



Competition Act 1998

1998 CHAPTER 41

PART I

COMPETITION

CHAPTER V

MISCELLANEOUS

Modifications etc. (not altering text)

- C1** Pt. 1 modified (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by [Communications Act 2003 \(c. 21\), ss. 371\(3\), 411\(2\)](#) (with [Sch. 18](#)); [S.I. 2003/1900, arts. 1\(2\), 2\(1\), Sch. 1](#) (with [art. 3](#)) (as amended by [S.I. 2003/3142, art. 1\(3\)](#)); [S.I. 2003/3142, art. 3\(2\)](#) (with [art. 11](#))

Vertical agreements and land agreements

50 Vertical agreements and land agreements.

- (1) The Secretary of State may by order provide for any provision of this Part to apply in relation to—
- vertical agreements, or
 - land agreements,
- with such modifications as may be prescribed.
- (2) An order may, in particular, provide for exclusions or exemptions, or otherwise provide for prescribed provisions not to apply, in relation to—
- vertical agreements, or land agreements, in general; or
 - vertical agreements, or land agreements, of any prescribed description.

Status: Point in time view as at 01/04/2014.

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- (3) An order may empower the [F1CMA] to give directions to the effect that in prescribed circumstances an exclusion, exemption or modification is not to apply (or is to apply in a particular way) in relation to an individual agreement.
- (4) Subsections (2) and (3) are not to be read as limiting the powers conferred by section 71.
- (5) In this section—
 - “land agreement” and “vertical agreement” have such meaning as may be prescribed; and
 - “prescribed” means prescribed by an order.

Textual Amendments

- F1** Word in s. 50(3) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 5 para. 29](#) (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

[F2CMA's] rules, guidance and fees

Textual Amendments

- F2** Word in s. 51 cross-heading substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 5 para. 30](#) (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

51 Rules.

- (1) The [F3CMA] may make such rules about procedural and other matters in connection with the carrying into effect of the provisions of this Part as [F4it] considers appropriate.
- (2) Schedule 9 makes further provision about rules made under this section but is not to be taken as restricting the [F5CMA] powers under this section.
- (3) If the [F6CMA] is preparing rules under this section [F7it] must consult such persons as he considers appropriate.
- (4) If the proposed rules relate to a matter in respect of which a regulator exercises concurrent jurisdiction, those consulted must include that regulator.
- (5) No rule made by the [F8CMA] is to come into operation until it has been approved by an order made by the Secretary of State.
- (6) The Secretary of State may approve any rule made by the [F8CMA] —
 - (a) in the form in which it is submitted; or
 - (b) subject to such modifications as he considers appropriate.
- (7) If the Secretary of State proposes to approve a rule subject to modifications he must inform the [F8CMA] of the proposed modifications and take into account any comments made by the [F8CMA] .
- (8) Subsections (5) to (7) apply also to any alteration of the rules made by the [F8CMA] .

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- (9) The Secretary of State may, after consulting the [F⁸CMA] , by order vary or revoke any rules made under this section.
- (10) If the Secretary of State considers that rules should be made under this section with respect to a particular matter he may direct the [F⁸CMA] to exercise [F⁹its] powers under this section and make rules about that matter.

Textual Amendments

- F3** Word in s. 51(1) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 31(2)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F4** Words in s. 51(1) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(38)(a)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)
- F5** Word in s. 51(2) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 31(3)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F6** Word in s. 51(3) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 31(4)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F7** Words in s. 51(3) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(38)(c)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)
- F8** Word in s. 51(5)-(10) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 31(4)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F9** Words in s. 51(10) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(38)(e)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

52 Advice and information.

- (1) [F¹⁰The CMA] must prepare and publish general advice and information about—
- the application of the Chapter I prohibition and the Chapter II prohibition, and
 - the enforcement of those prohibitions.

- [F¹¹(1A) [F¹²The CMA] must prepare and publish general advice and information about—
- the application of the prohibitions in [F¹³Article 101(1) and Article 102]; and
 - the enforcement by it of those prohibitions.]

- (2) The [F¹⁴CMA] may at any time publish revised, or new, advice or information.
- (3) Advice and information published under this section must be prepared with a view to—
- explaining provisions of this Part to persons who are likely to be affected by them; and
 - indicating how the [F¹⁴CMA] expects such provisions to operate.
- (4) Advice (or information) published by virtue of subsection (3)(b) may include advice (or information) about the factors which the [F¹⁴CMA] may take into account in considering whether, and if so how, to exercise a power conferred on [F¹⁵it] by Chapter I, II or III.
- (5) Any advice or information published by the [F¹⁴CMA] under this section is to be published in such form and in such manner as [F¹⁶it] considers appropriate.
- (6) If the [F¹⁴CMA] is preparing any advice or information under this section [F¹⁷it] must consult such persons as he considers appropriate.

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- (7) If the proposed advice or information relates to a matter in respect of which a regulator exercises concurrent jurisdiction, those consulted must include that regulator.
- (8) In preparing any advice or information under this section about a matter in respect of which he may exercise functions under this Part, a regulator must consult—
- (a) the [^{F18}CMA] ;
 - (b) the other regulators; and
 - (c) such other persons as he considers appropriate.

Textual Amendments

- F10** Words in s. 52(1) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 32(2)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F11** S. 52(1A) inserted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 31(2)**
- F12** Words in s. 52(1A) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 32(3)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F13** Words in s. 52(1A)(a) substituted (1.8.2012) by The Treaty of Lisbon (Changes in Terminology or Numbering) Order 2012 (S.I. 2012/1809), art. 2(1), **Sch. Pt. 1** (with art. 2(2))
- F14** Word in s. 52(2)-(6) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 32(4)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F15** Words in s. 52(4) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(39)(b)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)
- F16** Words in s. 52(5) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(39)(c)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)
- F17** Words in s. 52(6) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(39)(d)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)
- F18** Word in s. 52(8) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 32(4)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

53 Fees.

[^{F19}(1) The [^{F20}OFT] may charge fees, of specified amounts, in connection with the exercise by [^{F20}it] of specified functions under this Part.

- (2) Rules may, in particular, provide—
- (a) for the amount of any fee to be calculated by reference to matters which may include—
 - (i) the turnover of any party to an agreement (determined in such manner as may be specified);
 - (ii) the turnover of a person whose conduct the [^{F20}OFT] is to consider (determined in that way);
 - (b) for different amounts to be specified in connection with different functions;
 - (c) for the repayment by the [^{F20}OFT] of the whole or part of a fee in specified circumstances;
 - (d) that an application or notice is not to be regarded as duly made or given unless the appropriate fee is paid.
- (3) In this section—
- (a) “rules” means rules made by the [^{F20}OFT] under section 51; and

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(b) “specified” means specified in rules.]

Textual Amendments

- F19** S. 53 ceased to have effect (1.5.2004) by virtue of [The Competition Act 1998 and Other Enactments \(Amendment\) Regulations 2004 \(S.I. 2004/1261\)](#), reg. 1(a), **Sch. 1 para. 32** (with reg. 6(2))
- F20** Words in s. 53 substituted (1.4.2003) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, **Sch. 25 para. 38(40)**; [S.I. 2003/766](#), art. 2, Sch. (with art. 3) (as amended (20.7.2007) by [S.I. 2007/1846](#), reg. 3(2), Sch.)

Regulators

54 Regulators.

- (1) In this Part “regulator” means ^{F21}—
- ^{F22}(a) the Office of Communications;]
 - (b) the Gas and Electricity Markets Authority;
 - ^{F23}(c)
 - (d) [^{F24}the Water Services Regulation Authority;]
 - (e) the [^{F25}Office of Rail Regulation];
 - ^{F26}(f) the Northern Ireland Authority for Utility Regulation;]
 - (g) the Civil Aviation Authority][^{F27}; and]
 - ^{F27}(h) Monitor.]
- (2) Parts II and III of Schedule 10 provide for functions of the [^{F28}CMA] under this Part to be exercisable concurrently by regulators.
- (3) Parts IV and V of Schedule 10 make minor and consequential amendments in connection with the regulators’ competition functions.
- (4) The Secretary of State may make regulations for the purpose of co-ordinating the performance of functions under this Part (“Part I functions”) which are exercisable concurrently by two or more competent persons as a result of [^{F29}any enactment (including any subordinate legislation) whenever passed or made].
- (5) The regulations may, in particular, make provision—
- (a) as to the procedure to be followed by competent persons when determining who is to exercise Part I functions in a particular case;
 - (b) as to the steps which must be taken before a competent person exercises, in a particular case, such Part I functions as may be prescribed;
 - (c) as to the procedure for determining, in a particular case, questions arising as to which competent person is to exercise Part I functions in respect of the case;
 - (d) for Part I functions in a particular case to be exercised jointly—
 - (i) by the [^{F30}CMA] and one or more regulators, or
 - (ii) by two or more regulators,and as to the procedure to be followed in such cases;
 - (e) as to the circumstances in which the exercise by a competent person of such Part I functions as may be prescribed is to preclude the exercise of such functions by another such person;
 - (f) for cases in respect of which Part I functions are being, or have been, exercised by a competent person to be transferred to another such person;

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- (g) for the person (“A”) exercising Part I functions in a particular case—
 - (i) to appoint another competent person (“B”) to exercise Part I functions on A’s behalf in relation to the case; or
 - (ii) to appoint officers of B (with B’s consent) to act as officers of A in relation to the case;
 - (h) for notification as to who is exercising Part I functions in respect of a particular case.
- (6) Provision made by virtue of subsection (5)(c) may provide for questions to be referred to and determined by the Secretary of State^{F31}, the CMA] or by such other person as may ^{F32}—
- (a) prescribe circumstances in which the CMA may decide that, in a particular case, it is to exercise Part 1 functions in respect of the case rather than a regulator;
 - (b) be prescribed.
- ^{F33} [Where the regulations make provision as mentioned in subsection (6)(a), they must—
- (6A) (a) include provision requiring the CMA to consult the regulator concerned before making a decision that the CMA is to exercise Part 1 functions in respect of a particular case, and
- (b) provide that, in a case where a regulator has given notice under section 31(1) that it proposes to make a decision (within the meaning given by section 31(2)), the CMA may only decide that it is to exercise Part 1 functions in respect of the case rather than the regulator if the regulator consents.]
- ^{F34} [The Secretary of State may by regulations make provision requiring arrangements to
- (6B) be made for the sharing of information between competent persons in connection with concurrent cases.]
- ^{F34} [For the purposes of subsection (6B), “a concurrent case” is a case in respect of which—
- (6C) (a) the CMA considers that Part 1 functions are, or (but for provision made under subsection (5)(e)) would be, exercisable by both it and any regulator;
- (b) any regulator considers that Part 1 functions are, or (but for provision made under subsection (5)(e)) would be, exercisable by it.]
- (7) “Competent person” means the ^{F35}CMA] or any of the regulators.
- ^{F36} [In this section, “subordinate legislation” has the same meaning as in section 21(1) of
- (8) the [Interpretation Act 1978 \(c 30\)](#) and includes an instrument made under—
- (a) an Act of the Scottish Parliament;
 - (b) Northern Ireland legislation.]]

Textual Amendments

- F21** Words in s. 54(1) substituted (1.4.2003) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, [Sch. 25 para. 38\(41\)](#) (a); [S.I. 2003/766](#), art. 2, [Sch.](#) (with art. 3) (as amended (20.7.2007) by [S.I. 2007/1846](#), reg. 3(2), [Sch.](#))
- F22** S. 54(1)(a) substituted (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by [Communications Act 2003 \(c. 21\)](#), [ss. 371\(5\)\(a\)](#), 411(2) (with [Sch. 18](#)); [S.I. 2003/1900](#), arts. 1(2), 2(1), [Sch. 1](#) (with art. 3) (as amended by [S.I. 2003/3142](#), art. 1(3)); [S.I. 2003/3142](#), art. 3(2) (with art. 11)
- F23** S. 54(1)(c) omitted (1.4.2014) by virtue of [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 15 para. 11\(a\)](#); [S.I. 2014/416](#), art. 2(1)(f) (with [Sch.](#))

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- F24** S. 54(1)(d) substituted (1.4.2006) by [Water Act 2003 \(c. 37\)](#), s. 105(3), **Sch. 7 para. 32(2)**; S.I. 2005/2714, art. 4(f)
- F25** Words in s. 54 substituted (5.7.2004) by [Railways and Transport Safety Act 2003 \(c. 20\)](#), s. 120(1), **Sch. 2 para. 19(p)**; S.I. 2004/827, art. 4(g)
- F26** S. 54(1)(f) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), **Sch. 15 para. 11(b)**; S.I. 2014/416, art. 2(1)(f) (with Sch.)
- F27** S. 54(1)(h) and word inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 74(5)(b)**, 306(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F28** Word in s. 54(2) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), **Sch. 5 para. 33** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F29** Words in s. 54(4) substituted (1.5.2004) by [The Competition Act 1998 and Other Enactments \(Amendment\) Regulations 2004 \(S.I. 2004/1261\)](#), reg. 1(a), **Sch. 1 para. 33(2)**
- F30** Word in s. 54(5) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), **Sch. 5 para. 33** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F31** Words in s. 54(6) inserted (25.4.2013 for specified purposes, 1.4.2014 in so far as not already in force) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), ss. 51(2)(b), 103(1)(i)(3); S.I. 2014/416, art. 2(1)(b) (with Sch.)
- F32** Words in s. 54(6) inserted (25.4.2013 for specified purposes, 1.4.2014 in so far as not already in force) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), **ss. 51(2)(a)**, 103(1)(i)(3); S.I. 2014/416, art. 2(1)(b) (with Sch.)
- F33** S. 54(6A) inserted (25.4.2013 for specified purposes, 1.4.2014 in so far as not already in force) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), **ss. 51(3)**, 103(1)(i)(3); S.I. 2014/416, art. 2(1)(b) (with Sch.)
- F34** S. 54(6B)(6C) inserted (25.4.2013 for specified purposes, 1.4.2014 in so far as not already in force) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), **ss. 51(4)**, 103(1)(i)(3); S.I. 2014/416, art. 2(1)(b) (with Sch.)
- F35** Word in s. 54(7) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), **Sch. 5 para. 33** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F36** S. 54(8) inserted (1.5.2004) by [The Competition Act 1998 and Other Enactments \(Amendment\) Regulations 2004 \(S.I. 2004/1261\)](#), reg. 1(a), **Sch. 1 para. 33(3)**

Modifications etc. (not altering text)

- C2** S. 54(5)-(7) applied by 1986 c. 46, s. 9D(2) (as inserted (20.6.2003) by [Enterprise Act 2002 \(c. 40\)](#), **ss. 204(2)**, 279; S.I. 2003/1397, art. 2(1), Sch.)
- C3** S. 54(5)-(7) applied by S.I. 2002/3150 (N.I. 4), art. 13D(2) (as inserted (19.12.2005) by [The Company Directors Disqualification \(Amendment\) \(Northern Ireland\) Order 2005 \(S.I. 2005/1454\)](#), arts. 1(3), **3**; S.R. 2005/514, art. 2)

Commencement Information

- I1** S. 54 wholly in force; s. 54 not in force at Royal Assent see s. 76(3); s. 54(2) in force for certain purposes at 26.11.1998 by S.I. 1998/2750, **art. 2**; s. 54(3) in force for certain purposes at 11.1.1999 and s. 54(4)-(7) in force at the same date by S.I. 1998/3166, **art. 2, Sch.**; s. 54(3) in force for certain purposes at 1.4.1999 by S.I. 1999/505, **art. 2, Sch. 2**; s. 54(1)(2) and (3) wholly in force at 1.3.2000 by S.I. 2000/344, **art. 2, Sch.**

Confidentiality and immunity from defamation

F37 **55** **General restrictions on disclosure of information.**

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Textual Amendments

- F37** S. 56 repealed (20.6.2003) by Enterprise Act 2002 (c. 40), ss. 247(j), 279, **Sch. 26**; S.I. 2003/1397, art. 2(1), Sch. (with art. 6)

Modifications etc. (not altering text)

- C4** S. 55 restricted (31.10.2003) by Railways and Transport Safety Act 2003 (c. 20), s. 115; S.I. 2003/2681, art. 2(b)

^{F37}56 Director and Secretary of State to have regard to certain matters in relation to the disclosure of information.

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Textual Amendments

- F37** S. 56 repealed (20.6.2003) by Enterprise Act 2002 (c. 40), ss. 247(j), 279, **Sch. 26**; S.I. 2003/1397, art. 2(1), Sch. (with art. 6)

57 Defamation.

For the purposes of the law relating to defamation, absolute privilege attaches to any advice, guidance, notice or direction given, or decision made, by the [^{F38}CMA] in the exercise of any of [^{F39}its] functions under this Part.

Textual Amendments

- F38** Word in s. 57 substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 34** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F39** Words in s. 57 substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(42)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

Findings of fact by [^{F40}CMA]

Textual Amendments

- F40** Word in s. 58 cross-heading substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 35** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

58 Findings of fact by [^{F41}CMA].

- (1) Unless the court directs otherwise [^{F42}or the [^{F43}OFT] has decided to take further action in accordance with section 16(2) or 24(2)], [^{F44}a CMA's] finding which is relevant to an issue arising in Part I proceedings is binding on the parties if—
- (a) the time for bringing an appeal [^{F45}under section 46 or 47] in respect of the finding has expired and the relevant party has not brought such an appeal; or
 - (b) the decision of [^{F46}the Tribunal] on such an appeal has confirmed the finding.

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(2) In this section—

[^{F47}“[^{F48}a CMA's] finding” means a finding of fact made by the [^{F49}CMA] in the course of conducting an investigation;]

[^{F50}“Part 1 proceedings” means proceedings brought otherwise than by the [^{F49}CMA] —

(a) in respect of an alleged infringement of the Chapter I prohibition or of the Chapter II prohibition; or

(b) in respect of an alleged infringement of the prohibitions in [^{F51}Article 101(1) or Article 102];

“relevant party” means—

(a) in relation to the Chapter I prohibition [^{F52}or the prohibition in [^{F51}Article 101(1)], a party to the agreement which is alleged to have infringed the prohibition; and

(b) in relation to the Chapter II prohibition [^{F53}or the prohibition in [^{F51}Article 102], the undertaking whose conduct is alleged to have infringed the prohibition.

(3) Rules of court may make provision in respect of assistance to be given by the [^{F54}CMA] to the court in Part I proceedings.

Textual Amendments

- F41** Word in s. 58 heading substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 36(5)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F42** Words in s. 58(1) cease to have effect (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 34(2)** (with reg. 6(2))
- F43** Word in s. 58 substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(43)(a)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)
- F44** Words in s. 58(1) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 36(2)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F45** Words in s. 58(1)(a) inserted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 5 para. 5(a)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)
- F46** Words in s. 58(1)(b) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 5 para. 5(b)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)
- F47** Words in s. 58(2) substituted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 34(3)(a)**
- F48** Words in s. 58(2) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 36(3)(a)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F49** Word in s. 58(2) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 36(3)(b)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F50** Words in s. 58(2) substituted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 34(3)(b)**
- F51** Words in s. 58(2) substituted (1.8.2012) by The Treaty of Lisbon (Changes in Terminology or Numbering) Order 2012 (S.I. 2012/1809), art. 2(1), **Sch. Pt. 1** (with art. 2(2))
- F52** Words in s. 58(2) inserted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 34(3)(c)(i)**
- F53** Words in s. 58(2) inserted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 34(3)(c)(ii)**
- F54** Word in s. 58(3) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 36(4)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

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[^{F55}Findings of infringements

Textual Amendments

F55 S. 58A and cross-heading inserted (20.6.2003) by [Enterprise Act 2002 \(c. 40\), s. 20\(1\)\(2\), 279](#) (with s. 20(2)); [S.I. 2003/1397, art. 2\(1\), Sch.](#)

58A Findings of infringements

- (1) This section applies to proceedings before the court in which damages or any other sum of money is claimed in respect of an infringement of—
- the Chapter I prohibition;
 - the Chapter II prohibition;
 - the prohibition in [^{F56}Article 101(1)] of the Treaty;
 - the prohibition in [^{F57}Article 102] of the Treaty.
- (2) In such proceedings, the court is bound by a decision mentioned in subsection (3) once any period specified in subsection (4) which relates to the decision has elapsed.
- (3) The decisions are—
- a decision of the [^{F58}CMA] that the Chapter I prohibition or the Chapter II prohibition has been infringed;
 - a decision of the [^{F58}CMA] that the prohibition in [^{F59}Article 101(1) or Article 102] of the Treaty has been infringed;
 - a decision of the Tribunal (on an appeal from a decision of the [^{F58}CMA]) that the Chapter I prohibition or the Chapter II prohibition has been infringed, or that the prohibition in [^{F60}Article 101(1) or Article 102] of the Treaty has been infringed.
- (4) The periods mentioned in subsection (2) are—
- in the case of a decision of the [^{F58}CMA], the period during which an appeal may be made to the Tribunal under section 46 or 47 ^{F61}...;
 - in the case of a decision of the Tribunal mentioned in subsection (3)(c), the period during which a further appeal may be made under section 49 ^{F62}...;
 - in the case of any decision which is the subject of a further appeal, the period during which an appeal may be made to the [^{F63}Supreme Court] from a decision on the further appeal;

and, where any appeal mentioned in paragraph (a), (b) or (c) is made, the period specified in that paragraph includes the period before the appeal is determined.]

Textual Amendments

F56 Words in s. 58A(1)(c) substituted (1.8.2012) by [The Treaty of Lisbon \(Changes in Terminology or Numbering\) Order 2012 \(S.I. 2012/1809\), art. 2\(1\), Sch. Pt. 1](#) (with art. 2(2))

F57 Words in s. 58A(1)(d) substituted (1.8.2012) by [The Treaty of Lisbon \(Changes in Terminology or Numbering\) Order 2012 \(S.I. 2012/1809\), art. 2\(1\), Sch. Pt. 1](#) (with art. 2(2))

F58 Word in s. 58A(3)(4) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\), s. 103\(3\), Sch. 5 para. 37](#) (with s. 28); [S.I. 2014/416, art. 2\(1\)\(d\)](#) (with Sch.)

F59 Words in s. 58A(3)(b) substituted (1.8.2012) by [The Treaty of Lisbon \(Changes in Terminology or Numbering\) Order 2012 \(S.I. 2012/1809\), art. 2\(1\), Sch. Pt. 1](#) (with art. 2(2))

Status: Point in time view as at 01/04/2014.

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- F60** Words in s. 58A(3)(c) substituted (1.8.2012) by [The Treaty of Lisbon \(Changes in Terminology or Numbering\) Order 2012 \(S.I. 2012/1809\)](#), art. 2(1), **Sch. Pt. 1** (with art. 2(2))
- F61** Words in s. 58A(4)(a) repealed (20.7.2007) by [The EC Competition Law \(Articles 84 and 85\) Enforcement \(Revocation\) Regulations 2007 \(S.I. 2007/1846\)](#), reg. 1, **Sch.**
- F62** Words in s. 58A(4)(b) repealed (20.7.2007) by [The EC Competition Law \(Articles 84 and 85\) Enforcement \(Revocation\) Regulations 2007 \(S.I. 2007/1846\)](#), reg. 1, **Sch.**
- F63** Words in s. 58A(4)(c) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), s. 148(1), **Sch. 9 para. 65(4)**; S.I. 2009/1604, art. 2(d)

Interpretation and governing principles

59 ^{F64} [Interpretation of Part 1].

(1) In this Part—

^{F65}“agreement” is to be read with section 2(5) and (6);

^{F66} ...

^{F67}“Article 101(1)” means Article 101(1) of the Treaty;

^{F67}“Article 101(3)” means Article 101(3) of the Treaty;

^{F67}“Article 102” means Article 102 of the Treaty;

“block exemption” has the meaning given in section 6(4);

“block exemption order” has the meaning given in section 6(2);

“the Chapter I prohibition” has the meaning given in section 2(8);

“the Chapter II prohibition” has the meaning given in section 18(4);

^{F68}“the CMA” means the Competition and Markets Authority;

“the Commission” ^{F69} ... means the European Commission;

“the Council” means the Council of the European Union;

“the court”, except in sections 58^{F70}, 58A] and 60 and the expression “European Court”, means—

(a) in England and Wales, the High Court;

(b) in Scotland, the Court of Session; and

(c) in Northern Ireland, the High Court;

^{F71} ...

“document” includes information recorded in any form;

“the EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as it has effect for the time being;

“the European Court” means the Court of Justice of the European Communities and includes the ^{F67}General Court];

^{F72}“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;

^{F73}“individual exemption” has the meaning given in section 4(2);]

“information” includes estimates and forecasts;

“investigating officer” has the meaning given in section 27(1);

^{F74}“investigation” means an investigation under section 25;]

“Minister of the Crown” has the same meaning as in the Ministers of the ^{M1}Crown Act 1975;

^{F75}“OFCOM” means the Office of Communications;]

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“officer”, in relation to a body corporate, includes a director, manager or secretary and, in relation to a partnership in Scotland, includes a partner;

^{F76} ...

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

“person”, in addition to the meaning given by the ^{M2}Interpretation Act 1978, includes any undertaking;

[^{F77}“premises” includes any land or means of transport;]

“prescribed” means prescribed by regulations made by the Secretary of State;

“regulator” has the meaning given by section 54;

“section 11 exemption” has the meaning given in section 11(3); and

[^{F67}“the Treaty” means the Treaty on the Functioning of the European Union;]

[^{F78}“the Tribunal” means the Competition Appeal Tribunal;

“Tribunal rules” means rules under section 15 of the Enterprise Act 2002.]

[^{F79}“working day” means a day which is not—

- (a) Saturday,
- (b) Sunday,
- (c) Christmas Day,
- (d) Good Friday, or
- (e) a day which is a bank holiday under the Banking and Financial Dealings Act 1971 (c. 80) in any part of the United Kingdom.]

- (2) The fact that to a limited extent the Chapter I prohibition does not apply to an agreement, because of an exclusion provided by or under this Part or any other enactment, does not require those provisions of the agreement to which the exclusion relates to be disregarded when considering whether the agreement infringes the prohibition for other reasons.
- (3) For the purposes of this Part, the power to require information, in relation to information recorded otherwise than in a legible form, includes power to require a copy of it in a legible form.
- (4) Any power conferred on the [^{F80}CMA] by this Part to require information includes power to require any document which [^{F81}it] believes may contain that information.

Textual Amendments

- F64** Words in s. 59 sidenote substituted (1.5.2004) by [The Competition Act 1998 and Other Enactments \(Amendment\) Regulations 2004 \(S.I. 2004/1261\)](#), reg. 1(a), **Sch. 1 para. 35(3)**
- F65** Words in s. 59(1) inserted (1.5.2004) by [The Competition Act 1998 and Other Enactments \(Amendment\) Regulations 2004 \(S.I. 2004/1261\)](#), reg. 1(a), **Sch. 1 para. 35(2)(a)**
- F66** Words in s. 59(1) repealed (1.4.2003) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, Sch. 5 para. 6(a), **Sch. 26**; [S.I. 2003/766](#), art. 2, Sch. (with art. 3) (as amended (20.7.2007) by [S.I. 2007/1846](#), reg. 3(2), Sch.)
- F67** Words in s. 59(1) substituted (1.8.2012) by [The Treaty of Lisbon \(Changes in Terminology or Numbering\) Order 2012 \(S.I. 2012/1809\)](#), art. 2(1), **Sch. Pt. 1** (with art. 2(2))
- F68** Words in s. 59(1) inserted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), **Sch. 5 para. 38(2)(a)** (with s. 28); [S.I. 2014/416](#), art. 2(1)(d) (with Sch.)
- F69** Words in s. 59(1) omitted (1.4.2014) by virtue of [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), **Sch. 5 para. 221** (with s. 28); [S.I. 2014/416](#), art. 2(1)(d) (with Sch.)

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- F70** Word in s. 59(1) inserted (20.6.2003) by Enterprise Act 2002 (c. 40), **ss. 20(3)**, 279; S.I. 2003/1397, art. 2(1), Sch.
- F71** Words in s. 59(1) repealed (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 25 para. 38(44)(a), **Sch. 26**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)
- F72** Words in s. 59(1) inserted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 35(2)(d)**
- F73** Words in s. 59(1) cease to have effect (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 35(2)(e)** (with reg. 6(2))
- F74** Words in s. 59(1) inserted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 35(2)(f)**
- F75** Words in s. 59(1) inserted (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by Communications Act 2003 (c. 21), **ss. 371(7)**, 411(2) (with Sch. 18); S.I. 2003/1900, arts. 1(2), 2(1), Sch. 1 (with art. 3) (as amended by S.I. 2003/3142, art. 1(3)); S.I. 2003/3142, art. 3(2) (with art. 11)
- F76** Words in s. 59(1) omitted (1.4.2014) by virtue of Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 38(2)(b)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F77** Words in s. 59(1) substituted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 35(2)(g)**
- F78** Words in s. 59(1) inserted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 5 para. 6(b), **Sch. 26**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)
- F79** Words in s. 59(1) inserted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 35(2)(h)**
- F80** Word in s. 59(4) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 38(3)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F81** Words in s. 59(4) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(44)(b)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

Commencement Information

- I2** S. 59 wholly in force at 11.1.1999; s. 59 not in force at Royal Assent see s. 76(3); s. 59 in force for certain purposes at 26.11.1998 by S.I. 1998/2750, **art. 2**; s. 59 in force in so far as not already in force by S.I. 1998/3166, art. 2, **Sch.**

Marginal Citations

- M1** 1975 c. 26.
M2 1978 c. 30.

60 Principles to be applied in determining questions.

- (1) The purpose of this section is to ensure that so far as is possible (having regard to any relevant differences between the provisions concerned), questions arising under this Part in relation to competition within the United Kingdom are dealt with in a manner which is consistent with the treatment of corresponding questions arising in [^{F82}EU] law in relation to competition within [^{F83}the European Union].
- (2) At any time when the court determines a question arising under this Part, it must act (so far as is compatible with the provisions of this Part and whether or not it would otherwise be required to do so) with a view to securing that there is no inconsistency between—
 - (a) the principles applied, and decision reached, by the court in determining that question; and

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- (b) the principles laid down by the Treaty and the European Court, and any relevant decision of that Court, as applicable at that time in determining any corresponding question arising in [F82EU] law.
- (3) The court must, in addition, have regard to any relevant decision or statement of the Commission.
- (4) Subsections (2) and (3) also apply to—
 - (a) the [F84CMA]; and
 - (b) any person acting on behalf of the [F84CMA], in connection with any matter arising under this Part.
- (5) In subsections (2) and (3), “court” means any court or tribunal.
- (6) In subsections (2)(b) and (3), “decision” includes a decision as to—
 - (a) the interpretation of any provision of [F82EU] law;
 - (b) the civil liability of an undertaking for harm caused by its infringement of [F82EU] law.

Textual Amendments

- F82** Words in Act substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), arts. 2, 3, 6 (with arts. 3(2)(3), 4(2), 6(4)(5))
- F83** Words in Act substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), arts. 2, 3, 4 (with arts. 3(2)(3), 4(2), 6(4)(5))
- F84** Word in s. 60(4) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 5 para. 39](#) (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

Modifications etc. (not altering text)

- C5** S. 60 applied by 1986 c. 46, s. 9A(11) (as inserted (20.6.2003) by [Enterprise Act 2002 \(c. 40\)](#), [ss. 204\(2\)](#), 279; S.I. 2003/1397, art. 2(1), Sch.)
- C6** S. 60 applied by S.I. 2002/3150 (N.I. 4), art. 13A(11) (as inserted (19.12.2005) by [The Company Directors Disqualification \(Amendment\) \(Northern Ireland\) Order 2005 \(S.I. 2005/1454\)](#), arts. 1(3), 3; S.R. 2005/514, art. 2)

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Changes to legislation:

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