 73A was inserted by paragraphs 1 and 7 of Schedule 8 to the Enterprise and Regulatory Reform Act 2013.

[<sup>F5</sup>48A. After section 95 insert—

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### *“Transferred EU merger commitments*

#### **Transferred EU merger commitments**

- (1) The CMA must—
  - (a) monitor compliance with transferred EU merger commitments; and
  - (b) take such action (if any) under subsection (3) or section 95B as it considers appropriate.
- (2) Any person to whom transferred EU merger commitments relate has a duty to comply with those commitments.
- (3) Compliance with transferred EU merger commitments is enforceable by civil proceedings brought by the CMA for an injunction or for interdict or for any other appropriate relief or remedy.
- (4) The rights of the CMA under subsection (3) are not affected by any provisions of transferred EU merger commitments which provide for disputes relating to compliance with the commitments to be resolved by arbitration.
- (5) The CMA must ensure that the provisions of transferred EU merger commitments are entered and kept up to date in the register referred to in section 91.
- (6) In this Part “transferred EU merger commitments” means EU merger commitments—
  - (a) which are the subject of an Article 95(2) transfer decision (and, where those commitments are modified by, or as contemplated by, that decision or by a later Article 95(2) transfer decision, means those commitments as so modified); and
  - (b) which have not been waived or substituted by the European Commission.
- (7) In this section—
 

“Article 95(2) transfer decision” means an instrument issued by the European Commission in accordance with Article 95(2) of the EU withdrawal agreement transferring responsibility for the monitoring and enforcement of EU merger commitments to the CMA;

“EU merger commitments” means commitments attached to a decision adopted by the European Commission under Article 6(1)(b) and (2) or 8(2) of Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings.
- (8) So far as the context permits or requires, transferred EU merger commitments are to be treated for the purposes of this Part as if—
  - (a) any reference to the area of the European Union or of the European Economic Area included the United Kingdom;
  - (b) any reference to the internal market included the United Kingdom;
  - (c) any reference to a member State included the United Kingdom;
  - (d) any reference to a party to the EEA agreement included the United Kingdom.
- (9) Subsection (8) is subject to any different provision made by the Article 95(2) transfer decision in question.

#### **Power of directions in connection with transferred EU merger commitments**

- (1) The CMA may give directions falling within subsection (2) to—
  - (a) a person specified in the directions; or



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- (b) the holder for the time being of an office so specified in any body of persons corporate or unincorporate.
- (2) Directions fall within this subsection if they are directions—
  - (a) to take such action as may be specified or described in the directions for the purpose of carrying out, or ensuring compliance with, transferred EU merger commitments; or
  - (b) to do, or refrain from doing, anything so specified or described which the person is required by transferred EU merger commitments to do or refrain from doing.
- (3) The CMA may vary or revoke any directions so given.
- (4) Directions under this section may extend to a person’s conduct outside the United Kingdom if (and only if) the person is—
  - (a) a person bound by the transferred EU merger commitments concerned;
  - (b) a United Kingdom national;
  - (c) a body incorporated under the law of the United Kingdom or of any part of the United Kingdom; or
  - (d) a person carrying on business in the United Kingdom.
- (5) The court may by order require any person who has failed to comply with directions given under this section to comply with them, or otherwise remedy the failure, within such time as may be specified in the order.
- (6) Where the directions related to anything done in the management or administration of a body of persons corporate or unincorporate, the court may by order require the body of persons concerned or any officer of it to comply with the directions, or otherwise remedy the failure to comply with them, within such time as may be specified in the order.
- (7) An order under subsection (5) or (6) may only be made on the application of the CMA.
- (8) An order under subsection (5) or (6) may provide for all the costs or expenses of, or incidental to, the application for the order to be met by any person in default or by any officers of a body of persons corporate or unincorporate who are responsible for its default.
- (9) In this section “the court” means—
  - (a) in relation to England and Wales or Northern Ireland, the High Court; and
  - (b) in relation to Scotland, the Court of Session.”.]

#### Textual Amendments

**F5** Reg. 48A inserted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **8**

#### Commencement Information

**I52** Reg. 48A in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

- 49.** In section 99(5)—
- (a) at the end of paragraph (b), insert “ or ”;
  - (b) omit paragraph (d) <sup>M47</sup> and the “or” before it.

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#### Commencement Information

**I53** Reg. 49 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

#### Marginal Citations

**M47** Section 99(5) was amended by paragraphs 59 and 133 of Schedule 5, paragraphs 1 and 8 of Schedule 8, and paragraphs 15 and 35 of Schedule 15, to the Enterprise and Regulatory Reform Act 2013 and by [S.I. 2004/1079](#).

**50.** In section 107(1) <sup>M48</sup>, omit paragraphs (ae), (af), (ag) and (ah).

#### Commencement Information

**I54** Reg. 50 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

#### Marginal Citations

**M48** Paragraphs (ae), (af), (ag) and (ah) were inserted by paragraphs 15 and 36 of Schedule 15 to the Enterprise and Regulatory Reform Act 2013; there are other amendments to section 107(1) but none is relevant to these Regulations.

[<sup>F6</sup>**50A.** After section 109 insert—

**“Transferred EU merger commitments: witnesses, documents etc**

Any power exercisable by the CMA under section 109 for “permitted purposes” (as mentioned in subsection (A1) of that section) is also exercisable by the CMA under that section for the purposes of assisting the CMA in carrying out any of its functions under or by virtue of section 95A(1) or 95B.”.

#### Textual Amendments

**F6** Regs. 50A, 50B inserted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), [regs. 1\(1\), 9](#)

#### Commencement Information

**I55** Reg. 50A in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

**50B.** In section 110A, after subsection (8) insert—

“(9) Where the section 109 power is exercised for the purposes of assisting the CMA in carrying out any of its functions under or by virtue of section 95A(1) or 95B (see section 109A), the relevant day is the day when the transferred EU merger commitments concerned are waived or substituted by the European Commission.”.]

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### Textual Amendments

**F6** Regs. 50A, 50B inserted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **9**

### Commencement Information

**I56** Reg. 50B in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

**51.**—(1) Section 110B <sup>M49</sup> is amended as follows.

- (2) In subsection (1), omit paragraph (e).
- (3) In subsection (2), omit paragraph (e).
- (4) In subsection (3), omit paragraph (d).
- (5) In subsection (4), omit paragraph (d).

### Commencement Information

**I57** Reg. 51 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

### Marginal Citations

**M49** Section 110B was inserted by section 29(11) of the Enterprise and Regulatory Reform Act 2013.

[<sup>F7</sup>**51A.**—(1) Section 120 is amended as follows.

(2) In subsection (1), for the words from “of the CMA” to “special merger situation” substitute “mentioned in subsection (1A)”.

(3) After subsection (1) insert—

“(1A) The decisions are—

- (a) a decision of the CMA, OFCOM or the Secretary of State under this Part in connection with a reference or possible reference in relation to a relevant merger situation or a special merger situation;
- (b) a decision of the CMA under this Part in connection with transferred EU merger commitments.”.

(4) In subsection (2)(b), after “a reference or possible reference” insert “or transferred EU merger commitments”.]

### Textual Amendments

**F7** Reg. 51A inserted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **10**

### Commencement Information

**I58** Reg. 51A in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

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**52.** Omit section 122 <sup>M50</sup>.

**Commencement Information**

**I59** Reg. 52 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see [reg. 1\(1\)](#)

**Marginal Citations**

**M50** Section 122 was amended by [S.I. 2004/1079](#), [S.I. 2011/1043](#) and paragraphs 59 and 157 of Schedule 5 to the Enterprise and Regulatory Reform Act 2013.

**53.—**(1) Section 124 <sup>M51</sup> is amended as follows.

- (2) In subsection (4), omit “68,”.
- (3) In subsection (5), for “, 59(5) and 67(7)” substitute “ and 59(5) ”.
- (4) In subsection (6), omit “68,”.

**Commencement Information**

**I60** Reg. 53 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see [reg. 1\(1\)](#)

**Marginal Citations**

**M51** Section 124 was amended by paragraph 24 of Schedule 16 to the Communications Act 2003, section 31 of, and paragraphs 1 and 13 of Schedule 8 to, the Enterprise and Regulatory Reform Act 2013.

**54.** In section 129(1) <sup>M52</sup>—

- (a) omit the definition of “EU law”;
- (b) omit the definition of “the EC Merger Regulation”.

**Commencement Information**

**I61** Reg. 54 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see [reg. 1\(1\)](#)

**Marginal Citations**

**M52** The definition of “the EC Merger Regulation” was inserted by [S.I. 2004/1079](#) and the definition of “EU law” was amended by [S.I. 2011/1043](#); there are other amending instruments, but none is relevant to these Regulations.

**55.** In section 130 <sup>M53</sup>, in the table—

- (a) omit the entry for “EU law”;
- (b) omit the entry for “EC Merger Regulation”;

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(c) in the entry for “Public interest consideration”, in the second column, for “Sections 42(3) and 67(9)” substitute “ Section 42(3) ”.

[<sup>F8</sup>(d) after the entry for “The supply of services (and a market for services etc)” insert—

“Transferred EU merger commitments      Section 95A(6)”]

#### Textual Amendments

**F8** Reg. 55(d) inserted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **11**

#### Commencement Information

**I62** Reg. 55 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

#### Marginal Citations

**M53** The entry for “EC Merger Regulation” was inserted by [S.I. 2004/1079](#) and the entry for “EU law” was amended by [S.I. 2011/1043](#); there are other amendments to section 130 but none is relevant to these Regulations.

**56.** In section 153(2) <sup>M54</sup>, omit the words from “; and in this subsection” to the end.

#### Commencement Information

**I63** Reg. 56 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

#### Marginal Citations

**M54** Section 153(2) was amended by [S.I. 2004/1079](#).

**57.** In section 171 <sup>M55</sup>, omit subsections (6) and (11).

#### Commencement Information

**I64** Reg. 57 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

#### Marginal Citations

**M55** Section 171(6) was amended by paragraphs 59 and 201 of Schedule 5 to the Enterprise and Regulatory Reform Act 2013 and [S.I. 2011/1043](#); subsection (11) of that section was also amended by [S.I. 2011/1043](#).

**58.** Omit section 209 <sup>M56</sup>.

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**Commencement Information**

**I65** Reg. 58 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

**Marginal Citations**

**M56** Section 209 was amended by [S.I. 2011/1043](#) and [S.I. 2012/1809](#).

**59.** Omit section 240 <sup>M57</sup>.

**Commencement Information**

**I66** Reg. 59 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

**Marginal Citations**

**M57** Section 240 was amended by [S.I. 2011/1043](#).

## **PART 4**

### Amendment of other primary legislation

**60.** Schedule 1 (which amends other primary legislation) has effect.

**Commencement Information**

**I67** Reg. 60 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

## **PART 5**

### Amendment of subordinate legislation

**61.** Schedule 2 (which amends subordinate legislation) has effect.

**Commencement Information**

**I68** Reg. 61 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

## PART 6

### Amendment of retained EU law

#### Cessation of Treaty Rights and Obligations

**62.** Any rights, powers, liabilities, obligations, restrictions, remedies and procedures which—

- (a) continue by virtue of section 4(1) of the European Union (Withdrawal) Act 2018; and
- (b) are derived from Articles 101, 102, 106(1) or 106(2) of the Treaty of the Functioning of the European Union or from Articles 53, 54, 57(1), 59(1) or 59(2) of the EEA Agreement

cease to be recognised and available in domestic law (and to be enforced, allowed and followed accordingly) on the coming into force of these Regulations.

#### Commencement Information

**I69** Reg. 62 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(1)

#### Amendment of retained direct EU legislation

**63.** In Schedule 3—

- (a) Part 1 revokes certain retained direct EU legislation;
- (b) Part 2 amends certain retained EU Regulations.

#### Commencement Information

**I70** Reg. 63 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(1)

## PART 7

### Saving and transitional provision

**64.** Schedule 4 (which makes saving and transitional provision) has effect.

#### Commencement Information

**I71** Reg. 64 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(1)

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We consent to the making of these Regulations

*Rebecca Harris*  
*Paul Maynard*  
Two of the Lords Commissioners of Her  
Majesty's Treasury

Department for Business, Energy and Industrial  
Strategy

*Kelly Tolhurst*  
Minister for Small Business, Consumers and  
Corporate Responsibility



## SCHEDULE 1

Regulation 60

### Amendment of other primary legislation

#### Company Directors Disqualification Act 1986

1.—(1) Section 9A of the Company Directors Disqualification Act 1986 <sup>M58</sup> is amended as follows.

(2) In subsection (4)—

(a) for “any of the following” substitute “ either of the following ”;

(b) omit paragraphs (c) and (d).

(3) In subsection (8), omit “or (c)”.

(4) In subsection (11), for the words from “Section 60” to “law” substitute “ Section 60A of the Competition Act 1998 (certain principles etc to be considered or applied from [<sup>F9</sup>IP completion day] ) ”.

#### Textual Amendments

**F9** Words in Sch. 1 para. 1(4) substituted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **13**

#### Commencement Information

**I72** Sch. 1 para. 1 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

#### Marginal Citations

**M58** [1986 c. 46](#); section 9A was inserted by section 204(1) and (2) of the Enterprise Act 2002 and subsequently amended by [S.I. 2012/1809](#).

#### Gas Act 1986

2.—(1) Section 36A(3) of the Gas Act 1986 <sup>M59</sup> is amended as follows.

[<sup>F10</sup>(2) At the end of paragraph (b), insert “or”.

(3) For paragraphs (c) and (d) substitute—

“(c) transferred EU anti-trust commitments or transferred EU anti-trust directions (as defined in section 40ZA of that Act),”].

#### Textual Amendments

**F10** Sch. 1 para. 2(2)(3) substituted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **14**

#### Commencement Information

**I73** Sch. 1 para. 2 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

#### Marginal Citations

**M59** [1986 c. 44](#); section 36A was inserted by paragraph 43 of Schedule 3 to the [Gas Act 1995 \(c. 45\)](#); subsection (3) was substituted by section 54(2) and paragraph 3(5) of Schedule 10 to the [Competition](#)

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Act 1998 (c. 41), further substituted by S.I. 2004/1261, and subsequently amended paragraph 2 of Schedule 15 to the Enterprise and Regulatory Reform Act 2013 and by S.I. 2014/892.

### Electricity Act 1989

3.—(1) Section 43(3) of the Electricity Act 1989 <sup>M60</sup> is amended as follows.

[<sup>F11</sup>(2) At the end of paragraph (b), insert “or”.

(3) For paragraphs (c) and (d) substitute—

“(c) transferred EU anti-trust commitments or transferred EU anti-trust directions (as defined in section 40ZA of that Act),”].

#### Textual Amendments

**F11** Sch. 1 para. 3(2)(3) substituted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **15**

#### Commencement Information

**I74** Sch. 1 para. 3 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

#### Marginal Citations

**M60** [1989 c. 29](#); section 43(3) was substituted by section 54(2) and paragraph 4(5) of Schedule 10 to the [Competition Act 1998 \(c.41\)](#), further substituted by [S.I. 2004/1261](#), and subsequently amended by section 147(1) and (5) of the [Energy Act 2004 \(c. 20\)](#), [paragraph 3](#) of Schedule 15 to the Enterprise and Regulatory Reform Act 2013, and by [S.I. 2012/1809](#) and [S.I. 2014/892](#).

### Water Industry Act 1991

4.—(1) Section 31(3) of the Water Industry Act 1991 <sup>M61</sup> is amended as follows.

[<sup>F12</sup>(2) At the end of paragraph (b), insert “or”.

(3) For paragraphs (c) and (d) substitute—

“(c) transferred EU anti-trust commitments or transferred EU anti-trust directions (as defined in section 40ZA of that Act),”].

#### Textual Amendments

**F12** Sch. 1 para. 4(2)(3) substituted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **16**

#### Commencement Information

**I75** Sch. 1 para. 4 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

#### Marginal Citations

**M61** [1991 c. 56](#); section 31(3) was substituted by [S.I. 2004/1261](#) and subsequently amended by section 36(3) of the [Water Act 2003 \(c.37\)](#), [paragraphs 4](#) and [5](#) of Schedule 15 to the Enterprise and Regulatory Reform Act 2013, and by [S.I. 2012/1809](#) and [S.I. 2014/892](#).

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## Electricity (Northern Ireland) Order 1992

5.—(1) Article 46(3) of the Electricity (Northern Ireland) Order 1992<sup>M62</sup> is amended as follows.

[<sup>F13</sup>(2) At the end of sub-paragraph (b), insert “or”.

(3) For sub-paragraphs (c) and (d) substitute—

“(c) transferred EU anti-trust commitments or transferred EU anti-trust directions (as defined in section 40ZA of that Act),”].

### Textual Amendments

**F13** Sch. 1 para. 5(2)(3) substituted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), 17

### Commencement Information

**I76** Sch. 1 para. 5 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

### Marginal Citations

**M62** [S.I. 1992/231 \(N.I. 1\)](#); relevant amending instruments are [S.I. 2004/1261](#), 2014/892, [S.R. 2011 No. 155](#), and paragraph 53 of Schedule 15 to the Enterprise and Regulatory Reform Act 2013.

## Railways Act 1993

6.—(1) Section 67(3) of the Railways Act 1993<sup>M63</sup> is amended as follows.

[<sup>F14</sup>(2) At the end of paragraph (b), insert “or”.

(3) For paragraphs (c) and (d) substitute—

“(c) transferred EU anti-trust commitments or transferred EU anti-trust directions (as defined in section 40ZA of that Act),”].

### Textual Amendments

**F14** Sch. 1 para. 6(2)(3) substituted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), 18

### Commencement Information

**I77** Sch. 1 para. 6 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

### Marginal Citations

**M63** [1993 c. 43](#); section 67(3) was substituted by section 54(2) and paragraph 6(5) of Schedule 10 to the Competition Act 1998, further substituted by [S.I. 2004/1261](#), and subsequently amended by paragraph 7 of Schedule 15 to the Enterprise and Regulatory Reform Act 2013 and by [S.I. 2012/1809](#), [S.I. 2014/892](#) and [S.I. 2015/1682](#).

## Gas (Northern Ireland) Order 1996

7.—(1) Article 23(3) of the Gas (Northern Ireland) Order 1996<sup>M64</sup> is amended as follows.

[<sup>F15</sup>(2) At the end of sub-paragraph (b), insert “or”.

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(3) For sub-paragraphs (c) and (d) substitute—

“(c) transferred EU anti-trust commitments or transferred EU anti-trust directions (as defined in section 40ZA of that Act),”].

#### Textual Amendments

**F15** Sch. 1 para. 7(2)(3) substituted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **19**

#### Commencement Information

**I78** Sch. 1 para. 7 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

#### Marginal Citations

**M64** [S.I. 1996/275 \(N.I. 2\)](#); relevant amending instruments are [S.I. 2004/1261](#), 2014/892, and paragraph 54 of Schedule 15 to the Enterprise and Regulatory Reform Act 2013.

### Financial Services and Markets Act 2000

**8.**—(1) Section 234J(2) of the Financial Services and Markets Act 2000 <sup>M65</sup> is amended as follows.

[<sup>F16</sup>(2) At the end of paragraph (b), insert “and”.

(3) For paragraphs (c) and (d) substitute—

“(c) transferred EU anti-trust commitments or transferred EU anti-trust directions (as defined in section 40ZA of that Act),”].

#### Textual Amendments

**F16** Sch. 1 para. 8(2)(3) substituted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **20**

#### Commencement Information

**I79** Sch. 1 para. 8 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

#### Marginal Citations

**M65** [2000 c. 8](#); section 234J was inserted by paragraphs 1 and 3 of Schedule 8 to the [Financial Services \(Banking Reform\) Act 2013 \(c.33\)](#) and subsection (2) of section 234J is to be amended by section 27 of the [Financial Guidance and Claims Act 2018 \(c. 10\)](#) from a date to be appointed.

### Transport Act 2000

**9.**—(1) The Transport Act 2000 <sup>M66</sup> is amended as follows.

[<sup>F17</sup>(2) In section 86(3)—

(a) at the end of paragraph (b), insert “or”;

(b) for paragraphs (c) and (d) substitute—

“(c) transferred EU anti-trust commitments or transferred EU anti-trust directions,”.]

**Status:** Point in time view as at 31/12/2020. This version of this Instrument contains provisions that are prospective.

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to *The Competition (Amendment etc.) (EU Exit) Regulations 2019*. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

- (3) In Schedule 9 <sup>M67</sup>—
- (a) in paragraph 3(1), omit paragraph (k);
  - (b) in paragraph 3(3), omit paragraph (s).
- (4) In Schedule 10, in paragraph 23(2)(a) <sup>M68</sup>, for “and 11” substitute “ and 10A ”.

#### Textual Amendments

**F17** Sch. 1 para. 9(2) substituted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **21**

#### Commencement Information

**I80** Sch. 1 para. 9 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

#### Marginal Citations

**M66** [2000 c. 38](#).

**M67** Paragraph 3(1)(k) and (3)(s) of Schedule 9 were amended by [S.I. 2011/1043](#); there are other amendments to paragraph 3(1) and (3) but none is relevant to these Regulations.

**M68** Part 2 of Schedule 10 was inserted by paragraphs 1 and 15 of Schedule 2 to the [Local Transport Act 2008 \(c. 26\)](#) and paragraph 23 was subsequently amended by [S.I. 2017/385](#).

### Company Directors Disqualification (Northern Ireland) Order 2002

**10.**—(1) Article 13A of the Company Directors Disqualification (Northern Ireland) Order 2002 <sup>M69</sup> is amended as follows.

- (2) In paragraph (4)—
- (a) for “any of the following” substitute “ either of the following ”;
  - (b) omit sub-paragraphs (c) and (d).
- (3) In paragraph (8), omit “or (c)”.
- (4) In paragraph (11), for the words from “Section 60” to “law)” substitute “ Section 60A of the Competition Act 1998 (certain principles etc to be considered or applied from [<sup>F18</sup>IP completion day]) ”.

#### Textual Amendments

**F18** Words in Sch. 1 para. 10(4) substituted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **22**

#### Commencement Information

**I81** Sch. 1 para. 10 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

#### Marginal Citations

**M69** [S.I. 2002/3150 \(N.I. 4\)](#); article 13A was inserted by [S.I. 2005/1454 \(N.I. 9\)](#) and subsequently amended by [S.I. 2014/892](#).

*Status: Point in time view as at 31/12/2020. This version of this Instrument contains provisions that are prospective.*

*Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Competition (Amendment etc.) (EU Exit) Regulations 2019. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

## Communications Act 2003

11.—(1) The Communications Act 2003<sup>M70</sup> is amended as follows.

[<sup>F19</sup>(2) In section 371(2)—

- (a) at the end of paragraph (b), insert “or”;
- (b) for paragraphs (c) and (d) substitute—

“(c) transferred EU anti-trust commitments or transferred EU anti-trust directions (as defined in section 40ZA of that Act),”.]

(3) Paragraph 6 of Schedule 11<sup>M71</sup> is amended as follows.

(4) In sub-paragraph (6), at the beginning insert “ Subject to paragraph 6A, ”.

(5) In sub-paragraph (7)(a)—

- (a) after “European Court” insert “before [<sup>F20</sup>IP completion day]”, and
- (b) for “of that court” substitute “ made by that court before [<sup>F20</sup>IP completion day]”.

(6) After sub-paragraph (7) insert—

“(7A) In sub-paragraph (7)(a), the reference to principles laid down before [<sup>F21</sup>IP completion day] is a reference to such principles as they have effect in EU law immediately before [<sup>F21</sup>IP completion day], disregarding the effect of principles laid down, and decisions made, by the European Court on or after [<sup>F21</sup>IP completion day].”.

(7) After that paragraph insert—

### “Competition tests applying to OFCOM's decisions: EU principles etc

6A.—(1) Paragraph 6(6) does not require OFCOM to secure that there is no inconsistency with a principle or decision referred to in paragraph 6(7)(a)—

- (a) so far as the principle or decision is excluded from the law of England and Wales, Scotland and Northern Ireland on or after [<sup>F22</sup>IP completion day], or
- (b) so far as doing so would be incompatible with OFCOM's duty to secure that there is no inconsistency with a decision referred to in paragraph 6(7)(b).

(2) For the purposes of sub-paragraph (1)(a), a principle or decision is to be treated as not excluded from the law of England and Wales, Scotland and Northern Ireland if it is excluded only by virtue of an exclusion or revocation in the Competition (Amendment etc.) (EU Exit) Regulations 2019.

(3) Paragraph 6(6) does not require OFCOM to secure that there is no inconsistency with a principle or decision referred to in paragraph 6(7)(a) if OFCOM think that it is appropriate to act otherwise in the light of one or more of the following—

- (a) differences between the competition tests and Article 101 of the Treaty on the Functioning of the European Union as it had effect immediately before [<sup>F22</sup>IP completion day];
- (b) differences between markets in the United Kingdom and markets in the European Union;
- (c) developments in forms of economic activity since the time when the principle or decision referred to in paragraph 6(7)(a) was laid down or made;
- (d) generally accepted principles of competition analysis or the generally accepted application of such principles;

**Status:** Point in time view as at 31/12/2020. This version of this Instrument contains provisions that are prospective.

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to *The Competition (Amendment etc.) (EU Exit) Regulations 2019*. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

- (e) a principle laid down, or decision made, by the European Court on or after [F22IP completion day];
- (f) the particular circumstances under consideration.”.

#### Textual Amendments

- F19** Sch. 1 para. 11(2) substituted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **23(2)**
- F20** Words in Sch. 1 para. 11(5) substituted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **23(3)**
- F21** Words in Sch. 1 para. 11(6) substituted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **23(4)**
- F22** Words in Sch. 1 para. 11(7) substituted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **23(5)**

#### Commencement Information

- I82** Sch. 1 para. 11 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

#### Marginal Citations

- M70** [2003 c. 21](#).
- M71** Paragraph 6 of Schedule 11 was amended by [S.I. 2012/1809](#) and [S.I. 2014/892](#).

### Water and Sewerage Services (Northern Ireland) Order 2006

**12.**—(1) Article 29(3) of the Water and Sewerage Services (Northern Ireland) Order 2006 <sup>M72</sup> is amended as follows.

[F23(2) At the end of sub-paragraph (b), insert “or”.

(3) For sub-paragraphs (c) and (d) substitute—

“(c) transferred EU anti-trust commitments or transferred EU anti-trust directions (as defined in section 40ZA of that Act),”].

#### Textual Amendments

- F23** Sch. 1 para. 12(2)(3) substituted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **24**

#### Commencement Information

- I83** Sch. 1 para. 12 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

#### Marginal Citations

- M72** [S.I. 2006/3336 \(N.I. 21\)](#), amended by [S.I. 2014/892](#); there are other amending instruments but none is relevant.

### Health and Social Care Act 2012

[F24**13.** In section 72(2) of the Health and Social Care Act 2012, for paragraphs (c) and (d) substitute—

*Status: Point in time view as at 31/12/2020. This version of this Instrument contains provisions that are prospective.*

*Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Competition (Amendment etc.) (EU Exit) Regulations 2019. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

“(c) transferred EU anti-trust commitments or transferred EU anti-trust directions (as defined in section 40ZA of that Act).”.]

#### Textual Amendments

**F24** Sch. 1 para. 13 substituted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **25**

#### Commencement Information

**I84** Sch. 1 para. 13 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

### Civil Aviation Act 2012

**14.**—(1) The Civil Aviation Act 2012 <sup>M73</sup> is amended as follows.

(2) In section 6—

- (a) omit subsection (9)(a);
- (b) omit subsection (10)(a);
- (c) in subsection (10)(b), omit “and Articles 101 and 102 of the TFEU”;
- (d) omit subsection (11).

[<sup>F25</sup>(2A) In section 62(2)(a), for “(d)”, substitute “(c)”.]

[<sup>F26</sup>(3) In section 62(3)—

- (a) at the end of paragraph (b), insert “or”;
- (b) for paragraphs (c) and (d), substitute—
  - “(c) transferred EU anti-trust commitments or transferred EU anti-trust directions (as defined in section 40ZA of that Act).”.]

#### Textual Amendments

**F25** Sch. 1 para. 14(2A) inserted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **26(a)**

**F26** Sch. 1 para. 14(3) substituted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **26(b)**

#### Commencement Information

**I85** Sch. 1 para. 14 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

#### Marginal Citations

**M73** [2012 c. 19](#).

### Financial Services (Banking Reform) Act 2013

**15.**—(1) Section 61(2) of the Financial Services (Banking Reform) Act 2013 <sup>M74</sup> is amended as follows.

[<sup>F27</sup>(2) At the end of paragraph (b), insert “and”.

(3) For paragraphs (c) and (d) substitute—



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“(c) transferred EU anti-trust commitments or transferred EU anti-trust directions (as defined in section 40ZA of that Act).”].

#### Textual Amendments

**F27** Sch. 1 para. 15(2)(3) substituted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **27**

#### Commencement Information

**I86** Sch. 1 para. 15 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

#### Marginal Citations

**M74** [2013 c. 33](#).

## SCHEDULE 2

Regulation 61

### Amendment of subordinate legislation

## PART 1

### Amendment of subordinate legislation made under the Competition Act 1998

#### Competition Act 1998 (Small Agreements and Conduct of Minor Significance) Regulations 2000

1.—(1) The Schedule to the Competition Act 1998 (Small Agreements and Conduct of Minor Significance) Regulations 2000 <sup>M75</sup> is amended as follows.

(2) In paragraph 1—

- (a) in the definition of “financial institution”, for “EEA” substitute “United Kingdom”;
- (b) for the definition of “insurance undertaking” substitute—

““insurance undertaking” means—

- (a) an insurance undertaking carrying on the business of direct insurance of a class set out in Article 2 of, or Annex 1 to, Directive [2009/138/EC](#) of the European Parliament and Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) <sup>M76</sup>;
  - (b) a reinsurance undertaking; or
  - (c) a third-country reinsurance undertaking;”;
- (c) omit the “and” at the end of the definition of “insurance undertaking” and after that definition insert—

““reinsurance undertaking” means an undertaking which—

- (a) has its head office in the United Kingdom;
- (b) has permission under Part 4A of the Financial Services and Markets Act 2000 <sup>M77</sup> to carry on one or more regulated activities;

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- (c) effects or carries out contracts of insurance that are limited to reinsurance contracts; and
  - (d) would require authorisation in accordance with Article 14 of Directive [2009/138/EC](#), if the United Kingdom were a Member State;
- “third-country reinsurance undertaking” means an undertaking which, if its head office were in the United Kingdom—
- (a) would require permission under Part 4A of the Financial Services and Markets Act 2000 to carry out regulated activities relating to reinsurance; and
  - (b) immediately before [<sup>F28</sup>IP completion day], would have required authorisation as a reinsurance undertaking in accordance with Article 14 of Directive [2009/138/EC](#); and”.

#### Textual Amendments

**F28** Words in Sch. 2 para. 1(2)(c) substituted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **29**

#### Commencement Information

**I87** Sch. 2 para. 1 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

#### Marginal Citations

**M75** [S.I. 2000/262](#); relevant amending instruments are [S.I. 2013/3115](#) and 2015/575.

**M76** O.J. L 335, 17.12.2009, p. 1, as last amended by Directive (EU) 2018/843 (O.J. L 156, 19.6.2018).

**M77** Part 4A of the Financial Services and Markets Act 2008 ((sections 55A–55Z, 55Z1–55Z4) was substituted for Part IV (sections 40–55) by section 11(2) of the Financial Services Act 2012; there are amendments to Part 4A but none is relevant to these Regulations.

### Competition Act 1998 (Determination of Turnover for Penalties) Order 2000

2.—(1) The Schedule to the Competition Act 1998 (Determination of Turnover for Penalties) Order 2000 <sup>M78</sup> is amended as follows.

(2) In paragraph 1—

(a) in the definition of “financial institution”, for “EEA” substitute “United Kingdom”;

(b) for the definition of “insurance undertaking” substitute—

““insurance undertaking” means—

(a) an insurance undertaking carrying on the business of direct insurance of a class set out in Article 2 of, or Annex 1 to, Directive [2009/138/EC](#) of the European Parliament and Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II);

(b) a reinsurance undertaking; or

(c) a third-country reinsurance undertaking;”;

(c) omit the “and” at the end of the definition of “insurance undertaking” and after that definition insert—

““reinsurance undertaking” means an undertaking which—

(a) has its head office in the United Kingdom;

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- (b) has permission under Part 4A of the Financial Services and Markets Act 2000 to carry on one or more regulated activities;
- (c) effects or carries out contracts of insurance that are limited to reinsurance contracts; and
- (d) would require authorisation in accordance with Article 14 of Directive [2009/138/EC](#), if the United Kingdom were a Member State;

“third-country reinsurance undertaking” means an undertaking which, if its head office were in the United Kingdom—

- (a) would require permission under Part 4A of the Financial Services and Markets Act 2000 to carry out regulated activities relating to reinsurance; and
- (b) immediately before [<sup>F29</sup>IP completion day], would have required authorisation as a reinsurance undertaking in accordance with Article 14 of Directive [2009/138/EC](#); and”.

#### Textual Amendments

**F29** Words in Sch. 2 para. 2(2)(c) substituted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **30**

#### Commencement Information

**I88** Sch. 2 para. 2 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

#### Marginal Citations

**M78** [S.I. 2000/309](#); relevant amending instruments are [S.I. 2004/1259](#), 2013/3115 and 2015/575.

### Competition Act 1998 (Appealable Decisions and Revocation of Notification of Excluded Agreements) Regulations 2004

3.—(1) The Competition Act 1998 (Appealable Decisions and Revocation of Notification of Excluded Agreements) Regulations 2004<sup>M79</sup> are amended as follows.

(2) In regulation 2, for “parallel exemption” in both places it occurs substitute “retained exemption”.

#### Commencement Information

**I89** Sch. 2 para. 3 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

#### Marginal Citations

**M79** [S.I. 2004/1078](#); amended by [S.I. 2014/549](#).

### Competition Act 1998 (Competition and Markets Authority's Rules) Order 2014

4.—(1) The Schedule to the Competition Act 1998 (Competition and Markets Authority's Rules) Order 2014<sup>M80</sup> is amended as follows.

(2) In rule 1—

- (a) for the definition of “infringement decision” substitute—

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- “infringement decision” means a decision of the CMA that the Chapter I prohibition or the Chapter II prohibition has been infringed;”;
- (b) in the definition of “notice”—
- (i) at the end of paragraph (b), insert “ or ”;
  - (ii) omit paragraph (d) and the “or” before it.
- (3) In rule 2—
- (a) in paragraph (1)—
    - (i) omit “Subject to paragraphs (2) and (3),”;
    - (ii) for the words from “any one or more” to the end substitute “ the Chapter I prohibition or the Chapter II prohibition. ”;
  - (b) omit paragraphs (2) and (3).
- (4) In rule 4—
- (a) in paragraph (2), omit “or section 65E(6)(a)(ii) or (b)”;
  - (b) in paragraph (5)—
    - (i) omit “or 65F(1)”;
    - (ii) for “ , 28A, 65G or 65H” substitute “ or 28A ”.
- (5) In rule 5—
- (a) in paragraph (1), for “one or more” substitute “ either or both ”;
  - (b) in paragraph (2), for the words from “which one” to “considers” substitute “ whether it considers the Chapter I prohibition or the Chapter II prohibition or both ”;
  - (c) in paragraph (3), omit “or the prohibition in Article 101(1)”.
- (6) In rule 9(1)(a), for the words from “one or more of” to “Article 102” substitute “ the Chapter I prohibition or the Chapter II prohibition ”.
- (7) In rule 10—
- (a) in paragraph (2), omit “or the prohibition in Article 101(1)”;
  - (b) in paragraph (4)—
    - (i) omit sub-paragraph (b) and the “or” at the end;
    - (ii) in sub-paragraph (c) omit “or the prohibition in Article 102”.
- (8) In rule 11(a), for the words from “which one” to “considers” substitute “ whether it considers the Chapter I prohibition or the Chapter II prohibition or both ”.
- (9) In rule 14—
- (a) in paragraph (1), for the words from “to a case” to “Article 102” substitute “ the Chapter I prohibition or the Chapter II prohibition to a case ”;
  - (b) omit paragraphs (2) to (4).
- (10) In rule 15, in paragraph (1) and in the heading, for “parallel exemption” substitute “ retained exemption ”.
- (11) Omit rule 16.
- (12) In rule 19—
- (a) in paragraph (1)(a) omit “ , 16(1) 16(3)(a)”;
  - (b) in paragraph (1)(b) omit “ , 16(1), 16(3)(a)”.

**Status:** Point in time view as at 31/12/2020. This version of this Instrument contains provisions that are prospective.

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Competition (Amendment etc.) (EU Exit) Regulations 2019. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

#### Commencement Information

**I90** Sch. 2 para. 4 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(1)

#### Marginal Citations

**M80** S.I. 2014/458.

### Competition Act 1998 (Concurrency) Regulations 2014

5.—(1) The Competition Act 1998 (Concurrency) Regulations 2014<sup>M81</sup> are amended as follows.

[<sup>F30</sup>(1A) In regulation 2, in the definition of “prescribed functions”, after sub-paragraph (i) insert—

“(ia) any of the functions of the CMA under section 40ZB, 40ZC or 40ZD of the Act;”.]

(2) In regulation 3—

(a) at the end of paragraph (a), insert “ or ”;

(b) omit paragraphs (c) and (d).

(3) In regulation 9(1)(a)—

(a) at the end of paragraph (i), insert “ or ”;

(b) omit paragraphs (iii) and (iv).

(4) In regulation 9(1)(g), for “parallel exemption” substitute “ retained exemption ”.

#### Textual Amendments

**F30** Sch. 2 para. 5(1A) inserted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020](#) (S.I. 2020/1343), regs. 1(1), **31**

#### Commencement Information

**I91** Sch. 2 para. 5 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

#### Marginal Citations

**M81** S.I. 2014/536.

## PART 2

Amendment of subordinate legislation made under the Enterprise Act 2002

### Enterprise Act 2002 (Anticipated Mergers) Order 2003

6.—(1) The Enterprise Act 2002 (Anticipated Mergers) Order 2003<sup>M82</sup> is amended as follows.

(2) In article 2, in the definition of “notice”, for “, 59(2) or 67(2)” substitute “ or 59(2) ”.

**Status:** Point in time view as at 31/12/2020. This version of this Instrument contains provisions that are prospective.

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Competition (Amendment etc.) (EU Exit) Regulations 2019. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

#### Commencement Information

**I92** Sch. 2 para. 6 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(1)

#### Marginal Citations

**M82** S.I. 2003/1595, to which there is an amendment not relevant to these Regulations.

### Enterprise Act 2002 (Mergers) (Interim Measures: Financial Penalties) (Determination of Control and Turnover) Order 2014

7.—(1) The Schedule to the Enterprise Act 2002 (Mergers) (Interim Measures: Financial Penalties) (Determination of Control and Turnover) Order 2014<sup>M83</sup> is amended as follows.

(2) In paragraph 1(1), in the definition of “financial institution”—

- (a) for “EU” substitute “ United Kingdom ”;
- (b) omit the “and” at the end;

(3) In paragraph 1(1), in the definition of “insurance undertaking”—

- (a) in paragraphs (a) and (b), for “European Economic Area” substitute “ United Kingdom ”;
- (b) omit the “or” at the end of paragraph (b); and
- (c) for paragraph (c) substitute—

- “(c) a reinsurance undertaking; or
- (d) a third-country reinsurance undertaking;”.

(4) In paragraph 1(1), after the definition of “insurance undertaking” insert—

““reinsurance undertaking” means an undertaking which—

- (a) has its head office in the United Kingdom;
- (b) has permission under Part 4A of the Financial Services and Markets Act 2000 to carry on one or more regulated activities;
- (c) effects or carries out contracts of insurance that are limited to reinsurance contracts; and
- (d) would require authorisation in accordance with Article 14 of Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II), if the United Kingdom were a Member State; and

“third-country reinsurance undertaking” means an undertaking which, if its head office were in the United Kingdom—

- (a) would require permission under Part 4A of the Financial Services and Markets Act 2000 to carry out regulated activities relating to reinsurance; and
- (b) immediately before [<sup>F31</sup>IP completion day], would have required authorisation as a reinsurance undertaking in accordance with Article 14 of Directive 2009/138/EC.”.

#### Textual Amendments

**F31** Words in Sch. 2 para. 7(4) substituted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), [32](#)

**Status:** Point in time view as at 31/12/2020. This version of this Instrument contains provisions that are prospective.

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Competition (Amendment etc.) (EU Exit) Regulations 2019. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

#### Commencement Information

**I93** Sch. 2 para. 7 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(1)

#### Marginal Citations

**M83** S.I. 2014/533, as amended by S.I. 2015/575.

### Competition Appeal Tribunal Rules 2015

- 8.—(1) The Competition Appeal Tribunal Rules 2015<sup>M84</sup> are amended as follows.
- (2) In rule 2, paragraph (1), omit the definition of “TFEU”.
  - (3) In rule 50(2), omit “Article 101 or 102 of the TFEU or”.
  - (4) Omit rule 59(5)(a)(ii) and the “but” before it.
  - (5) Omit rule 109.
  - (6) In rule 110(1), omit paragraph (m).

#### Commencement Information

**I94** Sch. 2 para. 8 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(1)

#### Marginal Citations

**M84** S.I. 2015/1648.

## PART 3

### Amendment of other subordinate legislation

#### EEC Merger Control (Distinct Market Investigations) Regulations 1990

9. The EEC Merger Control (Distinct Market Investigations) Regulations 1990<sup>M85</sup> are revoked.

#### Commencement Information

**I95** Sch. 2 para. 9 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(1)

#### Marginal Citations

**M85** S.I. 1990/1715, as amended by S.I. 2003/1398, S.I. 2004/1079 and S.I. 2014/549.

#### Restriction on Agreements and Conduct (Specified Domestic Electrical Goods) Order 1998

10.—(1) Article 12 of the Restriction on Agreements and Conduct (Specified Domestic Electrical Goods) Order 1998<sup>M86</sup> is amended as follows.

- (2) In paragraph (2), for the words from “pursuant” to the end substitute—  
“the agreement is exempt from the Chapter 1 prohibition as a result of—

*Status: Point in time view as at 31/12/2020. This version of this Instrument contains provisions that are prospective.*

*Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Competition (Amendment etc.) (EU Exit) Regulations 2019. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

- (a) section 9 of the Competition Act 1998; or
  - (b) a block exemption or a retained exemption.”.
- (3) Omit paragraph (3).
- (4) In paragraph (4)—
- (a) in the definition of “agreement” for “within the meaning of Article 85.1” substitute “ and those expressions have the same meaning as they do for the purposes of the Competition Act 1998 ”;
  - (b) omit the definition of “Article 85.1” and “Article 85.3”;
  - (c) in the appropriate place insert—
    - ““the Chapter 1 prohibition” has the meaning given by section 2(8) of the Competition Act 1998;
    - “block exemption” has the meaning given by section 6(4) of the Competition Act 1998;
    - “retained exemption” has the meaning given by section 10(3) of the Competition Act 1998.”.
- (5) For the heading substitute “ Part 1 of the Competition Act 1998 ”.

**Commencement Information**

**I96** Sch. 2 para. 10 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(1)

**Marginal Citations**

**M86** [S.I. 1998/1271](#); there are amending instruments, but none is relevant to these Regulations.

**Competition Act 1998 and other Enactments (Amendment) Regulations 2004**

**11.**—(1) The Competition Act 1998 and other Enactments (Amendment) Regulations 2004 <sup>M87</sup> are amended as follows.

- (2) In regulation 2, omit the definition of “the EC Competition Regulation”.
- (3) Omit regulation 3.

**Commencement Information**

**I97** Sch. 2 para. 11 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(1)

**Marginal Citations**

**M87** [S.I. 2004/1261](#); relevant amending instruments are [S.I. 2012/1809](#) and [S.I. 2014/549](#).

**Water Mergers (Modification of Enactments) Regulations 2004**

**12.**—(1) The Water Mergers (Modification of Enactments) Regulations 2004 <sup>M88</sup> are amended as follows.

- (2) In regulation 3(1)—
  - (a) omit sub-paragraph (b);
  - (b) in sub-paragraph (d), for “to 68” substitute “ to 66 ”.



**Status:** Point in time view as at 31/12/2020. This version of this Instrument contains provisions that are prospective.

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Competition (Amendment etc.) (EU Exit) Regulations 2019. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

- (3) In regulation 5—
  - (a) insert “ and ” at the end of paragraph (aa);
  - (b) omit paragraphs (b) and (d);
- (4) In regulation 10ZA, in paragraph (d), for “subsections (4) and (5)” substitute “ subsection 4 ”.
- (5) Omit regulations 10ZB and 10ZC.
- (6) In regulation 17A(a), omit sub-paragraph (ii).
- (7) In regulation 29(a), omit sub-paragraph (iv).
- (8) In regulation 30B—
  - (a) in paragraph (a)—
    - (i) insert “ and ” at the end of sub-paragraph (i);
    - (ii) omit sub-paragraph (iii) and the “and” before it;
  - (b) in paragraph (b), omit sub-paragraph (ii) (together with the final “and”).
- [<sup>F32</sup>(8A) In regulation 32—
  - (a) omit the “and” at the end of paragraph (a);
  - (b) after paragraph (a) insert—

“(aa) subsection (1A) were omitted; and”.]
- (9) Omit regulation 33.

#### Textual Amendments

**F32** Sch. 2 para. 12(8A) inserted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **33**

#### Commencement Information

**I98** Sch. 2 para. 12 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

#### Marginal Citations

**M88** [S.I. 2004/3202](#), relevant amending instruments are [S.I. 2011/1043](#), [S.I. 2014/549](#) and [S.I. 2015/1936](#).

### Designation of the Competition and Markets Authority as a National Competition Authority Regulations 2014

**13.** The Designation of the Competition and Markets Authority as a National Competition Authority Regulations 2014 <sup>M89</sup> are revoked.

#### Commencement Information

**I99** Sch. 2 para. 13 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

#### Marginal Citations

**M89** [S.I. 2014/537](#).

**Status:** Point in time view as at 31/12/2020. This version of this Instrument contains provisions that are prospective.

**Changes to legislation:** There are outstanding changes not yet made by the [legislation.gov.uk](https://www.legislation.gov.uk) editorial team to *The Competition (Amendment etc.) (EU Exit) Regulations 2019*. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

## SCHEDULE 3

Regulation 63

### Amendment of retained direct EU legislation

## PART 1

### Revocation of retained direct EU legislation

1. The following instruments are revoked—
  - (a) Council Regulation (EEC) 17/62: First Regulation implementing Articles 85 and 86 of the Treaty;
  - (b) Council Regulation (EEC) 19/65 on the application of Article 85(3) of the Treaty to certain categories of agreements and concerted practices;
  - (c) Council Regulation (EEC) 2821/71 on the application of Article 85(3) of the Treaty to categories of agreements, decisions and concerted practices;
  - (d) Council Regulation (EEC) No 2988/74 concerning limitation periods in proceedings and the enforcement of sanctions under the rules of the European Economic Community relating to transport and competition;
  - (e) Council Regulation (EEC) 1534/91 on the application of Article 85(3) of the Treaty to certain categories of agreements, decisions and concerted practices in the insurance sector;
  - (f) Council Regulation (EC) 1/2003 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty;
  - (g) Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings;
  - (h) Council Regulation (EC) 246/2009 on the application of Article 81(3) of the Treaty to certain categories of agreements, decisions and concerted practices between liner shipping companies (consortia);
  - (i) Council Regulation (EC) 487/2009 on the application of Article 81(3) of the Treaty to certain categories of agreements and concerted practices in the air transport sector;
  - (j) Annex 14 to the EEA Agreement insofar as it forms part of domestic law on and after <sup>F33</sup>[IP completion day] by virtue of section 3(1) of the European Union (Withdrawal) Act 2018 <sup>F34</sup>;
  - (k) Regulation (EU) 2019/452 of the European Parliament and of the Council of 19 March 2019 establishing a framework for the screening of foreign direct investments into the Union.]

#### Textual Amendments

- F33** Words in Sch. 3 para. 1(j) substituted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), [34\(2\)\(a\)](#)
- F34** Sch. 3 para. 1(k) inserted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), [34\(2\)\(b\)](#)

#### Commencement Information

- I100** Sch. 3 para. 1 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

**Status:** Point in time view as at 31/12/2020. This version of this Instrument contains provisions that are prospective.

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to *The Competition (Amendment etc.) (EU Exit) Regulations 2019*. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

2. EU decisions and EU regulations made by the European Commission under the instruments revoked by paragraph 1 (as they form part of domestic law on and after [<sup>F35</sup>IP completion day] by virtue of section 3(1) of the European Union (Withdrawal) Act 2018) are revoked, with the exception of EU regulations made by the European Commission under the EU regulations specified in paragraph 1(b), (c) and (h).

#### Textual Amendments

**F35** Words in Sch. 3 para. 2 substituted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **34(3)**

#### Commencement Information

**I101** Sch. 3 para. 2 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

## PART 2

### Amendment of retained EU Regulations

#### Council Regulation (EC) 169/2009

3.—(1) Council Regulation (EC) No 169/2009 applying rules of competition to transport by rail, road and inland waterway is amended as follows.

(2) In Article 2—

(a) in paragraph 1, for “in Article 81(1) of the Treaty” substitute “imposed by section 2(1) of the Competition Act 1998”;

(b) omit paragraph 2.

(3) In Article 3—

(a) in paragraph 1, for the words from “Article 81(1)” to “that Article” substitute “section 2(1) of the Competition Act 1998 are exempt from the prohibition imposed by that provision”;

(b) omit paragraph 2.

(4) Omit Article 5(2).

(5) In the words after Article 5, omit the words from “This Regulation shall be binding” to “Member States.”.

#### Commencement Information

**I102** Sch. 3 para. 3 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

#### Commission Regulation (EC) 906/2009

4.—(1) Commission Regulation (EC) 906/2009 on the application of Article 81(3) of the Treaty to certain categories of agreements, decisions and concerted practices between liner shipping companies (consortia) is amended as follows.

(2) In Article 1, for “Community ports” substitute “ports in the United Kingdom”.

(3) In Article 2, after paragraph 3 insert—

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**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to *The Competition (Amendment etc.) (EU Exit) Regulations 2019*. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

“**3A.** “the Chapter 1 prohibition” means the prohibition imposed by section 2(1) of the Competition Act 1998;”.

(4) In Article 3, for the words before paragraph 1 substitute—

“Subject to the provisions of this Regulation, the following activities of a consortium are exempt from the Chapter 1 prohibition.”.

(5) In the words after Article 7, omit the words from “This Regulation shall be binding” to “Member States.”.

#### Commencement Information

**I103** Sch. 3 para. 4 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

### Commission Regulation (EU) 330/2010

**5.—(1)** Commission Regulation (EU) 330/2010 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to categories of vertical agreements and concerted practices is amended as follows.

(2) In Article 1(1)—

(a) after point (a), insert—

“(aa) “the Chapter 1 prohibition” means the prohibition imposed by section 2(1) of the Competition Act 1998;”;

(b) in point (b), for “Article 101(1) of the Treaty” substitute “ the Chapter 1 prohibition ”;

(c) after point (c), insert—

“(ca) “retained block exemption regulation” has the meaning given in section 10(10) of the Competition Act 1998;

(cb) “block exemption order” has the meaning given in section 6 of the Competition Act 1998;”;

(d) in point (h), for “Article 101(1) of the Treaty” substitute “ the Chapter 1 prohibition ”.

(3) In Article 2—

(a) in paragraph 1, for the first subparagraph substitute—

“Subject to the provisions of this Regulation, vertical agreements are exempt from the Chapter 1 prohibition.”;

(b) in paragraph 2—

(i) for “EUR 50 million” substitute “ £44 million ”;

(ii) for “Article 101 of the Treaty” substitute “ the Chapter 1 prohibition ”;

(c) in paragraph 5, for the words from “block exemption regulation” to the end substitute “ retained block exemption regulation or of any block exemption order, unless otherwise provided for in such a regulation or order ”.

(4) Omit Articles 6 and 9.

(5) In the words after Article 10, omit the words from “This Regulation shall be binding” to “Member States.”.

**Status:** Point in time view as at 31/12/2020. This version of this Instrument contains provisions that are prospective.

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Competition (Amendment etc.) (EU Exit) Regulations 2019. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

#### Commencement Information

**I104** Sch. 3 para. 5 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(1)

#### Commission Regulation (EU) 461/2010

6.—(1) Commission Regulation (EU) 461/2010 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to categories of vertical agreements and concerted practices in the motor vehicle sector is amended as follows.

(2) In Article 1(1)—

(a) after point (a), insert—

“(aa) “the Chapter 1 prohibition” means the prohibition imposed by section 2(1) of the Competition Act 1998;”;

(b) in point (b), for “Article 101(1) of the Treaty” substitute “ the Chapter 1 prohibition ”.

(3) Omit Article 2.

(4) For the first paragraph of Article 4 substitute—

“Subject to the provisions of this Regulation, a vertical agreement is exempt from the Chapter 1 prohibition if—

(a) it relates to the conditions under which the parties may purchase, sell or resell spare parts for motor vehicles or provide repair and maintenance services for motor vehicles;

(b) it fulfils the requirements for an exemption under Regulation (EU) No. 330/2010; and

(c) it does not contain any of the hardcore clauses listed in Article 5 of this Regulation.”.

(5) Omit Articles 6 and 7.

(6) In the words after Article 8, omit the words from “This Regulation shall be binding” to “Member States.”.

#### Commencement Information

**I105** Sch. 3 para. 6 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(1)

#### Commission Regulation (EU) 1217/2010

7.—(1) Commission Regulation (EU) 1217/2010 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to certain categories of research and development agreements is amended as follows.

(2) In Article 1(1), after point (q), insert—

“(ra) “the Chapter 1 prohibition” means the prohibition imposed by section 2(1) of the Competition Act 1998;”.

(3) In Article 2(1)—

(a) for the first subparagraph substitute—

“Subject to the provisions of this Regulation, research and development agreements are exempt from the Chapter 1 prohibition.”;

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**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Competition (Amendment etc.) (EU Exit) Regulations 2019. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

- (b) in the second subparagraph, for “Article 101(1) of the Treaty” substitute “ the Chapter 1 prohibition ”.
- (4) In Article 4(1), for “internal market” substitute “ United Kingdom ”.
- (5) In Article 5, in points (f) and (g), for “internal market” substitute “ United Kingdom ”;
- (6) In Article 6—
  - (a) in point (a), for “which the parties hold in the internal market” (in both places it occurs) substitute “ held by the parties which have effect in the United Kingdom ”;
  - (b) in point (b), for “internal market” substitute “ United Kingdom ”.
- (7) Omit Article 8.
- (8) In the words after Article 9, omit the words from “This Regulation shall be binding” to “Member States.”.

**Commencement Information**

**I106** Sch. 3 para. 7 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(1)

**Commission Regulation (EU) 1218/2010**

**8.—(1)** Commission Regulation (EU) 1218/2010 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to certain categories of specialisation agreements is amended as follows.

- (2) In Article 1(1), after point (h), insert—
  - “(ha) “the Chapter 1 prohibition” means the prohibition imposed by section 2(1) of the Competition Act 1998;”.
- (3) In Article 2(1)—
  - (a) for the first subparagraph substitute—

“Subject to the provisions of this Regulation, specialisation agreements are exempt from the Chapter 1 prohibition.”;
  - (b) in the second subparagraph, for “Article 101(1) of the Treaty” substitute “ the Chapter 1 prohibition ”.
- (4) Omit Article 6.
- (5) In the words after Article 7, omit the words from “This Regulation shall be binding” to “Member States.”.

**Commencement Information**

**I107** Sch. 3 para. 8 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(1)

**Commission Regulation (EU) 316/2014**

**9.—(1)** Commission Regulation (EU) 316/2014 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to categories of technology transfer agreements is amended as follows.

- (2) In Article 1(1), after point (c), insert—

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**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Competition (Amendment etc.) (EU Exit) Regulations 2019. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

- “(ca) “the Chapter 1 prohibition” means the prohibition imposed by section 2(1) of the Competition Act 1998;”.
- (3) In Article 2—
- (a) for paragraph 1 substitute—
- “Subject to the provisions of this Regulation, technology transfer agreements are exempt from the Chapter 1 prohibition.”;
- (b) in paragraph 2, for “Article 101(1) of the Treaty” substitute “ the Chapter 1 prohibition ”.
- (4) In Article 5(1), in point (b), for “which the other party holds in the Union” substitute “ held by the other party which have effect in the United Kingdom ”.
- (5) Omit Articles 6, 7 and 10.
- (6) In the words after Article 11, omit the words from “This Regulation shall be binding” to “Member States.”.

#### Commencement Information

**I108** Sch. 3 para. 9 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

#### Effect of certain revocations

- 10.**—(1) The revocation of the provisions of Commission Regulations listed in sub-paragraph (2) is not to be read as—
- (a) preventing the Secretary of State from exercising the power under section 10A(1) of the Competition Act 1998 <sup>M90</sup> to disapply those Regulations as described in those provisions, or
- (b) limiting that power in any other way.
- (2) Those provisions are—
- (a) Article 6 of Commission Regulation (EU) 330/2010 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to categories of vertical agreements and concerted practices;
- (b) Article 6 of Commission Regulation (EU) 461/2010 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to categories of vertical agreements and concerted practices in the motor vehicle sector;
- (c) Article 7 of Commission Regulation (EU) 316/2014 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to categories of technology transfer agreements.
- (3) The revocation of Article 6 of Commission Regulation (EU) 316/2014 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to categories of technology transfer agreements is not to be read as—
- (a) preventing the Competition and Markets Authority from exercising its power under section 10(5) of the Competition Act 1998 to impose conditions or obligations subject to which an exemption is to have effect or to cancel the exemption for an agreement in the circumstances described in that Article, or
- (b) limiting that power in any other way.

*Status: Point in time view as at 31/12/2020. This version of this Instrument contains provisions that are prospective.*

*Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Competition (Amendment etc.) (EU Exit) Regulations 2019. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

**Commencement Information**

**I109** Sch. 3 para. 10 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(1)

**Marginal Citations**

**M90** 1998 c. 41; section 10A is inserted into the Competition Act 1998 by regulation 4 of these Regulations.

SCHEDULE 4

Regulation 64

Saving and transitional provision

**PART 1**

Interpretation

**Interpretation**

1. In this Schedule—

“the 1998 Act” means the Competition Act 1998;

“the 2002 Act” means the Enterprise Act 2002 <sup>M91</sup>;

“the CMA” means the Competition and Markets Authority.

**Commencement Information**

**I110** Sch. 4 para. 1 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(1)

**Marginal Citations**

**M91** 2002 c. 40.

**PART 2**

Exemptions from the Chapter 1 prohibition

**Pre-existing agreements exempt by virtue of an EU decision**

2.—(1) This paragraph applies if—

(a) immediately before [<sup>F36</sup>IP completion day], an agreement is exempt from the Chapter 1 prohibition under section 10 of the 1998 Act by virtue of an EU decision <sup>M92</sup>; and

(b) the decision (as it has effect in EU law) has not expired or been revoked under EU law.

(2) On and after [<sup>F36</sup>IP completion day], section 10 of the 1998 Act has effect in relation to the agreement without the modifications made by regulation 3(3), (4), (6)(c) and (8) of these Regulations.



**Status:** Point in time view as at 31/12/2020. This version of this Instrument contains provisions that are prospective.

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Competition (Amendment etc.) (EU Exit) Regulations 2019. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

(3) In this paragraph—

- (a) “the Chapter 1 prohibition” means the prohibition imposed by section 2(1) of the 1998 Act;
- (b) references to an agreement include a reference to a decision by an association of undertakings and a concerted practice.

(4) For the purposes of section 10 of the 1998 Act as it has effect by virtue of this paragraph, section 59 of that Act (interpretation) has effect without the modifications made by regulation 21(2).

#### Textual Amendments

**F36** Words in Sch. 4 para. 2 substituted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **35(2)**

#### Commencement Information

**I111** Sch. 4 para. 2 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

#### Marginal Citations

**M92** Agreements exempt by virtue of an EU decision are subject to an existing saving provision under regulation 7 of [S.I. 2004/1261](#).

### Pre-existing research and development agreements

3.—(1) Sub-paragraph (2) applies if—

- (a) a research and development agreement is entered into before [<sup>F37</sup>IP completion day], and
- (b) in relation to the agreement, the 7 year period specified in Article 4(1) of the EU R&D block exemption regulation begins before [<sup>F37</sup>IP completion day].

(2) On and after [<sup>F37</sup>IP completion day], Article 4(1) of the retained R&D block exemption regulation has effect in relation to the agreement without the modification made by paragraph 7(4) of Schedule 3 to these Regulations.

(3) Sub-paragraph (4) applies if—

- (a) a research and development agreement is entered into before [<sup>F37</sup>IP completion day], and
- (b) immediately before [<sup>F37</sup>IP completion day], the agreement contains an obligation described in Article 6(b) of the EU R&D block exemption regulation.

(4) On and after [<sup>F37</sup>IP completion day], Article 6(b) of the retained R&D block exemption regulation has effect in relation to the agreement without the modification made by paragraph 7(6) (b) of Schedule 3 to these Regulations.

(5) In this paragraph—

“research and development agreement” has the same meaning as in the EU R&D block exemption regulation;

“the R&D block exemption regulation” means Commission Regulation (EU) 1217/2010 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to certain categories of research and development agreements;

“the EU R&D block exemption regulation” means the R&D block exemption regulation as it has effect as part of EU law immediately before [<sup>F37</sup>IP completion day];

“the retained R&D block exemption regulation” means the R&D block exemption regulation as it has effect as part of domestic law on and after [<sup>F37</sup>IP completion day].

**Status:** Point in time view as at 31/12/2020. This version of this Instrument contains provisions that are prospective.

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Competition (Amendment etc.) (EU Exit) Regulations 2019. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

#### Textual Amendments

**F37** Words in Sch. 4 para. 3 substituted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **35(2)**

#### Commencement Information

**I112** Sch. 4 para. 3 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

## PART 3

### CMA investigations under Part 1 of the 1998 Act

#### Interpretation

4.—(1) In this Part of this Schedule—

“investigation” means an investigation under section 25 of the 1998 Act;

“domestic element”, in relation to an investigation, means any part of the investigation conducted by virtue of section 25(2), (4) or (6) of the 1998 Act;

“EU element”, in relation to an investigation, means any part of the investigation conducted by virtue of section 25(3), (5) or (7) of the 1998 Act;

(2) References in this Part of this Schedule to cases in which the CMA is conducting an investigation at a particular time include cases in which the CMA would be conducting such an investigation but for section 31B(2) <sup>M93</sup> of the 1998 Act (suspension of investigation where commitments given under section 31A <sup>M94</sup> of that Act).

(3) References in this Part of this Schedule to the CMA are to be read as including a reference to a regulator (as defined in section 54 of the 1998 Act <sup>M95</sup>).

#### Commencement Information

**I113** Sch. 4 para. 4 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

#### Marginal Citations

**M93** Section 31B(2) was inserted by [S.I. 2004/1261](#) and subsequently amended by paragraphs 1 and 12 of Schedule 5 to the Enterprise and Regulatory Reform Act 2013.

**M94** Section 31A was inserted by [S.I. 2004/1261](#) and subsequently amended by paragraphs 1 and 12 of Schedule 5 to the Enterprise and Regulatory Reform Act 2013.

**M95** Section 54 was amended by paragraph 38(1) and (41) of Schedule 25 to the Enterprise Act 2002, section 371(5) of the Communications Act 2003, section 51(1) to (4) of, paragraphs 1 and 33 of Schedule 5 to, and paragraphs 8 and 11 of Schedule 15 to, the Enterprise and Regulatory Reform Act 2013, paragraph 32(1) and (2) of Schedule 7 to the [Water Act 2003 \(c. 37\)](#), [section 74\(5\)](#) of the Health and Social Care Act 2012, section 67(2) of and paragraph 9 of Schedule 8 to the [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#), and by [S.I. 2015/1682](#) and [S.I. 2004/1261](#).

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**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Competition (Amendment etc.) (EU Exit) Regulations 2019. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

## Termination of EU elements of on-going investigations

5. Where the CMA is conducting an investigation immediately before [F38IP completion day], it may not continue any EU elements of the investigation on and after [F38IP completion day].

### Textual Amendments

**F38** Words in Sch. 4 para. 5 substituted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\), regs. 1\(1\), 36\(2\)](#)

### Commencement Information

**I114** Sch. 4 para. 5 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

6.—(1) This paragraph applies where, immediately before [F39IP completion day], the CMA is conducting an investigation which has both domestic elements and EU elements.

(2) Anything done before [F39IP completion day] for the purposes of, or in connection with, the EU elements of the investigation is to be treated, on and after [F39IP completion day], as done for the purposes of, or in connection with, the domestic elements of the investigation.

(3) The reference in sub-paragraph (2) to anything done includes anything omitted to be done.

(4) On and after [F39IP completion day]—

(a) a notice validly issued before [F39IP completion day] under section 26<sup>M96</sup>, 26A<sup>M97</sup>, or 27<sup>M98</sup> of the 1998 Act for the purposes of the EU elements of the investigation is to be treated as validly issued for the purposes of the domestic elements of the investigation;

(b) a warrant validly issued, or an application for a warrant made, before [F39IP completion day] under section 28<sup>M99</sup> or 28A<sup>M100</sup> of the 1998 Act for the purposes of the EU elements of the investigation is to be treated as validly issued or made in connection with the domestic elements of the investigation;

(c) documents and other information obtained, and representations made, before [F39IP completion day] for the purposes of, or in connection with, the EU elements of the investigation are to be treated as obtained or made for the purposes of, or in connection with, the domestic elements of the investigation; and

(d) a commitment accepted under section 31A of the 1998 Act before [F39IP completion day] for the purposes of addressing a competition concern identified during the course of the EU elements of the investigation, and not released before [F39IP completion day], continues in force until released.

(5) Sub-paragraph (4) is without prejudice to the generality of sub-paragraph (2).

(6) On and after [F39IP completion day] a notice given before [F39IP completion day] under section 31(1)<sup>M101</sup> of the 1998 Act is to be treated as if any reference to a proposed decision described in section 31(2)(c) or (d) of the 1998 Act were omitted.

### Textual Amendments

**F39** Words in Sch. 4 para. 6 substituted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\), regs. 1\(1\), 36\(2\)](#)

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### Commencement Information

**I115** Sch. 4 para. 6 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see **reg. 1(1)**

### Marginal Citations

**M96** Section 26 was amended by paragraphs 1 and 6 of Schedule 5 to, and paragraphs 8 and 9 of Schedule 15 to, the Enterprise and Regulatory Reform Act 2013, paragraphs 38(1) and (20) of Schedule 25 to the Enterprise Act 2002, and **S.I. 2004/1261**.

**M97** Section 26A was inserted by section 39 of the Enterprise and Regulatory Reform Act 2013.

**M98** Section 27 was amended by paragraphs 1 and 7 of Schedule 5 to the Enterprise and Regulatory Reform Act 2013, paragraphs 38(1) and (21) of Schedule 25 to the Enterprise Act 2002, paragraph 21 of Schedule 2 to the **Criminal Justice and Police Act 2001 (c. 16)** and **S.I. 2004/1261**.

**M99** Section 28 was amended by paragraphs 1 and 2 of Schedule 13 to, and paragraphs 1 and 8 of Schedule 5 to, the Enterprise and Regulatory Reform Act 2013, section 203(1) and (2) of, and paragraphs 38(1) and (22) of Schedule 25 to, the Enterprise Act 2002, paragraph 21 of Schedule 2 to the Criminal Justice and Police Act 2001 and **S.I. 2004/1261**.

**M100** Section 28A was inserted by **S.I. 2004/1261** and amended by paragraphs 1 and 3 of Schedule 13 to, and paragraphs 1 and 9 of Schedule 5 to, the Enterprise and Regulatory Reform Act 2013.

**M101** Section 31(1) was amended by paragraphs 1 and 10 of Schedule 5 to the Enterprise and Regulatory Reform Act 2013.

### Completed investigations terminated by decisions under section 31(2)(c) or (d) of the 1998 Act

7.—(1) This paragraph applies where, before [<sup>F40</sup>IP completion day], the CMA has made a decision within the meaning of section 31(2)(c) or (d) of the 1998 Act.

(2) On and after [<sup>F41</sup>IP completion day], in connection with the decision, the enactments mentioned in sub-paragraphs (3) to (8) have effect as described there.

(3) Part 1 of the 1998 Act has effect—

(a) without the modifications made by Part 2 of these Regulations, other than the modifications made by regulations 21(3), 22 and 23 (principles to be applied in determining questions), and

(b) [<sup>F42</sup>except in relation to cases in which the European Commission has continued competence after IP completion day in accordance with Article 92 of the EU withdrawal agreement,] with the further modifications set out in sub-paragraph (4).

(4) The further modifications mentioned in sub-paragraph (3)(b) are as follows—

(a) references (however expressed) to a decision of the European Commission or a Member State competition authority that there has been an infringement of the prohibition in Article 101(1) or 102 of the Treaty on the Functioning of the European Union do not include a decision made on or after [<sup>F43</sup>IP completion day];

(b) paragraph 21(3) of Schedule 8A to the 1998 Act has effect as if—

(i) in [<sup>F44</sup>paragraph] (a), after “if the competition authority makes a decision” there were inserted “ before [<sup>F45</sup>IP completion day] ”;

(ii) the “and” at the end of [<sup>F44</sup>paragraph] (a) were omitted;

(iii) in [<sup>F44</sup>paragraph] (b), for “otherwise” there were substituted “ if the competition authority closes the investigation before [<sup>F45</sup>IP completion day] without making such a decision ”; and

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(iv) after <sup>F44</sup>paragraph] (b) there were inserted—

“; and

(c) otherwise, at the end of the period of one year beginning with <sup>F45</sup>IP completion day].”.

(5) Section 16 of the 2002 Act <sup>M102</sup> has effect without the modification made by regulation 33 of these Regulations.

(6) The enactments listed in <sup>F46</sup>paragraphs 2 to 9 and 12 to 15] of Schedule 1 to these Regulations and in paragraphs 11 and 13 of Part 3 of Schedule 2 to these Regulations have effect without the modifications made in those paragraphs.

<sup>F47</sup>(6A) The Communications Act 2003 applies without the modifications made by paragraph 11 of Schedule 1 to these Regulations, except for the modifications made by sub-paragraphs (3) to (7) of that paragraph.]

(7) Subordinate legislation made under Part 1 of the 1998 Act has effect without the modifications made by Part 1 of Schedule 2 to these Regulations, except for the modifications made by paragraph 4(4) of that Schedule (amendments to the Competition Act 1998 (Competition and Market Authority's Rules) Order 2014).

(8) The Competition Appeal Tribunal Rules 2015 have effect without the modifications made by paragraph 8 of Schedule 2 to these Regulations, except for the modifications made by sub-paragraphs (4), (5) and (6) of that paragraph.

(9) References in sub-paragraph (4)(a) to a decision by a Member State competition authority are to be interpreted in accordance with paragraph 3(6) of Schedule 8A to the 1998 Act (see paragraph (c) of that provision).

#### Textual Amendments

- F40** Words in Sch. 4 para. 7(1) substituted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **36(3)(a)**
- F41** Words in Sch. 4 para. 7(2) substituted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **36(3)(a)**
- F42** Words in Sch. 4 para. 7(3)(b) inserted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **36(3)(b)**
- F43** Words in Sch. 4 para. 7(4)(a) substituted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **36(3)(c)**
- F44** Word in Sch. 4 para. 7(4)(b)(i)-(iv) substituted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **36(3)(d)(i)**
- F45** Words in Sch. 4 para. 7(4)(b)(i)-(iv) substituted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **36(3)(d)(ii)**
- F46** Words in Sch. 4 para. 7(6) substituted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **36(3)(e)**
- F47** Sch. 4 para. 7(6A) inserted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **36(3)(f)**

#### Commencement Information

- I116** Sch. 4 para. 7 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

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### Marginal Citations

**M102** Section 16 was amended by paragraph 81(a) of Schedule 9 to the [Crime and Courts Act 2013 \(c. 22\)](#), [paragraph 21](#) of Schedule 8 to the Consumer Rights Act 2015 and [S.I. 2012/1809](#).

### [<sup>F48</sup>Appropriate level of a penalty

**7A.**—(1) This paragraph applies where—

- (a) before IP completion day, a penalty or a fine has been imposed by the European Commission, or a court or other body in another Member State, in respect of an agreement or conduct; or
- (b) on or after IP completion day, a penalty or fine has been imposed by the European Commission in respect of an agreement or conduct in relation to which it has continued competence in accordance with Article 92 of the EU withdrawal agreement.

(2) The CMA, the Tribunal or the appropriate court must take that penalty or fine into account when setting the amount of penalty under Part 1 of the 1998 Act in relation to that agreement or conduct.

(3) In sub-paragraph (2), “the appropriate court” means—

- (a) in relation to England and Wales, the Court of Appeal;
- (b) in relation to Scotland, the Court of Session;
- (c) in relation to Northern Ireland, the Court of Appeal in Northern Ireland;
- (d) the Supreme Court.]

### Textual Amendments

**F48** Sch. 4 para. 7A inserted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **36(4)**

### Commencement Information

**I117** Sch. 4 para. 7A in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

### [<sup>F49</sup>Cases subject to relevant separation agreement law]

[<sup>F50</sup>**8.**—(1) In this paragraph and paragraphs 8A and 8B—

“Regulation 1/2003” means Council Regulation ([EC](#)) [No 1/2003](#) of 16th December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty as it has effect from time to time for the purposes of relevant separation agreement law; and

“relevant decision” means—

a decision adopted by the European Commission pursuant to article 7(1) of Regulation 1/2003; or

a decision adopted by the European Commission pursuant to article 9(1) of Regulation 1/2003.

(2) This paragraph applies where before IP completion day—

- (a) under article 11(6) of Regulation 1/2003, the CMA was relieved of competence to apply one or both of articles 101 (in relation to an agreement) or 102 (in relation to conduct), by the European Commission initiating proceedings in relation to that agreement or conduct;
- (b) the European Commission had made a relevant decision; and

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- (c) the relevant decision has not been annulled in full or in part by the European Court insofar as it related to—
  - (i) the finding of an infringement or making of any directions in a decision adopted pursuant to article 7(1) of Regulation 1/2003; or
  - (ii) commitments accepted under a decision adopted pursuant to article 9(1) of Regulation 1/2003.
- (3) On and after IP completion day the CMA must not—
  - (a) accept a commitment under section 31A of the 1998 Act in relation to the agreement or conduct to which the relevant decision relates;
  - (b) give a direction under section 32 of the 1998 Act in relation to the agreement to which the relevant decision relates; or
  - (c) give a direction under section 33 of the 1998 Act in relation to the conduct to which the relevant decision relates;

which conflicts with any remedial directions given or commitments made binding by the relevant decision.

#### Textual Amendments

**F49** Sch. 4 para. 8 heading substituted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **36(5)**

**F50** Sch. 4 paras. 8-8B substituted for Sch. 4 para. 8 (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **36(6)**

#### Commencement Information

**I118** Sch. 4 para. 8 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

**8A.—(1)** This paragraph applies where on and after IP completion day the European Commission has continued competence in relation to an investigation into an agreement, decision, concerted practice or abuse of a dominant position under Regulation 1/2003 in accordance with article 92 of the EU withdrawal agreement.

(2) While the Commission’s investigation is ongoing, the CMA must not open or re-open any investigation by virtue of section 25(2), (4) or (6) of the 1998 Act into the competition concerns with which the Commission’s investigation is concerned.

(3) Nothing in sub-paragraph (2) prevents the CMA from opening an investigation by virtue of section 25(2), (4) or (6) into competition concerns relating to an agreement, decision, concerted practice or abuse of a dominant position insofar as those concerns relate to the effects arising from the agreement, decision, concerted practice or abuse of a dominant position on and after IP completion day.

#### Textual Amendments

**F50** Sch. 4 paras. 8-8B substituted for Sch. 4 para. 8 (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **36(6)**

#### Commencement Information

**I119** Sch. 4 para. 8A in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

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**8B.**—(1) This paragraph applies where on and after IP completion day the European Commission has continued competence in relation to an investigation under regulation 1/2003 in accordance with article 92 of the EU withdrawal agreement and—

- (a) the European Commission has made a relevant decision;
- (b) the relevant decision has not been annulled in full or in part by the European Court insofar as it related to—
  - (i) the finding of an infringement or making of any directions in a decision adopted pursuant to article 7(1) of Regulation 1/2003; or
  - (ii) commitments accepted under a decision adopted pursuant to article 9(1) of Regulation 1/2003.

(2) On and after IP completion day the CMA must not—

- (a) accept a commitment under section 31A of the 1998 Act in relation to the agreement or conduct to which the relevant decision relates;
- (b) give a direction under section 32 of the 1998 Act in relation to the agreement to which the relevant decision relates; or
- (c) give a direction under section 33 of the 1998 Act in relation to the conduct to which the relevant decision relates;

which conflicts with any directions given or commitments made binding by the relevant decision.]

#### Textual Amendments

**F50** Sch. 4 paras. 8-8B substituted for Sch. 4 para. 8 (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **36(6)**

#### Commencement Information

**I120** Sch. 4 para. 8B in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

## PART 4

### Inspections and investigations under Parts 2 and 2A of the 1998 Act

<sup>[F51]</sup>**8C.**—(1) This paragraph applies where, on or after IP completion day, the European Commission has ordered an Article 20 inspection, an Article 21 inspection, or an Article 22(2) inspection (as defined in section 61 of the 1998 Act) in relation to a case in which it has continued competence in accordance with Article 92 of the EU withdrawal agreement.

(2) Despite its repeal by these Regulations, Part 2 of the 1998 Act continues to have effect on and after IP completion day.

(3) Part 4 of the 1998 Act has effect—

- (a) as if, in subsection 72(1), after “sections 42 to 44” there were inserted “or 65”;
- (b) without the modifications made by regulations 26(3) and (4) of these Regulations;
- (c) as if section 73(8)(b) read “that may be conferred by a warrant under section 28, 28A, 62, 62A or 63”;
- (d) without the modification made by regulation 27 of these Regulations.



**Status:** Point in time view as at 31/12/2020. This version of this Instrument contains provisions that are prospective.

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Competition (Amendment etc.) (EU Exit) Regulations 2019. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

(4) The Schedule to the Competition Act 1998 (Competition and Markets Authority’s Rules) Order 2014 has effect—

(a) as if, in rule 2, paragraph (1) read—

“These Regulations apply when the CMA takes investigation or enforcement action under the Act in relation to the Chapter I prohibition or the Chapter II prohibition, or investigation action under Part 2 of the Act in relation to the prohibition in Article 101(1) or Article 102”; and

(b) without the modifications made by paragraph 4(4) of Schedule 2 to these Regulations.]

#### Textual Amendments

**F51** Sch. 4 para. 8C inserted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **37(2)**

#### Commencement Information

**I121** Sch. 4 para. 8C in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

9. [<sup>F52</sup>On and after IP completion day]—

(a) [<sup>F53</sup>except in relation to cases in which the European Commission has continued competence in accordance with Article 92 of the EU withdrawal agreement,] the CMA and other persons may not take or continue any action for the purposes of, or in connection with, an Article 20 inspection, an Article 21 inspection or an Article 22(2) inspection (as defined in section 61 of the 1998 Act <sup>M103</sup>) in reliance on Part 2 of the 1998 Act; and

(b) the CMA may not continue an Article 22(1) investigation (as defined in section 65C(1) of the 1998 Act <sup>M104</sup>).

#### Textual Amendments

**F52** Words in Sch. 4 para. 9 substituted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **37(3)(a)**

**F53** Words in Sch. 4 para. 9(a) inserted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **37(3)(b)**

#### Commencement Information

**I122** Sch. 4 para. 9 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

#### Marginal Citations

**M103** Section 61 was amended by paragraphs 1 and 4 of Schedule 13 to, and paragraphs 1 and 40 of Schedule 5 to, the Enterprise and Regulatory Reform Act 2013 and [S.I. 2012/1809](#).

**M104** Section 65C(1) was inserted by [S.I. 2004/1261](#) and amended by paragraphs 1 and 45 of Schedule 5 to the Enterprise and Regulatory Reform Act 2013.

10. A warrant issued and in force under section 62(1) <sup>M105</sup>, 62A(1) <sup>M106</sup>, 63(1) <sup>M107</sup>, 65G(1) <sup>M108</sup> or 65H(1) <sup>M109</sup> of the 1998 Act ceases to have effect on [<sup>F54</sup>IP completion day, except where the warrant relates to a case in which the European Commission has continued competence in accordance with article 92 of the EU withdrawal agreement].

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#### Textual Amendments

**F54** Words in Sch. 4 para. 10 substituted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **37(4)**

#### Commencement Information

**I123** Sch. 4 para. 10 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

#### Marginal Citations

**M105** Section 62(1) was amended by paragraphs 1 and 5 of Schedule 13 to the Enterprise and Regulatory Reform Act 2013 and by [S.I. 2004/1261](#).

**M106** Section 62A(1) was inserted by [S.I. 2004/1261](#) and amended by paragraphs 1 and 6 of Schedule 13 to the Enterprise and Regulatory Reform Act 2013.

**M107** Section 63(1) was amended by paragraphs 1 and 44 of Schedule 5 to, and paragraphs 1 and 7 of Schedule 13 to the Enterprise and Regulatory Reform Act 2013, and by [S.I. 2004/1261](#).

**M108** Section 65G(1) was inserted by [S.I. 2004/1261](#) and amended by paragraphs 1 and 9 of Schedule 13 to, and paragraphs 1 and 49 of Schedule 5 to, the Enterprise and Regulatory Reform Act 2013.

**M109** Section 65H(1) was inserted by [S.I. 2004/1261](#) and amended by paragraphs 1 and 10 of Schedule 13 to, and paragraphs 1 and 50 of Schedule 5 to the Enterprise and Regulatory Reform Act 2013.

**11.** A notice given under section 65E(2)<sup>M110</sup> or 65F(2)<sup>M111</sup> of the 1998 Act ceases to have effect on [<sup>F55</sup>IP completion day].

#### Textual Amendments

**F55** Words in Sch. 4 para. 11 substituted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **37(5)**

#### Commencement Information

**I124** Sch. 4 para. 11 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

#### Marginal Citations

**M110** Section 65E(2) was inserted by [S.I. 2004/1261](#).

**M111** Section 65F(2) was inserted by [S.I. 2004/1261](#).

**12.** Despite their repeal by these Regulations, sections 65B<sup>M112</sup> and 65K<sup>M113</sup> of the 1998 Act (use of statements in prosecution) continue to have effect on and after [<sup>F56</sup>IP completion day] in relation to statements made before [<sup>F56</sup>IP completion day].

#### Textual Amendments

**F56** Words in Sch. 4 para. 12 substituted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **37(5)**

#### Commencement Information

**I125** Sch. 4 para. 12 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

**Status:** Point in time view as at 31/12/2020. This version of this Instrument contains provisions that are prospective.

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Competition (Amendment etc.) (EU Exit) Regulations 2019. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

#### Marginal Citations

**M112** Section 65B was inserted by [S.I. 2004/1261](#).

**M113** Section 65K was inserted by [S.I. 2004/1261](#).

## PART 5

### Redress schemes further to European Commission decisions

**13.**—<sup>[F57]</sup>(1) This paragraph applies where—

- (a) before IP completion day, the European Commission has made a decision that the prohibition in Article 101(1) or Article 102 has been infringed; or
- (b) the European Commission has made a decision that the prohibition in Article 101(1) or Article 102 has been infringed after IP completion day in a case in which it had continued competence in accordance with article 92 of the EU withdrawal agreement.]

(2) In relation to schemes offering compensation in consequence of the decision, and applications for the approval of such schemes, on and after <sup>[F58]</sup>IP completion day], in connection with the decision, the enactments mentioned in paragraph 7(3) to (8) have effect as described there.

#### Textual Amendments

**F57** Sch. 4 para. 13(1) substituted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **38(2)(a)**

**F58** Words in Sch. 4 para. 13(2) substituted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **38(2)(b)**

#### Commencement Information

**I126** Sch. 4 para. 13 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

## PART 6

### Court and tribunal proceedings relating to competition

#### <sup>[F59]</sup> Interpretation

**13A.** In this Part of this Schedule—

“domestic competition infringement” means an infringement or alleged infringement of the Chapter I prohibition or the Chapter II prohibition (in each case as defined in section 59 of the 1998 Act);

“EU competition infringement” means an infringement or alleged infringement of—

- (a) the prohibition in Article 101(1) of the Treaty on the Functioning of the European Union,
- (b) the prohibition in Article 102 of that Treaty,
- (c) the prohibition in Article 53 of the European Economic Area Agreement, or
- (d) the prohibition in Article 54 of that Agreement.]

**Status:** Point in time view as at 31/12/2020. This version of this Instrument contains provisions that are prospective.

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**Textual Amendments**

**F59** Sch. 4 para. 13A inserted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **39(2)**

**Commencement Information**

**I127** Sch. 4 para. 13A in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

**Claims before a court or tribunal relating to [F60pre-IP completion day] EU competition infringements**

14.—<sup>F61</sup>(1) .....

(2) Where an EU competition infringement occurs before [F62IP completion day], on and after [F62IP completion day] a person may—

- (a) continue any claim (or defence to a claim) in relation to that infringement in proceedings before a court or tribunal in the United Kingdom, and
- (b) make any claim (or defence to a claim) in relation to that infringement in proceedings before a court or tribunal in the United Kingdom which the person could have made before [F62IP completion day].

(3) The reference in sub-paragraph (2)(b) to a claim which a person could have made before [F62IP completion day] includes a claim which the person could have made if any loss or damage to which the claim relates had arisen before [F62IP completion day] (whether or not it did so).

(4) Where a person has acquired the right to make a claim from another person (whether by operation of law or otherwise), the reference in sub-paragraph (2)(b) to a claim which a person could have made before [F62IP completion day] includes a claim which that other person could have made before [F62IP completion day].

**Textual Amendments**

**F60** Words in Sch. 4 para. 14 heading substituted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **39(3)**

**F61** Sch. 4 para. 14(1) omitted (31.12.2020 immediately before IP completion day) by virtue of [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **39(4)(a)**

**F62** Words in Sch. 4 para. 14 substituted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **39(4)(b)**

**Commencement Information**

**I128** Sch. 4 para. 14 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

15.—<sup>F63</sup>(1) In relation to claims (and defences to claims) described in paragraph 14(2) the enactments mentioned in paragraph 7(3) to (8) have effect as described there.

[F64(2) Sub-paragraph (1) continues to apply if the claim (or defence to a claim) includes a claim (or defence to a claim) in respect of loss or damage arising from a domestic competition infringement that occurred before IP completion day including if that domestic competition infringement continues on or after IP completion day.]

**Status:** Point in time view as at 31/12/2020. This version of this Instrument contains provisions that are prospective.

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Competition (Amendment etc.) (EU Exit) Regulations 2019. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

#### Textual Amendments

- F63** Sch. 4 para. 15 renumbered as Sch. 4 para. 15(1) (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **39(5)(a)**
- F64** Sch. 4 para. 15(2) inserted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **39(5)(b)**

#### Commencement Information

- I129** Sch. 4 para. 15 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see [reg. 1\(1\)](#)

16. Where, before [<sup>F65</sup>IP completion day], a reference has been made in proceedings by the Competition Appeal Tribunal to the European Court under rule 109 of the Competition Appeal Tribunal Rules 2015 and no preliminary ruling has been made, any stay (or in Scotland, sist) under rule 109(3) is to continue on and after [<sup>F65</sup>IP completion day] unless or until the Tribunal otherwise directs.

#### Textual Amendments

- F65** Words in Sch. 4 para. 16 substituted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **39(6)**

#### Commencement Information

- I130** Sch. 4 para. 16 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see [reg. 1\(1\)](#)

### Claims before a court or tribunal relating to [<sup>F66</sup>pre-IP completion day] domestic competition infringements

17.—<sup>F67</sup>(1) . . . . .

[<sup>F68</sup>(2) This paragraph applies to a claim (or defence to a claim)—

- (a) which is in respect of loss or damage arising from a domestic competition infringement that occurred before IP completion day including if that infringement continues on or after IP completion day;
- (b) which is not included in a claim (or defence to a claim) described in paragraph 14(2).]

[<sup>F69</sup>(3) On and after IP completion day, in relation to proceedings before a court or tribunal relating to a claim (or defence to a claim) to which this paragraph applies, the enactments mentioned in paragraphs 7(3) to (8) have effect as described there.]

#### Textual Amendments

- F66** Words in Sch. 4 para. 17 heading substituted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **39(7)**
- F67** Sch. 4 para. 17(1) omitted (31.12.2020 immediately before IP completion day) by virtue of [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **39(8)(a)**
- F68** Sch. 4 para. 17(2) substituted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **39(8)(b)**
- F69** Sch. 4 para. 17(3) inserted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **39(8)(c)**

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#### Commencement Information

**I131** Sch. 4 para. 17 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

## [<sup>F70</sup>PART 6A

### Concentrations subject to EU Controls in accordance with the EU withdrawal agreement

#### Textual Amendments

**F70** Sch. 4 Pt. 6A inserted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), [regs. 1\(1\)](#), [40\(2\)](#)

**17A.**—(1) On and after IP completion day, to the extent to which an agreement (either on its own or when taken together with another agreement) gives rise to, or would if carried out give rise to, a concentration, the prohibition in section 2 of the 1998 Act does not apply to the agreement if the European Commission has exclusive jurisdiction in the matter in accordance with Article 92 of the EU withdrawal agreement.

(2) On and after IP completion day, to the extent to which conduct (either on its own or when taken together with other conduct) gives rise to, or would if pursued give rise to, a concentration, the prohibition in section 18 of the 1998 Act does not apply to the conduct if the European Commission has exclusive jurisdiction in the matter in accordance with Article 92 of the EU withdrawal agreement.

(3) In this paragraph, “concentration” means a concentration with a Community dimension within the meaning of Articles 1 and 3 of Council Regulation ([EC](#)) No 139/2004 of 20th January 2004.]

#### Commencement Information

**I132** Sch. 4 para. 17A in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

## PART 7

### Enterprise Act 2002 [<sup>F71</sup>and other merger control legislation]

#### Textual Amendments

**F71** Words in Sch. 4 Pt. 7 heading inserted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), [regs. 1\(1\)](#), [42](#)

#### Interpretation

**18.**—(1) In this Part of this Schedule—

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“the 2003 Order” means the Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003<sup>M114</sup>;

“EC Merger Regulation” means Council Regulation (EC) 139/2004<sup>M115</sup> on the control of concentrations between undertakings as it has effect in EU law [<sup>F72</sup>from time to time];

“enterprise” has the meaning given by section 129 of the 2002 Act;

“European relevant merger situation” has the meaning given by section 68(2) of the 2002 Act.

(2) For the purposes of this Part of this Schedule the EU merger decision has been taken in relation to a concentration if—

- (a) the European Commission has made a decision in relation to the concentration under Article 6(1)(b) or 8(1), (2) or (3) of the EC Merger Regulation; or
- (b) the concentration is deemed to have been declared compatible with the internal market under Article 10(6) of that Regulation.

#### Textual Amendments

**F72** Words in Sch. 4 para. 18 substituted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **43**

#### Commencement Information

**I133** Sch. 4 para. 18 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

#### Marginal Citations

**M114** [S.I. 2003/1592](#); relevant amending instruments are SI 2003/3180 and S.I. 2014/891.

**M115** O.J. L 24, 29.1.2004, p. 1.

PROSPECTIVE

#### Cases decided under the EC Merger Regulation before exit day

<sup>F73</sup>**19.** . . . . .

#### Textual Amendments

**F73** Sch. 4 para. 19 omitted (31.12.2020 immediately before IP completion day) by virtue of [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **44**

#### [<sup>F74</sup>EU merger decisions annulled in full or in part

**19A.**—(1) This paragraph applies if, on or after IP completion day, a decision by the European Commission in relation to a continued competence concentration is annulled in full or in part by the European Court and European Commission or the European Court makes a binding decision that the European Commission is not competent—

- (a) to re-examine the concentration concerned under Article 10(5) of the EC Merger Regulation; or

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- (b) to consider as part of such a re-examination any effects of the concentration concerned on competition within a market or markets in the United Kingdom.
- (2) Nothing in the EU withdrawal agreement is to be taken as preventing the following in relation to the concentration concerned—
  - (a) a reference being made under section 22 or 33 of the 2002 Act;
  - (b) an intervention notice being given under section 42 of the 2002 Act;
  - (c) a reference being made under section 45 of the 2002 Act.
- (3) The European Commission and the European Court are to be treated as having made a binding decision for the purposes of sub-paragraph (1)(a) or (b) when—
  - (a) the decision or other document containing a decision to that effect or from which a decision to that effect may reasonably be inferred is published; and
  - (b) the decision becomes final.
- (4) A decision of the European Commission becomes final—
  - (a) when the time for appealing against it in the European Court expires without an appeal having been brought; or
  - (b) where an appeal has been brought against the decision, when—
    - (i) the appeal and any further appeal in the European Court in relation to the decision has been decided or has otherwise ended; and
    - (ii) the time for appealing against the result of the appeal or further appeal in the European Court has expired without another appeal having been brought.
- (5) A decision by the European Court becomes final—
  - (a) when the time for appealing against it expires without an appeal having been brought; or
  - (b) where an appeal has been brought against the decision, when the appeal in relation to the decision has been decided or has otherwise ended.
- (6) On and after IP completion day, despite their repeal by these Regulations, subsections (3) to (5) of section 122 of the 2002 Act continue to have effect in relation to the concentration concerned except that the condition mentioned in section 122(4) is to be treated as being satisfied during the period starting on IP completion day and ending on the day the binding decision referred to in sub-paragraph (1)(a) or (b) is made by the European Commission or the European Court (as the case may be).
- (7) In this paragraph, “continued competence concentration” means a concentration—
  - (a) in relation to which the EU merger decision was taken before IP completion day; or
  - (b) in relation to which the European Commission has continued competence as regards the United Kingdom on and after IP completion day in accordance with Article 92 of the EU withdrawal agreement.]

#### **Textual Amendments**

**F74** Sch. 4 para. 19A inserted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **45**

#### **Commencement Information**

**I134** Sch. 4 para. 19A in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)



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## Article 22 cases referred to but not decided by the European Commission before [F75 IP completion day]

**20.**—(1) This paragraph applies in a case in which immediately before [F76 IP completion day] the CMA—

(a) has given a notice under section 25(6) of the 2002 Act to persons carrying on enterprises which have or may have ceased to be distinct extending the four month period mentioned in section 24(1)(a) or (2)(b) of that Act <sup>M116</sup> following a request made to the European Commission by the United Kingdom under Article 22(1) of the EC Merger Regulation, but

(b) has not given a notice under section 25(8) of that Act ending that extension.

(2) Subsections (6) to (8) of section 25 of the 2002 Act continue to have effect in relation to the extension under section 25(6) of that Act, despite their repeal by regulation 35(a).

(3) Section 25(10) of that Act continues to have effect in relation to that extension without the modification made by regulation 35(b).

(4) If, immediately before [F77 IP completion day], the European Commission has not completed its consideration of the request of the United Kingdom, section 25(8) of that Act, as it continues to have effect by virtue of this paragraph, has effect as if for “of the completion by the European Commission of its consideration of” there were substituted “ that the EC Merger Regulation has ceased to apply to ”.

### Textual Amendments

**F75** Words in Sch. 4 para. 20 heading substituted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\), regs. 1\(1\), 46](#)

**F76** Words in Sch. 4 para. 20(1) substituted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\), regs. 1\(1\), 46](#)

**F77** Words in Sch. 4 para. 20(4) substituted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\), regs. 1\(1\), 46](#)

### Commencement Information

**I135** Sch. 4 para. 20 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

### Marginal Citations

**M116** Section 24 was amended by paragraphs 59 and 69 of Schedule 5 to the Enterprise and Regulatory Reform Act 2013.

PROSPECTIVE

**F78** **21.** . . . . .

### Textual Amendments

**F78** Sch. 4 para. 21 omitted (31.12.2020 immediately before IP completion day) by virtue of [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\), regs. 1\(1\), 47](#)

**22.**—(1) This paragraph applies in a case in which immediately before [F79 IP completion day] the CMA—

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**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to *The Competition (Amendment etc.) (EU Exit) Regulations 2019*. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

- (a) has given a notice under section 34ZB(5) of the 2002 Act, extending the initial period mentioned in section 34ZA(1) of that Act, following a request made to the European Commission by the United Kingdom under Article 22(1) of the EC Merger Regulation, but
  - (b) has not given notice as mentioned in section 34ZB(8)(b) of that Act ending that extension.
- (2) Subsections (5) and (8) of section 34ZB of the 2002 Act continue to have effect in relation to the extension under section 34ZB(5) of that Act, despite their repeal by regulation 39.
- (3) Section 34ZC(1), (3) and (4) of that Act continues to have effect in relation to that extension without the modifications made by regulation 40.
- (4) If, immediately before [<sup>F80</sup>IP completion day], the European Commission has not completed its consideration of the request of the United Kingdom, section 34ZB(8)(b) of that Act, as it continues to have effect by virtue of this paragraph, has effect as if for “of the completion by the European Commission of its consideration of” there were substituted “ that the EC Merger Regulation has ceased to apply to ”.

**Textual Amendments**

**F79** Words in Sch. 4 para. 22(1) substituted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), 48

**F80** Words in Sch. 4 para. 22(4) substituted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), 48

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**Commencement Information**

**I136** Sch. 4 para. 22 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

PROSPECTIVE

<sup>F81</sup>**23.** . . . . .

**Textual Amendments**

**F81** Sch. 4 para. 23 omitted (31.12.2020 immediately before IP completion day) by virtue of [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), 49

**Cases referred by the European Commission to the CMA <sup>F82</sup>...**

- 24.**—(1) This paragraph applies [<sup>F83</sup>if]—
- (a) the European Commission has by a decision referred the whole or part of a case to the CMA under Article 4(4) or 9 of the EC Merger Regulation, or is deemed to have taken such a decision; and
  - (b) [<sup>F84</sup>in a case in which the decision to refer was taken, or is deemed to have been taken, before IP completion day,] the preliminary assessment period in relation to the case has not ended.
- (2) In relation to the case—
- (a) sections 34A, 46A, 46B and 122(3) to (5) of the 2002 Act continue to have effect despite their repeal by Part 3 of these Regulations, and

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- (b) sections 34ZA, 73A, 107 and 110B continue to have effect without the modifications made by regulations 38, 48, 50 and 51.
- (3) References to the EC Merger Regulation in any provision which continues to have effect by virtue of sub-paragraph (2) have the meaning given by paragraph 18.
- (4) In sub-paragraph (1), “the preliminary assessment period” has the meaning given by—
  - (a) section 46A(4) of the 2002 Act, in any case where an intervention notice (as defined in section 42(2) of the 2002 Act) is in force; and
  - (b) section 34A(4) of that Act, in any other case.

#### Textual Amendments

- F82** Words in Sch. 4 para. 24 heading omitted (31.12.2020 immediately before IP completion day) by virtue of [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **50(3)**
- F83** Word in Sch. 4 para. 24(1) substituted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **50(2)(a)**
- F84** Words in Sch. 4 para. 24(1)(b) inserted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **50(2)(b)**

#### Commencement Information

- I137** Sch. 4 para. 24 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

### Intervention to protect legitimate interests: no European intervention notice before <sup>F85</sup>IP completion]

- 25.—(1) This paragraph applies in a case in which immediately before <sup>F86</sup>IP completion day]—
- (a) a concentration has been examined by the European Commission under the EC Merger Regulation and the EU merger decision has been taken in relation to the concentration;
  - (b) the conditions specified in section 67(1) of the 2002 Act are met in relation to the concentration concerned; and
  - (c) the Secretary of State has not made a decision to give an intervention notice under <sup>F87</sup>section 67(2) of the 2002 Act].
- (2) The old legitimate interests law continues to have effect on and after <sup>F88</sup>IP completion day] in relation to the concentration concerned except that the conditions in section <sup>F89</sup>67(1)(a)(ii), (b) and (c)] are treated as being met on and after <sup>F88</sup>IP completion day].
- (3) In this paragraph “the old legitimate interests law” means—
- (a) sections 67 and 68 of the 2002 Act;
  - (b) the Enterprise Act 2002 (Anticipated Mergers) Order 2003 <sup>M117</sup> without the modification made by paragraph 6(2) of Schedule 2 to these Regulations; and
  - (c) the 2003 Order.

#### Textual Amendments

- F85** Words in Sch. 4 para. 25 heading substituted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **51(4)**
- F86** Words in Sch. 4 para. 25(1) substituted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **51(2)(a)**

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- F87** Words in Sch. 4 para. 25(1)(c) substituted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **51(2)(b)**
- F88** Words in Sch. 4 para. 25(2) substituted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **51(3)(a)**
- F89** Words in Sch. 4 para. 25(2) substituted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **51(3)(b)**

#### Commencement Information

- I138** Sch. 4 para. 25 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

#### Marginal Citations

- M117** [S.I. 2003/1595](#), to which there is an amendment not relevant to these Regulations.

- [<sup>F90</sup>**25A.**—(1) This paragraph applies in a case where immediately before IP completion day—
- (a) a concentration is being examined by the European Commission but the EU merger decision has not been taken in relation to the concentration, and
  - (b) the Secretary of State has not made a decision to give an intervention notice under section 67(2) of the 2002 Act in relation to the concentration concerned.
- (2) The old legitimate interests law continues to have effect on and after IP completion day in relation to the case concerned except that—
- (a) the references to “EU law” in sections 67(1)(b) and 68(2)(c) of the 2002 Act are to be read as references to “relevant separation agreement law” within the meaning of section 7C of the European Union (Withdrawal Agreement) Act 2020; and
  - (b) references to the EC Merger Regulation in sections 67 and 68 of the 2002 Act have the meaning given by paragraph 18.
- (3) In this paragraph—
- (a) “the old legitimate interests law” has the same meaning as in paragraph 25; and
  - (b) a concentration is being examined by the European Commission if proceedings under the EC Merger Regulation in relation to the concentration have been initiated for the purposes of Article 92 of the EU withdrawal agreement.]

#### Textual Amendments

- F90** Sch. 4 para. 25A inserted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **52**

#### Commencement Information

- I139** Sch. 4 para. 25 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

### Intervention to protect legitimate interests: European intervention notice before [<sup>F91</sup>IP completion day]

- 26.**—(1) This paragraph applies in a case in which immediately before [<sup>F92</sup>IP completion day]—
- (a) the Secretary of State has given a notice to the CMA under section 67(2) of the 2002 Act in relation to a European relevant merger situation; and

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(b) the matter to which the notice relates has been finally determined in accordance with article 3 of the 2003 Order.

(2) The old legitimate interests law continues to have effect on and after [<sup>F93</sup>IP completion day in connection with the matter to which the notice relates].

(3) In this paragraph, “the old legitimate interests law” has the same meaning as in paragraph 25.

#### Textual Amendments

- F91** Words in Sch. 4 para. 26 heading substituted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **53(4)**
- F92** Words in Sch. 4 para. 26(1) substituted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **53(2)**
- F93** Words in Sch. 4 para. 26(2) substituted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **53(3)**

#### Commencement Information

- I140** Sch. 4 para. 26 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see reg. 1(1)

27.—(1) This paragraph applies in a case in which immediately before [<sup>F94</sup>IP completion day]—

(a) the Secretary of State has given a notice to the CMA under section 67(2) of the 2002 Act in relation to a European relevant merger situation; [<sup>F95</sup>and]

(b) the matter to which the notice relates has not been finally determined in accordance with article 3 of the 2003 Order; <sup>F96</sup> ...

<sup>F96</sup>(c) .....

(2) The old legitimate interests law continues to have effect on and after [<sup>F97</sup>IP completion day] in connection with the matter to which the notice relates [<sup>F98</sup>except that in section 68(2) of the 2002 Act—

(a) the reference to “EU law” includes a reference to “relevant separation agreement law” within the meaning of section 7C of the European Union (Withdrawal Agreement) Act 2020; and

(b) the reference to the EC Merger Regulation has the meaning given by paragraph 18.]

(3) In this paragraph, “the old legitimate interests law” has the same meaning as in paragraph 25.

#### Textual Amendments

- F94** Words in Sch. 4 para. 27(1) substituted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **54(2)(a)**
- F95** Word in Sch. 4 para. 27(1)(a) inserted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **54(2)(b)**
- F96** Sch. 4 para. 27(1)(c) omitted (31.12.2020 immediately before IP completion day) by virtue of [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **54(2)(c)**
- F97** Words in Sch. 4 para. 27(2) substituted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **54(3)(a)**
- F98** Words in Sch. 4 para. 27(2) inserted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **54(3)(b)**

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**Commencement Information**

I141 Sch. 4 para. 27 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(1)

- 28.—(1) This paragraph applies in a case in which immediately before [<sup>F99</sup>IP completion day]—
  - (a) the Secretary of State has given a notice to the CMA under section 67(2) of the 2002 Act in relation to a European relevant merger situation;
  - (b) the matter to which the notice relates has not been finally determined in accordance with article 3 of the 2003 Order; and
  - [<sup>F100</sup>(c) proceedings under the EC Merger Regulation in relation to the concentration concerned have not been initiated for the purposes of Article 92 of the EU withdrawal agreement.]
- (2) On and after [<sup>F101</sup>IP completion day]—
  - (a) the notice under section 67(2) of the 2002 Act has effect as if it were a notice under section 42(2) of that Act, and
  - (b) Part 3 of the 2002 Act has effect in relation to the case <sup>F102</sup>....
- (3) In sub-paragraph (2), the reference to Part 3 of the 2002 Act—
  - (a) includes provision made under that Part; and
  - (b) is a reference to that Part and provision made under it as modified by these Regulations.

**Textual Amendments**

- F99 Words in Sch. 4 para. 28(1) substituted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), 55(2)(a)
- F100 Sch. 4 para. 28(1)(c) substituted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), 55(2)(b)
- F101 Words in Sch. 4 para. 28(2) substituted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), 55(3)(a)
- F102 Words in Sch. 4 para. 28(2)(b) omitted (31.12.2020 immediately before IP completion day) by virtue of [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), 55(3)(b)

**Commencement Information**

I142 Sch. 4 para. 28 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(1)

PROSPECTIVE

<sup>F103</sup>29. ....

**Textual Amendments**

F103 Sch. 4 paras. 29-33 omitted (31.12.2020 immediately before IP completion day) by virtue of [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), 56

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PROSPECTIVE

<sup>F103</sup>30. ....

**Textual Amendments**

**F103** Sch. 4 paras. 29-33 omitted (31.12.2020 immediately before IP completion day) by virtue of [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **56**

PROSPECTIVE

<sup>F103</sup>31. ....

**Textual Amendments**

**F103** Sch. 4 paras. 29-33 omitted (31.12.2020 immediately before IP completion day) by virtue of [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **56**

PROSPECTIVE

<sup>F103</sup>32. ....

**Textual Amendments**

**F103** Sch. 4 paras. 29-33 omitted (31.12.2020 immediately before IP completion day) by virtue of [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **56**

PROSPECTIVE

<sup>F103</sup>33. ....

**Textual Amendments**

**F103** Sch. 4 paras. 29-33 omitted (31.12.2020 immediately before IP completion day) by virtue of [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **56**

**General savings**

34.—(1) On and after [<sup>F104</sup>IP completion day], despite their repeal by these Regulations, subsections (3) to (5) of section 122 of the 2002 Act continue to have effect in relation to any case where enterprises ceased to be distinct before [<sup>F104</sup>IP completion day], other than in a case falling within paragraph 19(1) in relation to which sub-paragraph (2) of that paragraph has effect.

(2) In its continued application by virtue of sub-paragraph (1), section 122(4) has effect as if the reference in that subsection to the “EC Merger Regulation or anything done under or in accordance

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with them” were a reference to Council Regulation (EC) 139/2004 on the control of concentrations between undertakings as it has effect in EU law before [<sup>F104</sup>IP completion day] or anything done under or in accordance with that instrument before [<sup>F104</sup>IP completion day].

#### Textual Amendments

**F104** Words in Sch. 4 para. 34 substituted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **57**

#### Commencement Information

**I143** Sch. 4 para. 34 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

**35.** The repeal of section 209 of the 2002 Act does not affect the validity of any provision made under that section before [<sup>F105</sup>IP completion day].

#### Textual Amendments

**F105** Words in Sch. 4 para. 35 substituted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **57**

#### Commencement Information

**I144** Sch. 4 para. 35 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

**[<sup>F106</sup>35A.—**(1) Section 240 of the 2002 Act continues to have effect in respect of continued competence cases despite its repeal by regulation 59.

(2) In any case where section 240 of the 2002 Act continues to have effect by virtue of this paragraph, the reference in that section to an EU obligation is to be treated as a reference to an obligation which arises by virtue of relevant separation agreement law.

(3) In this paragraph—

“continued competence cases” means proceedings for the application of Article 101 or 102 TFEU conducted by the European Commission under Regulation 1/2003 and proceedings in connection with the control of concentrations between undertakings governed by Regulation 139/2004, for which the European Commission has competence on and after IP completion day by virtue of Part 3 of the EU withdrawal agreement;

“Regulation 1/2003” means Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty, as it has effect from time to time for the purposes of relevant separation agreement law;

“Regulation 139/2004” means Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings as it has effect from time to time for the purposes of relevant separation agreement law.

#### Textual Amendments

**F106** Sch. 4 paras. 35A, 35B inserted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **58**



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#### Commencement Information

**I145** Sch. 4 para. 35A in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

### EEC Merger Control (Distinct Market Investigations) Regulations 1990

**35B.—(1)** This paragraph applies where, on or after IP completion day, the European Commission has requested information under the second sentence of Article 19(2) of the EC Merger Regulation in relation to a case for which it has continued competence in accordance with Article 92 of the EU withdrawal agreement.

(2) The EEC Merger Control (Distinct Market Investigations) Regulations 1990 continue to have effect on and after IP completion day in relation to the case despite their repeal by these Regulations.]

#### Textual Amendments

**F106** Sch. 4 paras. 35A, 35B inserted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), [regs. 1\(1\), 58](#)

#### Commencement Information

**I146** Sch. 4 para. 35B in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

## PART 8

### Company Directors Disqualification Legislation

**36.—(1)** This paragraph applies where an undertaking engages in conduct which infringes Article 101 or 102 of the Treaty of the Functioning of the European Union before [<sup>F107</sup>IP completion day].

(2) On and after [<sup>F107</sup>IP completion day]—

- (a) section 9A of the Company Directors Disqualification Act 1986 has effect without the modifications made by paragraph 1(1) to (3) of Schedule 1 to these Regulations; and
- (b) Article 13A of the Company Directors Disqualification (Northern Ireland) Order 2002 has effect without the modifications made by paragraph 10(1) to (3) of Schedule 1 to these Regulations.

#### Textual Amendments

**F107** Words in Sch. 4 para. 36 substituted (31.12.2020 immediately before IP completion day) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), [regs. 1\(1\), 59\(2\)](#)

#### Commencement Information

**I147** Sch. 4 para. 36 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations address failures of retained EU law to operate effectively and other deficiencies (in particular under section 8(2)(a) to (d) and (g) of the European Union (Withdrawal) Act 2018 (c. 16)) arising from the withdrawal of the United Kingdom from the European Union.

These Regulations make amendments to legislation in the field of competition law and, in particular, amend legislation relating to (a) infringements of, and exemptions from, competition law and claims for damages or loss arising out of infringements and (b) mergers. Part 2 amends the Competition Act 1998 (c. 41), Part 3 amends the Enterprise Act 2002 (c. 40), Part 4 amends other primary legislation, Part 5 amends subordinate legislation, Part 6 amends and revokes retained EU law and Part 7 makes transitional and saving provision.

An impact assessment has not been produced for this instrument as no significant impact on the private or voluntary sector is foreseen.

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