
STATUTORY INSTRUMENTS

2022 No. 1272

The Competition Act 1998 (Specialisation Agreements Block Exemption) Order 2022

Block Exemption

3.—(1) The category of agreements identified in paragraph (2) as specialisation agreements, which includes the types of agreement referred to in paragraph (4), is specified for the purposes of section 6 of the Competition Act 1998⁽¹⁾.

(2) Subject to paragraph (3), for the purposes of this Order the following are specialisation agreements—

- (a) an agreement entered into between two or more undertakings which are active on the same product market and by virtue of which—
 - (i) one or more of the parties agree that they will, wholly or partly, cease or refrain from producing a particular product and will purchase the product concerned from the other party or parties, and
 - (ii) the other party or parties agree to produce the product concerned and supply it to the party or parties who (wholly or partly) cease or refrain from producing it;
- (b) an agreement entered into between two or more undertakings which are active on the same product market and by virtue of which—
 - (i) two or more of the parties agree, on a reciprocal basis, that they will, wholly or partly, cease or refrain from producing a particular, but different, product and will purchase the product concerned from the other party or parties involved in the reciprocal arrangement, and
 - (ii) in each case the other party or parties agree to produce the product concerned and supply it to the party or parties who (wholly or partly) cease or refrain from producing it;
- (c) an agreement—
 - (i) entered into between two or more undertakings which are already active on the same product market or which wish to enter a product market by way of the agreement concerned, and
 - (ii) by virtue of which two or more of the parties agree to produce a particular product jointly.

(3) Specialisation agreements which include provisions which relate to the assignment or licensing of intellectual property rights to one or more of the parties are specified provided that those provisions—

- (a) do not constitute the primary object of the specialisation agreements concerned, and
- (b) are directly related to and necessary for the implementation of the specialisation agreements concerned.

(1) An agreement specified for the purposes of section 6 of the Act is exempt from the prohibition in Chapter 1 of the Act. See section 6(3) of the Act.

(4) Specialisation agreements are specified even if the obligations under the agreements relating to the purchase or supply of any of the specialisation products include provisions under which—

- (a) one or more of the parties accept an exclusive purchase obligation or an exclusive supply obligation, or
- (b) the parties distribute any of the specialisation products jointly and do not sell them independently.

(5) In this article—

“exclusive purchase obligation”, in relation to a specialisation agreement, means an obligation to purchase any of the specialisation products only from one or more of the parties to the agreement;

“exclusive supply obligation”, in relation to a specialisation agreement, means an obligation not to supply any of the specialisation products to a competing undertaking who is not a party to the agreement;

“intellectual property rights” includes industrial property rights, know-how and copyright and related rights;

“know-how”, in relation to a specialisation agreement, means a package of non-patented practical information, resulting from experience and testing, which is—

- (a) not generally known or easily accessible,
- (b) significant and useful for the use, sale or resale of any of the specialisation products, and
- (c) described in a sufficiently comprehensive manner so as to make it possible to verify that it fulfils the criteria in paragraphs (a) and (b).