



Competition Act 1998

CHAPTER 41

COMPETITION ACT 1998

PART I

COMPETITION

CHAPTER I

AGREEMENTS

Introduction

- 1 Enactments replaced

The prohibition

- 2 Agreements etc. preventing, restricting or distorting competition

Excluded agreements

- 3 Excluded agreements

Exemptions

- 4 Individual exemptions
- 5 Cancellation etc. of individual exemptions
- 6 Block exemptions
- 7 Block exemptions: opposition
- 8 Block exemptions: procedure
- 9 The criteria for individual and block exemptions
- 10 Parallel exemptions
- 11 Exemption for certain other agreements

Notification

- 12 Requests for Director to examine agreements
- 13 Notification for guidance
- 14 Notification for a decision
- 15 Effect of guidance
- 16 Effect of a decision that the Chapter I prohibition has not been infringed

CHAPTER II

ABUSE OF DOMINANT POSITION

Introduction

- 17 Enactments replaced

The prohibition

- 18 Abuse of dominant position

Excluded cases

- 19 Excluded cases

Notification

- 20 Requests for Director to consider conduct
- 21 Notification for guidance
- 22 Notification for a decision
- 23 Effect of guidance
- 24 Effect of a decision that the Chapter II prohibition has not been infringed

CHAPTER III

INVESTIGATION AND ENFORCEMENT

Investigations

- 25 Director's power to investigate
- 26 Powers when conducting investigations
- 27 Power to enter premises without a warrant
- 28 Power to enter premises under a warrant
- 29 Entry of premises under warrant: supplementary
- 30 Privileged communications
- 31 Decisions following an investigation

Enforcement

- 32 Directions in relation to agreements
- 33 Directions in relation to conduct
- 34 Enforcement of directions
- 35 Interim measures
- 36 Penalty for infringing Chapter I or Chapter II prohibition
- 37 Recovery of penalties
- 38 The appropriate level of a penalty

- 39 Limited immunity for small agreements
- 40 Limited immunity in relation to the Chapter II prohibition
- 41 Agreements notified to the Commission

Offences

- 42 Offences
- 43 Destroying or falsifying documents
- 44 False or misleading information

CHAPTER IV

THE COMPETITION COMMISSION AND APPEALS

The Commission

- 45 The Competition Commission

Appeals

- 46 Appealable decisions
- 47 Third party appeals
- 48 Appeal tribunals
- 49 Appeals on point of law etc

CHAPTER V

MISCELLANEOUS

Vertical agreements and land agreements

- 50 Vertical agreements and land agreements

Director's rules, guidance and fees

- 51 Rules
- 52 Advice and information
- 53 Fees

Regulators

- 54 Regulators

Confidentiality and immunity from defamation

- 55 General restrictions on disclosure of information
- 56 Director and Secretary of State to have regard to certain matters in relation to the disclosure of information
- 57 Defamation

Findings of fact by Director

- 58 Findings of fact by Director

Interpretation and governing principles

- 59 Interpretation

Status: This is the original version (as it was originally enacted).

- 60 Principles to be applied in determining questions

PART II

INVESTIGATIONS IN RELATION TO ARTICLES 85 AND 86

- 61 Introduction
62 Power to enter premises: Commission investigations
63 Power to enter premises: Director's special investigations
64 Entry of premises under sections 62 and 63: supplementary
65 Offences

PART III

MONOPOLIES

- 66 Monopoly investigations: general
67 Offences
68 Services relating to use of land
69 Reports: monopoly references

PART IV

SUPPLEMENTAL AND TRANSITIONAL

- 70 Contracts as to patented products etc
71 Regulations, orders and rules
72 Offences by bodies corporate etc
73 Crown application
74 Amendments, transitional provisions, savings and repeals
75 Consequential and supplementary provision
76 Short title, commencement and extent

SCHEDULES

SCHEDULE 1 — Exclusions: Mergers and Concentrations

Part I — MERGERS

Enterprises ceasing to be distinct: the Chapter I prohibition

- 1 (1) To the extent to which an agreement (either on...

Enterprises ceasing to be distinct: the Chapter II prohibition

- 2 (1) To the extent to which conduct (either on its...

Transfer of a newspaper or of newspaper assets

- 3 (1) The Chapter I prohibition does not apply to an...

Withdrawal of the paragraph 1 exclusion

- 4 (1) The exclusion provided by paragraph 1 does not apply...

Protected agreements

- 5 An agreement is a protected agreement for the purposes of...

Part II — CONCENTRATIONS SUBJECT TO EC CONTROLS

- 6 (1) To the extent to which an agreement (either on...

SCHEDULE 2 — Exclusions: Other Competition Scrutiny

Part I — FINANCIAL SERVICES

The Financial Services Act 1986 (c. 60)

- 1 (1) The Financial Services Act 1986 is amended as follows....

Part II — COMPANIES

The Companies Act 1989 (c. 40)

- 2 (1) The Companies Act 1989 is amended as follows.

The Companies (Northern Ireland) Order 1990 (S.I. 1990/593 (N.I. 5))

- 3 (1) The Companies (Northern Ireland) Order 1990 is amended as...

Part III — BROADCASTING

The Broadcasting Act 1990 (c. 42)

- 4 (1) The Broadcasting Act 1990 is amended as follows.

Networking arrangements under the Broadcasting Act 1990 (c. 42)

- 5 (1) The Chapter I prohibition does not apply in respect...

Part IV — ENVIRONMENTAL PROTECTION

Producer responsibility obligations

- 6 (1) The Environment Act 1995 is amended as follows.

SCHEDULE 3 — General Exclusions

Planning obligations

- 1 (1) The Chapter I prohibition does not apply to an...

Section 21(2) agreements

- 2 (1) The Chapter I prohibition does not apply to an...

EEA Regulated Markets

- 3 (1) The Chapter I prohibition does not apply to an...

Services of general economic interest etc.

- 4 Neither the Chapter I prohibition nor the Chapter II prohibition...

Compliance with legal requirements

- 5 (1) The Chapter I prohibition does not apply to an...

Avoidance of conflict with international obligations

- 6 (1) If the Secretary of State is satisfied that, in...

Status: This is the original version (as it was originally enacted).

Public policy

7 (1) If the Secretary of State is satisfied that there...

Coal and steel

8 (1) The Chapter I prohibition does not apply to an...

Agricultural products

9 (1) The Chapter I prohibition does not apply to an...

SCHEDULE 4 — Professional Rules

Part I — EXCLUSION

General

1 (1) To the extent to which an agreement (either on...

Designated rules

2 (1) The Secretary of State must establish and maintain a...

Application for designation

3 (1) Any body regulating a professional service or the persons...

Alterations

4 (1) A rule does not cease to be a designated...

Reviewing the list

5 (1) The Secretary of State must send to the Director—...

Removal from the list

6 (1) This paragraph applies if the Secretary of State receives...

Inspection

7 (1) Any person may inspect, and take a copy of—...

Part II — PROFESSIONAL SERVICES

Legal

8 The services of barristers, advocates or solicitors.

Medical

9 The provision of medical or surgical advice or attendance and...

Dental

10 Any services falling within the practice of dentistry within the...

Ophthalmic

11 The testing of sight.

Veterinary

- 12 Any services which constitute veterinary surgery within the meaning of...

Nursing

- 13 The services of nurses.

Midwifery

- 14 The services of midwives.

Physiotherapy

- 15 The services of physiotherapists.

Chiropody

- 16 The services of chiropodists.

Architectural

- 17 The services of architects.

Accounting and auditing

- 18 The making or preparation of accounts or accounting records and...

Insolvency

- 19 Insolvency services within the meaning of section 428 of the...

Patent agency

- 20 The services of registered patent agents (within the meaning of...
21 The services of persons carrying on for gain in the...

Parliamentary agency

- 22 The services of parliamentary agents entered in the register in...

Surveying

- 23 The services of surveyors of land, of quantity surveyors, of...

Engineering and technology etc.

- 24 The services of persons practising or employed as consultants in...

Educational

- 25 The provision of education or training.

Religious

- 26 The services of ministers of religion.

Status: This is the original version (as it was originally enacted).

Terms used

- 1 In this Schedule— “applicant” means the person making an application...

General rules about applications

- 2 (1) An application must be made in accordance with rules....

Preliminary investigation

- 3 (1) If, after a preliminary investigation of an application, the...

Procedure on application for guidance

- 4 When determining an application for guidance, the Director must follow...

Procedure on application for a decision

- 5 (1) When determining an application for a decision, the Director...

Publication of decisions

- 6 If the Director determines an application for a decision he...

Delay by the Director

- 7 (1) This paragraph applies if the court is satisfied, on...

SCHEDULE 6 — Notification under Chapter II: Procedure

Terms used

- 1 In this Schedule— “applicant” means the person making an application...

General rules about applications

- 2 (1) An application must be made in accordance with rules....

Preliminary investigation

- 3 (1) If, after a preliminary investigation of an application, the...

Procedure on application for guidance

- 4 When determining an application for guidance, the Director must follow...

Procedure on application for a decision

- 5 (1) When determining an application for a decision, the Director...

Publication of decisions

- 6 If the Director determines an application for a decision he...

Delay by the Director

7 (1) This paragraph applies if the court is satisfied, on...

SCHEDULE 7 — The Competition Commission

Part I — GENERAL

Interpretation

1 In this Schedule— “the 1973 Act” means the Fair Trading...

Membership of the Commission

2 (1) The Commission is to consist of—

Chairman and deputy chairmen

3 (1) The Commission is to have a chairman appointed by...

President

4 (1) The Secretary of State must appoint one of the...

The Council

5 (1) The Commission is to have a management board to...

Term of office

6 (1) Subject to the provisions of this Schedule, each member...

Expenses, remuneration and pensions

7 (1) The Secretary of State shall pay to the Commission...

The Commission’s powers

8 Subject to the provisions of this Schedule, the Commission has...

Staff

9 (1) The Commission is to have a secretary, appointed by...

Procedure

10 Subject to any provision made by or under this Act,...

Application of seal and proof of instruments

11 (1) The application of the seal of the Commission must...

Accounts

12 (1) The Commission must— (a) keep proper accounts and proper...

Status

13 (1) The Commission is not to be regarded as the...

Part II — PERFORMANCE OF THE COMMISSION’S GENERAL FUNCTIONS

Status: This is the original version (as it was originally enacted).

Interpretation

14 In this Part of this Schedule “group” means a group...

Discharge of certain functions by groups

15 (1) Except where sub-paragraph (7) gives the Chairman power to...

Chairmen of groups

16 The Chairman must appoint one of the members of a...

Replacement of member of group

17 (1) If, during the proceedings of a group—

Attendance of other members

18 (1) At the invitation of the chairman of a group,...

Procedure

19 (1) Subject to any special or general directions given by...

Effect of exercise of functions by group

20 (1) Subject to sub-paragraph (2), anything done by or in...

Casting votes

21 The chairman of a group is to have a casting...

Newspaper merger references

22 The Secretary of State must maintain a panel of persons...

Part III — APPEALS

Interpretation

23 In this Part of this Schedule— “panel of chairmen” means...

Training of appeal panel members

24 The President must arrange such training for appeal panel members...

Acting President

25 If the President is absent or otherwise unable to act,...

Panel of tribunal chairmen

26 (1) There is to be a panel of appeal panel...

Constitution of tribunals

27 (1) On receipt of a notice of appeal, the President...

Part IV — MISCELLANEOUS

Disqualification of members for House of Commons

28 In Part II of Schedule 1 to the House of...

Disqualification of members for Northern Ireland Assembly

29 In Part II of Schedule 1 to the Northern Ireland...
Part V — TRANSITIONAL PROVISIONS

Interpretation

30 In this Part of this Schedule— “commencement date” means the...

Chairman

31 (1) The person who is Chairman of the MMC immediately...

Deputy chairmen

32 The persons who are deputy chairmen of the MMC immediately...

Reporting panel members

33 (1) The persons who are members of the MMC immediately...

Specialist panel members

34 (1) The persons who are members of the MMC immediately...

Secretary

35 The person who is the secretary of the MMC immediately...

Council

36 (1) The members who become deputy chairmen of the Commission...

SCHEDULE 8 — Appeals
Part I — GENERAL

Interpretation

1 In this Schedule— “the chairman” means a person appointed as...

General procedure

2 (1) An appeal to the Competition Commission must be made...

Decisions of the tribunal

3 (1) The tribunal must determine the appeal on the merits...

4 (1) A decision of the tribunal may be taken by...

Part II — RULES

Registrar of Appeal Tribunals

5 (1) Rules may provide for the appointment by the Competition...

Status: This is the original version (as it was originally enacted).

Notice of appeal

- 6 Rules may make provision— (a) as to the period within...

Response to the appeal

- 7 Rules may provide for the tribunal to reject an appeal...

Pre-hearing reviews and preliminary matters

- 8 (1) Rules may make provision— (a) for the carrying-out by...

Conduct of the hearing

- 9 (1) Rules may make provision— (a) as to the manner...

Interest

- 10 (1) Rules may make provision— (a) as to the circumstances...

Fees

- 11 (1) Rules may provide— (a) for fees to be chargeable...

Withdrawing an appeal

- 12 Rules may make provision— (a) that a party who has...

Interim orders

- 13 (1) Rules may provide for the tribunal to make an...

Miscellaneous

- 14 Rules may make provision— (a) for a person who is...

SCHEDULE 9 — Director's Rules

General

- 1 In this Schedule— “application for guidance” means an application for...

Applications

- 2 Rules may make provision— (a) as to the form and...

Provisional decisions

- 3 Rules may make provision as to the procedure to be...

Guidance

- 4 Rules may make provision as to— (a) the form and...

Decisions

- 5 (1) Rules may make provision as to—

Individual exemptions

- 6 Rules may make provision as to— (a) the procedure to...
7 Rules may make provision as to— (a) the form and...

Block exemptions

- 8 Rules may make provision as to— (a) the form and...

Parallel exemptions

- 9 Rules may make provision as to— (a) the circumstances in...

Section 11 exemptions

- 10 Rules may, with respect to any exemption provided by regulations...

Directions withdrawing exclusions

- 11 Rules may make provision as to the factors which the...

Disclosure of information

- 12 (1) Rules may make provision as to the circumstances in...

Applications under section 47

- 13 Rules may make provision as to— (a) the period within...

Enforcement

- 14 Rules may make provision as to the procedure to be...

SCHEDULE 10 — Regulators

Part I — MONOPOLIES

- 1 The amendments of the Fair Trading Act 1973 made by...

Part II — THE PROHIBITIONS

Telecommunications

- 2 (1) In consequence of the repeal by this Act of...

Gas

- 3 (1) In consequence of the repeal by this Act of...

Electricity

- 4 (1) In consequence of the repeal by this Act of...

Water

- 5 (1) In consequence of the repeal by this Act of...

Railways

- 6 (1) In consequence of the repeal by this Act of...
Part III — THE PROHIBITIONS: NORTHERN IRELAND

Status: This is the original version (as it was originally enacted).

Electricity

- 7 (1) In consequence of the repeal by this Act of...

Gas

- 8 (1) In consequence of the repeal by this Act of...
Part IV — UTILITIES: MINOR AND CONSEQUENTIAL AMENDMENTS

The Telecommunications Act 1984 (c. 12)

- 9 (1) The Telecommunications Act 1984 is amended as follows.

The Gas Act 1986 (c. 44)

- 10 (1) The Gas Act 1986 is amended as follows.

The Water Act 1989 (c. 15)

- 11 In section 174(3) of the Water Act 1989 (general restrictions...

The Electricity Act 1989 (c. 29)

- 12 (1) The Electricity Act 1989 is amended as follows.

The Water Industry Act 1991 (c. 56)

- 13 (1) The Water Industry Act 1991 is amended as follows....

The Water Resources Act 1991 (c. 57)

- 14 In Schedule 24 to the Water Resources Act 1991 (disclosure...

The Railways Act 1993 (c. 43)

- 15 (1) The Railways Act 1993 is amended as follows.

The Channel Tunnel Rail Link Act 1996 (c. 61)

- 16 (1) The Channel Tunnel Rail Link Act 1996 is amended...
Part V — MINOR AND CONSEQUENTIAL AMENDMENTS: NORTHERN
IRELAND

The Electricity (Northern Ireland) Order 1992

- 17 (1) The Electricity (Northern Ireland) Order 1992 is amended as...

The Gas (Northern Ireland) Order 1996

- 18 (1) The Gas (Northern Ireland) Order 1996 is amended as...

SCHEDULE 11 — Interpretation of Section 55

Relevant functions

- 1 In section 55(3) “relevant functions” means any function under—

Designated persons

- 2 In section 55(3) “designated person” means any of the following—...

SCHEDULE 12 — Minor and Consequential Amendments

The Fair Trading Act 1973 (c. 41)

1 (1) The Fair Trading Act 1973 is amended as follows....

The Energy Act 1976 (c. 76)

2 In the Energy Act 1976, omit section 5 (temporary relief...

The Estate Agents Act 1979 (c. 38)

3 In section 10(3) of the Estate Agents Act 1979 (restriction...

The Competition Act 1980 (c. 21)

4 (1) The Competition Act 1980 is amended as follows.

Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26))

5 In Schedule 6 to the Magistrates' Courts (Northern Ireland) Order...

Agricultural Marketing (Northern Ireland) Order 1982 (S.I. 1982/1080 (N.I. 12))

6 In Schedule 8 to the Agricultural Marketing (Northern Ireland) Order...

The Airports Act 1986 (c. 31)

7 (1) The Airports Act 1986 is amended as follows.

The Financial Services Act 1986 (c. 60)

8 In Schedule 11 to the Financial Services Act 1986, in...

*The Companies Consolidation (Consequential Provisions)
(Northern Ireland) Order 1986 (S.I. 1986/1035 (N.I. 9))*

9 In Part II of Schedule 1 to the Companies Consolidation...

The Consumer Protection Act 1987 (c. 43)

10 In section 38(3) of the Consumer Protection Act 1987 (restrictions...

The Channel Tunnel Act 1987 (c. 53)

11 In section 33 of the Channel Tunnel Act 1987—

The Road Traffic (Consequential Provisions) Act 1988 (c. 54)

12 In Schedule 3 to the Road Traffic (Consequential Provisions) Act...

The Companies Act 1989 (c. 40)

13 In Schedule 20 to the Companies Act 1989 (amendments about...

The Broadcasting Act 1990 (c. 42)

14 (1) The Broadcasting Act 1990 is amended as follows.

Status: This is the original version (as it was originally enacted).

The Tribunals and Inquiries Act 1992 (c. 53)

- 15 In Schedule 1 to the Tribunals and Inquiries Act 1992...

The Osteopaths Act 1993 (c. 21)

- 16 Section 33 of the Osteopaths Act 1993 (competition and anti-competitive...

The Chiropractors Act 1994 (c. 17)

- 17 Section 33 of the Chiropractors Act 1994 (competition and anti-competitive...

The Coal Industry Act 1994 (c. 21)

- 18 In section 59(4) of the Coal Industry Act 1994 (information...

The Deregulation and Contracting Out Act 1994 (c. 40)

- 19 (1) The Deregulation and Contracting Out Act 1994 is amended...

The Airports (Northern Ireland) Order 1994 (S.I. 1994/426 (N.I. 1))

- 20 (1) The Airports (Northern Ireland) Order 1994 is amended as...

The Broadcasting Act 1996 (c. 55)

- 21 In section 77 of the Broadcasting Act 1996 (which modifies...

SCHEDULE 13 — Transitional Provisions and Savings

Part I — GENERAL

Interpretation

- 1 (1) In this Schedule— “RPA” means the Resale Prices Act...

General power to make transitional provision and savings

- 2 (1) Nothing in this Schedule affects the power of the...

Advice and information

- 3 (1) The Director may publish advice and information explaining provisions...

Part II — DURING THE INTERIM PERIOD

Block exemptions

- 4 (1) The Secretary of State may, at any time during...

Certain agreements to be non-notifiable agreements

- 5 An agreement which— (a) is made during the interim period,...

Application of RTPA during the interim period

- 6 In relation to agreements made during the interim period—

Guidance

- 7 (1) Sub-paragraphs (2) to (4) apply in relation to agreements...
Part III — ON THE STARTING DATE

Applications which fall

- 8 (1) Proceedings in respect of an application which is made...

Orders and approvals which fall

- 9 (1) An order in force immediately before the starting date...
Part IV — ON AND AFTER THE STARTING DATE

CHAPTER I

GENERAL

Duty of Director to maintain register etc.

- 10 (1) This paragraph applies even though the relevant provisions of...

RTPA section 3 applications

- 11 (1) Even though section 3 of the RTPA is repealed...

RTPA section 26 applications

- 12 (1) Even though section 26 of the RTPA is repealed...

Right to bring civil proceedings

- 13 (1) Even though section 35 of the RTPA is repealed...

CHAPTER II

CONTINUING PROCEEDINGS

The general rule

- 14 (1) The Chapter I prohibition does not apply to an...

Meaning of “continuing proceedings”

- 15 (1) For the purposes of this Schedule “continuing proceedings” means...

RTPA section 4 proceedings

- 16 Proceedings on an application for an order under section 4...

RPA section 16 or 17 proceedings

- 17 Proceedings on an application for an order under section 16...

Continuing proceedings which are discontinued

- 18 (1) On an application made jointly to the Court by...

CHAPTER III

THE TRANSITIONAL PERIOD

The general rule

19 (1) Except where this Chapter or Chapter IV provides otherwise,...

Cases for which there is no transitional period

20 (1) There is no transitional period for an agreement to...

Continuing proceedings under the RTPA

21 In the case of an agreement which is the subject...

Continuing proceedings under the RPA

22 (1) In the case of an agreement relating to goods...

Provisions not contrary to public interest

23 (1) To the extent to which an agreement contains provisions...

Goods

24 (1) In the case of an agreement relating to goods...

Transitional period for certain agreements

25 (1) This paragraph applies to agreements— (a) which are subject...

Special cases

26 (1) In the case of an agreement in respect of...

CHAPTER IV

THE UTILITIES

General

27 In this Chapter “the relevant period” means the period beginning...

Electricity

28 (1) For an agreement to which, immediately before the starting...

Electricity: power to make transitional orders

29 (1) There is a transitional period for an agreement (whether...

Gas

30 (1) For an agreement to which, immediately before the starting...

Gas: power to make transitional orders

31 (1) There is a transitional period for an agreement of...

Gas: Northern Ireland

32 (1) For an agreement to which, immediately before the starting...

Gas: Northern Ireland – power to make transitional orders

33 (1) There is a transitional period for an agreement of...

Railways

34 (1) In this paragraph— “section 131” means section 131 of...

The regulators

35 (1) Subject to sub-paragraph (3), each of the regulators may...

CHAPTER V

EXTENDING THE TRANSITIONAL PERIOD

36 (1) A party to an agreement for which there is...

CHAPTER VI

TERMINATING THE TRANSITIONAL PERIOD

General

37 (1) Subject to sub-paragraph (2), the Director may by a...

Circumstances in which the Director may terminate the transitional period

38 (1) If the Director is considering whether to give a...

Procedural requirements on giving a paragraph 37 direction

39 (1) The Director must specify in a direction under paragraph...
Part V — THE FAIR TRADING ACT 1973

References to the Monopolies and Mergers Commission

40 (1) If, on the date on which the repeal by...

Orders under Schedule 8

41 (1) In this paragraph— “the 1973 Act” means the Fair...

Part III of the Act

42 (1) The repeals made by section 1 do not affect...
Part VI — THE COMPETITION ACT 1980

Undertakings

43 (1) Subject to sub-paragraph (2), an undertaking accepted by the...

Application of sections 25 and 26

44 The repeals made by section 1 do not affect—

Status: This is the original version (as it was originally enacted).

Part VII — MISCELLANEOUS

Disclosure of information

45 (1) Section 55 of this Act applies in relation to...

The Court

46 If it appears to the Lord Chancellor that a person...

SCHEDULE 14 — Repeals and Revocations

Part I — REPEALS

Part II — REVOCATIONS