
DRAFT STATUTORY INSTRUMENTS

2019 No.

The State Aid (EU Exit) Regulations 2019

PART 3

Procedure

CHAPTER 1

Notified aid

Notification

7.—(1) An aid grantor must notify the CMA of plans to grant new aid by submitting a notification to the CMA that—

- (a) is made in the specified form; and
- (b) contains the specified information.

(2) After receiving a notification, the CMA may request an aid grantor to send any necessary additional information within a set period.

(3) The CMA may request information under this regulation more than once.

(4) A notification is considered to be a complete notification if—

- (a) the CMA notifies the aid grantor that the notification is a complete notification; or
- (b) the CMA does not, within the relevant period, request an aid grantor to send any additional information.

(5) In this regulation—

“relevant period” means a period of 40 working days starting with the first working day after receipt of a notification or receipt of any additional information requested under this regulation (as appropriate); and

“specified” means specified by the CMA in a notice published under regulation 55.

Examination of notification

8.—(1) The CMA must examine a complete notification and take one of the following decisions—

- (a) that the notified measure does not constitute aid;
- (b) to approve the aid; or
- (c) if the CMA is not satisfied that it can take a decision under sub-paragraph (a) or (b), to open an investigation in respect of the notified measure.

(2) The CMA must take a decision under paragraph (1) within a period of 40 working days starting with the first working day after the day on which the notification is considered to be a complete notification under regulation 7(4).

Failure to take decision

9.—(1) If the CMA does not take a decision in accordance with regulation 8, the notified measure is deemed to be approved by the CMA.

(2) However, the aid grantor must not implement the measure unless—

- (a) the aid grantor notifies the CMA that it intends to implement the measure; and
- (b) the CMA does not take a decision referred to in paragraph (3) within a period of 15 working days starting with the first working day after the day on which the aid grantor notifies the CMA under sub-paragraph (a).

(3) If the aid grantor notifies the CMA under paragraph (2)(a), the CMA may take a decision under regulation 8(1) in respect of the measure.

(4) If the CMA takes a decision referred to in paragraph (3) within the period referred to in paragraph (2)(b), the decision applies as if the notified measure had not been deemed to be approved under paragraph (1).

Publicity

10.—(1) The CMA must publish the following as soon as is reasonably practicable after taking a decision under regulation 8(1)—

- (a) the decision;
- (b) the reasons for the decision; and
- (c) in relation to a decision taken under regulation 8(1)(c), the period during which representations may be sent to the CMA by the aid grantor and interested parties.

(2) The period referred to in paragraph (1)(c) is 20 working days starting with the first working day after the day on which the reasons for the decision are published by the CMA.

(3) The CMA must send to the aid grantor any representations it receives from interested parties under this regulation, and any market information it receives from a person under Chapter 5, except that the CMA may withhold—

- (a) any representations or market information to the extent that they contain confidential information; and
- (b) the identity of an interested party or person who sent market information (as appropriate) if requested to do by the interested party or person on grounds of potential damage.

(4) The aid grantor may, in response to representations made by interested parties or market information provided under Chapter 5, send representations to the CMA within a period of 20 working days starting with the first working day after the day on which the aid grantor receives the representations or information.

Notified aid investigation

11.—(1) If the CMA decides to open an investigation under regulation 8(1)(c), the CMA must carry out such investigations as it considers appropriate to take a decision under paragraph (2).

(2) The CMA must, after carrying out an investigation, decide—

- (a) whether the notified measure constitutes aid; and
- (b) if so, whether to approve the aid.

(3) The CMA may consider the notified measure as modified by the aid grantor if the CMA considers it appropriate to do so.

Publication of decision after notified aid investigation

12.—(1) The CMA must publish the following as soon as is reasonably practicable after taking a decision under regulation 11—

- (a) the decision; and
- (b) the reasons for the decision.

(2) The CMA must notify any interested party who sent representations that the decision has been published.

Time limit for notified aid investigation

13.—(1) The CMA must use its best endeavours to take a decision under regulation 11 within a period of 18 months starting with the date on which the decision to open the investigation was taken.

(2) If the CMA has not taken a decision within the period referred to in paragraph (1), the aid grantor may request the CMA to take a decision on the basis of the information available to the CMA.

(3) If the aid grantor makes a request under paragraph (2), the CMA must take a decision under regulation 11 within a period of 8 weeks starting with the day after the day on which the CMA receives the request.

Withdrawal of notification

14.—(1) An aid grantor may withdraw a notification at any time before the CMA takes a decision under regulation 11.

(2) If an aid grantor withdraws a notification—

- (a) the CMA must stop its examination or investigation (as appropriate); and
- (b) the CMA is not required to take or publish any further decisions in respect of the notification.

(3) A notification is deemed to be withdrawn if—

- (a) the CMA makes a request for additional information under regulation 7(2); and
- (b) within the set period—
 - (i) the aid grantor does not send the information; or
 - (ii) the aid grantor does not notify the CMA that the information does not exist.

(4) The CMA must notify the aid grantor if a notification is deemed to be withdrawn.