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STATUTORY INSTRUMENTS

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**2019 No. 93**

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

**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>M1</sup> is amended as follows.

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**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)

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**Marginal Citations**

**M1** 1998 c. 41.

3.—(1) Section 10 <sup>M2</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 regulation”.
- (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;
    - (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

- M2** 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—

- (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>M3</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

- M3** Section 11 was amended by [S.I. 2012/1809](#).

6.—(1) Section 25 <sup>M4</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

- M4** 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>M5</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\(1\)](#)

#### Marginal Citations

- M5** 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>M6</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

- M6** 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>M7</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

- M7** 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>M8</sup>, omit “or that it infringes the prohibition in Article 102”.

#### 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

- M8** 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>M9</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

- M9** 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>M10</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

**M10** 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>M11</sup>—

- (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\(1\)](#)), see [reg. 1\(1\)](#)

#### Marginal Citations

**M11** 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;

“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
  - (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>M12</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

**M12** 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>M13</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\(1\)](#)

#### Marginal Citations

**M13** 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>M14</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

**M14** 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>M15</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**

**M15** 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>M16</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\(1\)](#)

**Marginal Citations**

**M16** 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>M17</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**

**M17** 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>M18</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

**M18** 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>M19</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”;
- (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

**M19** 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>M20</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**

**M20** 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 [F<sup>3</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—

- (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 [<sup>F3</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 [<sup>F3</sup>IP completion day];
- (f) the particular circumstances under consideration.

(8) In subsection (2)(b), the reference to principles laid down before [<sup>F3</sup>IP completion day] is a reference to such principles as they have effect in EU law immediately before [<sup>F3</sup>IP completion day], disregarding the effect of principles laid down, and decisions made, by the European Court on or after [<sup>F3</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

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**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>M21</sup>.

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**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\(1\)](#)

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**Marginal Citations**

**M21** 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>M22</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**

**M22** Section 72(1) was amended by [S.I. 2004/1261](#).

**26.**—(1) Section 73 <sup>M23</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”.

**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**

**M23** Section 73 was amended by [S.I. 2004/1261](#).

**27.** Omit section 75A <sup>M24</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**

**M24** 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>M25</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

**M25** 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>M26</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](#)

#### 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

**M26** Paragraph 3 was amended by [S.I. 2007/126](#) and [S.I. 2017/701](#).

**30.**—(1) Schedule 8A <sup>M27</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).

#### 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

**M27** Schedule 8A was inserted by [S.I. 2017/385](#).

- 31.**—(1) Schedule 9 is amended as follows.
- (2) In paragraph 5(1)(d) <sup>M28</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>M29</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>M30</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

**M28** 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](#).

**M29** 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](#).

**M30** Paragraph 8 was substituted by [S.I. 2004/1261](#).

## PART 3

### Amendment of the Enterprise Act 2002

**32.** The Enterprise Act 2002 <sup>M31</sup> is amended as follows.

#### 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

**M31** [2002 c. 40](#).

**33.** In section 16(6) <sup>M32</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

**M32** The definition of “infringement issue” in section 16(6) was amended by [S.I. 2012/1809](#).

**34.—**(1) Section 22 <sup>M33</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**

**M33** 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>M34</sup>—

- (a) omit subsections (6), (7) and (8);
- (b) in subsection (10)(b), for “subsections (2), (4) and (6)” substitute “ subsections (2) and (4) ”.

**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**

**M34** 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>M35</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**

**M35** 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>M36</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**

**M36** Sections 34ZA to 34ZC were inserted by paragraphs 1 and 4 of Schedule 8 to the Enterprise and Regulatory Reform Act 2013.

**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>M37</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

**M37** 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>M38</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)” ”.

#### 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

**M38** 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>M39</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

**M39** 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>M40</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

**M40** 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>M41</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\(1\)](#)

#### Marginal Citations

**M41** 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>M42</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

**M42** 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>M43</sup> and 68 <sup>M44</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

**M43** 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](#).

**M44** 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>M45</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

**M45** 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—

#### *“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
- (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>M46</sup> and the “or” before it.

#### 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

- M46** 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>M47</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

- M47** 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.”.]

#### 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>M48</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

- M48** 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\(1\)](#)

**52.** Omit section 122 <sup>M49</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

**M49** 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>M50</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

**M50** 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>M51</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

**M51** 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>M52</sup>, in the table—

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

**M52** 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>M53</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

**M53** Section 153(2) was amended by [S.I. 2004/1079](#).

**57.** In section 171<sup>M54</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**

**M54** 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>M55</sup>.

**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**

**M55** Section 209 was amended by [S.I. 2011/1043](#) and [S.I. 2012/1809](#).

**59.** Omit section 240 <sup>M56</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**

**M56** 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 [<sup>F9</sup>assimilated law]

#### Textual Amendments

**F9** Words in Pt. 6 heading substituted (1.3.2024) by [The Retained EU Law \(Revocation and Reform\) Act 2023 \(Consequential Provision\) Regulations 2024 \(S.I. 2024/80\)](#), reg. 1(2), **Sch. para. 7(2)(a)**

### Cessation of Treaty Rights and Obligations

<sup>F10</sup>62. ....

#### Textual Amendments

**F10** Reg. 62 omitted (1.3.2024) by virtue of [The Retained EU Law \(Revocation and Reform\) Act 2023 \(Consequential Provision\) Regulations 2024 \(S.I. 2024/80\)](#), reg. 1(2), **Sch. para. 7(2)(b)**

### Amendment of [<sup>F11</sup>assimilated direct legislation]

63. In Schedule 3—

- (a) Part 1 revokes certain [<sup>F12</sup>assimilated direct legislation];
- (b) Part 2 amends certain [<sup>F13</sup>assimilated Regulations].

#### Textual Amendments

**F11** Words in reg. 63 heading substituted (1.3.2024) by [The Retained EU Law \(Revocation and Reform\) Act 2023 \(Consequential Provision\) Regulations 2024 \(S.I. 2024/80\)](#), reg. 1(2), **Sch. para. 7(2)(c)(i)**

**F12** Words in reg. 63(a) substituted (1.3.2024) by [The Retained EU Law \(Revocation and Reform\) Act 2023 \(Consequential Provision\) Regulations 2024 \(S.I. 2024/80\)](#), reg. 1(2), **Sch. para. 7(2)(c)(ii)**

**F13** Words in reg. 63(b) substituted (1.3.2024) by [The Retained EU Law \(Revocation and Reform\) Act 2023 \(Consequential Provision\) Regulations 2024 \(S.I. 2024/80\)](#), reg. 1(2), **Sch. para. 7(2)(c)(iii)**

**Commencement Information**

**I69** 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**

**I70** 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\(1\)](#)

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

**Changes to legislation:**

There are currently no known outstanding effects for the The Competition (Amendment etc.) (EU Exit) Regulations 2019.