
DRAFT STATUTORY INSTRUMENTS

2019 No.

The State Aid (EU Exit) Regulations 2019

PART 3

Procedure

CHAPTER 2

Unlawful aid

Examination of alleged unlawful aid

15.—(1) The CMA may on its own initiative examine information from any source regarding alleged unlawful aid and may, after an examination, take a decision under paragraph (5).

(2) The CMA must examine any properly submitted complaint regarding alleged unlawful aid and must, after an examination, take a decision under paragraph (5).

(3) If the CMA reasonably requires information for the purpose of taking a decision under paragraph (5), the CMA may request the aid grantor to send the information within a set period.

(4) If the aid grantor does not send the information within the set period, the CMA may take the decision on the basis of the information available to the CMA.

(5) The decisions referred to in paragraphs (1) and (2) are—

(a) that the alleged unlawful aid does not constitute unlawful 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 alleged unlawful aid.

(6) If the CMA approves the aid, the aid is considered to have been approved in accordance with Article 108(3) of the TFEU.

Publicity

16. Regulation 10 (publicity) applies to a decision taken under regulation 15(5) as it applies to a decision taken under regulation 8(1).

Unlawful aid investigation

17.—(1) If the CMA decides to open an investigation under regulation 15(5)(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 alleged unlawful aid constitutes unlawful aid; and

(b) if so, whether to approve the aid.

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

(4) If the CMA approves the aid, the aid is considered to have been approved in accordance with Article 108(3) of the TFEU.

Publication of decision after unlawful aid investigation

18.—(1) The CMA must publish the following as soon as is reasonably practicable after taking a decision under regulation 17—

- (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.