
DRAFT STATUTORY INSTRUMENTS

2019 No.

The State Aid (EU Exit) Regulations 2019

PART 3

Procedure

CHAPTER 3

Misuse of aid

Examination of alleged misuse of aid

19.—(1) The CMA may on its own initiative examine information from any source regarding alleged misuse of aid and may, after an examination, decide whether there has been a misuse of aid.

(2) The CMA must examine any properly submitted complaint regarding alleged misuse of aid and must, after an examination, decide whether there has been a misuse of aid.

(3) If the CMA reasonably requires information for the purpose of taking a decision under this regulation, 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—

(a) take a decision under this regulation on the basis of the information available to the CMA, including any information obtained in accordance with Schedule 4; or

(b) request the beneficiary to send the information within a set period.

(5) If the beneficiary does not send the information within the set period, the CMA may take a decision under this regulation on the basis of the information available to the CMA, including any information obtained in accordance with Schedule 4.

(6) If the CMA decides there has been a misuse of aid, the CMA must open an investigation in respect of the misused aid.

(7) Schedule 4, which relates to powers of entry in misuse of aid examinations, has effect.

Publicity

20. Regulation 10 (publicity) applies to a decision taken under regulation 19(6) as it applies to a decision taken under regulation 8(1)(c).

Misuse of aid investigation

21.—(1) If the CMA decides to open an investigation under regulation 19(6), 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 whether to approve the aid.

(3) The CMA may consider the 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 misuse of aid investigation

22.—(1) The CMA must publish the following as soon as is reasonably practicable after taking a decision under regulation 21—

- (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.