



# Competition Act 1998

## 1998 CHAPTER 41

### PART I

#### COMPETITION

#### CHAPTER IV

##### THE COMPETITION COMMISSION AND APPEALS

##### *Appeals*

#### **46 Appealable decisions**

- (1) Any party to an agreement in respect of which the Director has made a decision may appeal to the Competition Commission against, or with respect to, the decision.
- (2) Any person in respect of whose conduct the Director has made a decision may appeal to the Competition Commission against, or with respect to, the decision.
- (3) In this section “decision” means a decision of the Director—
  - (a) as to whether the Chapter I prohibition has been infringed,
  - (b) as to whether the Chapter II prohibition has been infringed,
  - (c) as to whether to grant an individual exemption,
  - (d) in respect of an individual exemption—
    - (i) as to whether to impose any condition or obligation under section 4(3)(a) or 5(1)(c),
    - (ii) where such a condition or obligation has been imposed, as to the condition or obligation,
    - (iii) as to the period fixed under section 4(3)(b), or
    - (iv) as to the date fixed under section 4(5),
  - (e) as to—

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- (i) whether to extend the period for which an individual exemption has effect, or
  - (ii) the period of any such extension,
  - (f) cancelling an exemption,
  - (g) as to the imposition of any penalty under section 36 or as to the amount of any such penalty,
  - (h) withdrawing or varying any of the decisions in paragraphs (a) to (f) following an application under section 47(1),
- and includes a direction given under section 32, 33 or 35 and such other decision as may be prescribed.
- (4) Except in the case of an appeal against the imposition, or the amount, of a penalty, the making of an appeal under this section does not suspend the effect of the decision to which the appeal relates.
- (5) Part I of Schedule 8 makes further provision about appeals.

#### **47 Third party appeals**

- (1) A person who does not fall within section 46(1) or (2) may apply to the Director asking him to withdraw or vary a decision (“the relevant decision”) falling within paragraphs (a) to (f) of section 46(3) or such other decision as may be prescribed.
- (2) The application must—
- (a) be made in writing, within such period as the Director may specify in rules under section 51; and
  - (b) give the applicant’s reasons for considering that the relevant decision should be withdrawn or (as the case may be) varied.
- (3) If the Director decides—
- (a) that the applicant does not have a sufficient interest in the relevant decision,
  - (b) that, in the case of an applicant claiming to represent persons who have such an interest, the applicant does not represent such persons, or
  - (c) that the persons represented by the applicant do not have such an interest,
- he must notify the applicant of his decision.
- (4) If the Director, having considered the application, decides that it does not show sufficient reason why he should withdraw or vary the relevant decision, he must notify the applicant of his decision.
- (5) Otherwise, the Director must deal with the application in accordance with such procedure as may be specified in rules under section 51.
- (6) The applicant may appeal to the Competition Commission against a decision of the Director notified under subsection (3) or (4).
- (7) The making of an application does not suspend the effect of the relevant decision.

#### **48 Appeal tribunals**

- (1) Any appeal made to the Competition Commission under section 46 or 47 is to be determined by an appeal tribunal.

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- (2) The Secretary of State may, after consulting the President of the Competition Commission Appeal Tribunals and such other persons as he considers appropriate, make rules with respect to appeals and appeal tribunals.
- (3) The rules may confer functions on the President.
- (4) Part II of Schedule 8 makes further provision about rules made under this section but is not to be taken as restricting the Secretary of State's powers under this section.

#### **49 Appeals on point of law etc**

- (1) An appeal lies—
  - (a) on a point of law arising from a decision of an appeal tribunal, or
  - (b) from any decision of an appeal tribunal as to the amount of a penalty.
- (2) An appeal under this section may be made only—
  - (a) to the appropriate court;
  - (b) with leave; and
  - (c) at the instance of a party or at the instance of a person who has a sufficient interest in the matter.
- (3) Rules under section 48 may make provision for regulating or prescribing any matters incidental to or consequential upon an appeal under this section.
- (4) In subsection (2)—

“the appropriate court” means—

  - (a) in relation to proceedings before a tribunal in England and Wales, the Court of Appeal;
  - (b) in relation to proceedings before a tribunal in Scotland, the Court of Session;
  - (c) in relation to proceedings before a tribunal in Northern Ireland, the Court of Appeal in Northern Ireland;

“leave” means leave of the tribunal in question or of the appropriate court; and

“party”, in relation to a decision, means a person who was a party to the proceedings in which the decision was made.