

**Status:** Point in time view as at 20/07/2007. This version of this schedule contains provisions that are prospective.

**Changes to legislation:** Competition Act 1998, SCHEDULE 6 is up to date with all changes known to be in force on or before 17 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

## SCHEDULES

### [<sup>F1</sup>SCHEDULE 6

Section 20(2).

#### NOTIFICATION UNDER CHAPTER II: PROCEDURE

##### Textual Amendments

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

##### *Terms used*

- 1 In this Schedule—
- “applicant” means the person making an application to which this Schedule applies;
  - “application” means an application under section 21 or an application under section 22;
  - “application for guidance” means an application under section 21;
  - “application for a decision” means an application under section 22;
  - “other party”, in relation to conduct of two or more persons, means one of those persons other than the applicant;
  - “rules” means rules made by the [<sup>F2</sup>OFT] under section 51; and
  - “specified” means specified in the rules.

##### Textual Amendments

- F2** Words in Sch. 6 substituted (1.4.2003) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, **Sch. 25 para. 38(53)(a)**; [S.I. 2003/766](#), art. 2, [Sch.](#) (with art. 3) (as amended (20.7.2007) by [S.I. 2007/1846](#), reg. 3(2), [Sch.](#))

##### *General rules about applications*

- 2 (1) An application must be made in accordance with rules.
- (2) If the conduct to which an application relates is conduct of two or more persons, the applicant must take all reasonable steps to notify all of the other parties of whom he is aware—
- (a) that the application has been made; and
  - (b) as to whether it is for guidance or a decision.
- (3) Notification under sub-paragraph (2) must be in the specified manner.

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**Modifications etc. (not altering text)**

**C1** Sch. 6 paras. 2-2C amended (1.3.2000) by [S.I. 2000/947](#), [art. 6](#)

*Preliminary investigation*

- 3
- (1) If, after a preliminary investigation of an application, the [F<sup>2</sup>OFT] considers that it is likely that the conduct concerned will infringe the Chapter II prohibition, [F<sup>3</sup>it] may make a decision (“a provisional decision”) under this paragraph.
  - (2) If the [F<sup>2</sup>OFT] makes a provisional decision, [F<sup>3</sup>it] must notify the applicant in writing of that decision.
  - (3) When making a provisional decision, the [F<sup>2</sup>OFT] must follow such procedure as may be specified.
  - (4) A provisional decision does not affect the final determination of an application.
  - (5) If the [F<sup>2</sup>OFT] has given notice to the applicant under sub-paragraph (2) in respect of an application for a decision, he may continue with the application under section 22.

**Textual Amendments**

- F2** Words in Sch. 6 substituted (1.4.2003) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, [Sch. 25 para. 38\(53\)\(a\)](#); [S.I. 2003/766](#), [art. 2](#), [Sch.](#) (with [art. 3](#)) (as amended (20.7.2007) by [S.I. 2007/1846](#), reg. 3(2), [Sch.](#))
- F3** Word in Sch. 6 para. 3(1)(2) substituted (1.4.2003) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, [Sch. 25 para. 38\(53\)\(b\)](#); [S.I. 2003/766](#), [art. 2](#), [Sch.](#) (with [art. 3](#)) (as amended (20.7.2007) by [S.I. 2007/1846](#), reg. 3(2), [Sch.](#))

*Procedure on application for guidance*

- 4
- When determining an application for guidance, the [F<sup>2</sup>OFT] must follow such procedure as may be specified.

**Textual Amendments**

- F2** Words in Sch. 6 substituted (1.4.2003) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, [Sch. 25 para. 38\(53\)\(a\)](#); [S.I. 2003/766](#), [art. 2](#), [Sch.](#) (with [art. 3](#)) (as amended (20.7.2007) by [S.I. 2007/1846](#), reg. 3(2), [Sch.](#))

*Procedure on application for a decision*

- 5
- (1) When determining an application for a decision, the [F<sup>2</sup>OFT] must follow such procedure as may be specified.
  - (2) The [F<sup>2</sup>OFT] must arrange for the application to be published in such a way as [F<sup>4</sup>it thinks] most suitable for [F<sup>5</sup>bringing the application] to the attention of those likely to be affected by it, unless [F<sup>6</sup>the OFT is] satisfied that it will be sufficient F<sup>7</sup>... to seek information from one or more particular persons other than the applicant.

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- (3) In determining the application, the [F<sup>2</sup>OFT] must take into account any representations made to [F<sup>8</sup>it] by persons other than the applicant.

#### Textual Amendments

- F2** Words in Sch. 6 substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 25 para. 38(53)(a); S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)
- F4** Words in Sch. 6 para. 5(2) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 25 para. 38(53)(c)(i); S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)
- F5** Words in Sch. 6 para. 5(2) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 25 para. 38(53)(c)(ii); S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)
- F6** Words in Sch. 6 para. 5(2) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 25 para. 38(53)(c)(iii); S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)
- F7** Words in Sch. 6 para. 5(2) repealed (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 25 para. 38(53)(c)(iv), Sch. 26; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)
- F8** Word in Sch. 6 para. 5(3) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 25 para. 38(53)(d); S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

#### Publication of decisions

- 6 If the [F<sup>2</sup>OFT] determines an application for a decision [F<sup>9</sup>it] must publish [F<sup>9</sup>its] decision, together with [F<sup>9</sup>its] reasons for making it, in such manner as may be specified.

#### Textual Amendments

- F2** Words in Sch. 6 substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 25 para. 38(53)(a); S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)
- F9** Words in Sch. 6 para. 6 substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 25 para. 38(53)(e); S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

PROSPECTIVE

#### Delay by the [F<sup>2</sup>OFT]

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

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