
DRAFT STATUTORY INSTRUMENTS

2004 No.

**The Competition Act 1998 and Other
Enactments (Amendment) Regulations 2004**

Citation and commencement

1. These Regulations may be cited as the Competition Act 1998 and other enactments (Amendment) Regulations 2004 and shall come into force—

- (a) for the purposes of regulation 4 as it gives effect to paragraphs 50(a) and 54(8) of Schedule 1, on 1st May 2007; and
- (b) for all other purposes, on 1st May 2004.

Interpretation

2. In these Regulations—

“the 1998 Act” means the Competition Act 1998(1);

“the appointed day” means the 1st May 2004;

“the EC Competition Regulation” 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(2);

“the OFT” means the Office of Fair Trading; and

“the Treaty” means the treaty establishing the European Community.

Designation of national competition authorities

3.—(1) Subject to paragraphs (2) and (3) below, the following persons are hereby designated as national competition authorities pursuant to Article 35 of the EC Competition Regulation—

- (a) the OFT; and
- (b) any regulator mentioned in section 54(1) of the 1998 Act.

(2) The OFT is designated as a national competition authority for the purposes of exercising all of the powers and functions of a competition authority of a Member State under Chapters I, II, IV, V, VIII and IX of the EC Competition Regulation.

(3) Any person mentioned in paragraph (1)(b) above is designated as a national competition authority for the purposes of exercising all of the powers and functions of a competition authority of a Member State under Chapters I, II, IV, VIII and IX of the EC Competition Regulation.

Amendments to the Competition Act 1998

4. The amendments to the 1998 Act specified in Schedule 1 to these Regulations shall have effect.

(1) 1998 c. 41.

(2) OJ L 001, 04.1.03, p.1-25.

Amendments to other enactments

5. The amendments to other enactments specified in Schedule 2 to these Regulations shall have effect.

Savings and consequential provision

6.—(1) Paragraph (2) applies if an individual exemption from the prohibition imposed by section 2(1) of the 1998 Act has been granted before the appointed day and has not expired or been cancelled before that day.

(2) The repeals made by these Regulations do not affect that exemption (or a condition or an obligation relating to it); but this does not allow the OFT, on or after the appointed day, to extend that exemption under section 4(6) of the 1998 Act.

(3) Section 5 of the 1998 Act, despite its repeal by these Regulations, shall continue in effect while any individual exemption has effect.

(4) In this regulation “individual exemption” means an exemption granted under section 4 of the 1998 Act (including one granted by virtue of paragraph 3(2)(c) of Schedule 8 to that Act).

7.—(1) Paragraph (2) applies if, before the appointed day, the European Commission adopted a decision pursuant to Article 81(3) of the Treaty in relation to an agreement and that decision has not expired or been revoked.

(2) Section 10 of the 1998 Act has effect in relation to the agreement without the amendment made by paragraph 7(2) of Schedule 1.

(3) Section 2(5) of the 1998 Act applies to this regulation as it applies to Part 1 of that Act.

8.—(1) This regulation applies where, before the appointed day, the OFT has made a decision falling within paragraph (c), (d) or (e) of section 46(3), or has made a decision falling within paragraph (f) of section 46(3) in relation to an individual exemption.

(2) This regulation also applies where, on or after the appointed day, the OFT (by virtue of regulation 6) makes under section 5 of the 1998 Act a decision falling within paragraph (d)(i) or (ii) or (f) of section 46(3).

(3) Where this regulation applies—

(a) sections 46 and 47 of and Schedule 8 to the 1998 Act shall have effect in relation to the decision in question without the amendments made by these Regulations; and

(b) on an appeal in respect of that decision, the powers under paragraph 3(2) of Schedule 8 to that Act are not affected by the repeal by these Regulations of section 4 or 5 of this Act; but this does not allow the Competition Appeal Tribunal, on or after the appointed day, to extend the individual exemption.

(4) In this regulation—

(a) references to section 46(3) are to section 46(3) of the 1998 Act as that subsection had effect before the appointed day; and

(b) “individual exemption” has the same meaning as in regulation 6.

9.—(1) Paragraph (2) applies if—

(a) an agreement has been notified before the appointed day to the OFT under section 13 or 14 of the 1998 Act and, on the appointed day, the OFT has not determined the application made in respect of the agreement, or

(b) an agreement has been notified before the appointed day to the European Commission for a decision as to whether an exemption will be granted under Article 81(3) of the Treaty

with respect to the agreement and, on the appointed day, the European Commission has not determined the matter.

(2) No penalty may be imposed under Part 1 of the 1998 Act in respect of any infringement of the Chapter I prohibition by the agreement which occurred during the period beginning with the date on which notification was given and ending with the appointed day.

10. Where section 5 of the 1998 Act continues to have effect by virtue of regulation 6, paragraph 6 of Schedule 9 to that Act shall continue to have effect despite its repeal by these Regulations.

Parliamentary Under Secretary of State for,
Employment Relations, Competition and
Consumers
Department of Trade and Industry

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