



Competition Act 1998

1998 CHAPTER 41

PART I

COMPETITION

CHAPTER IV

[^{F1}APPEALS BEFORE THE TRIBUNAL AND PROCEEDINGS AND SETTLEMENTS RELATING TO INFRINGEMENTS OF COMPETITION LAW]

[^{F1}/^{F2}Settlements relating to infringements of competition law

Textual Amendments

- F1** S. 47B substituted (1.10.2015) by [Consumer Rights Act 2015 \(c. 15\)](#), s. 100(5), [Sch. 8 para. 5\(1\)](#) (with [Sch. 8 para. 5\(2\)](#)); S.I. 2015/1630, art. 3(j)
- F2** S. 49A and cross-heading inserted (1.10.2015) by [Consumer Rights Act 2015 \(c. 15\)](#), s. 100(5), [Sch. 8 para. 10\(1\)](#) (with [Sch. 8 para. 10\(2\)](#)); S.I. 2015/1630, art. 3(j)

49A Collective settlements: where a collective proceedings order has been made

- (1) The Tribunal may, in accordance with this section and Tribunal rules, make an order approving the settlement of claims in collective proceedings (a “collective settlement”) where—
- a collective proceedings order has been made in respect of the claims, and
 - the Tribunal has specified that the proceedings are opt-out collective proceedings.
- (2) An application for approval of a proposed collective settlement must be made to the Tribunal by the representative and the defendant in the collective proceedings.

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- (3) The representative and the defendant must provide agreed details of the claims to be settled by the proposed collective settlement and the proposed terms of that settlement.
- (4) Where there is more than one defendant in the collective proceedings, “defendant” in subsections (2) and (3) means such of the defendants as wish to be bound by the proposed collective settlement.
- (5) The Tribunal may make an order approving a proposed collective settlement only if satisfied that its terms are just and reasonable.
- (6) On the date on which the Tribunal approves a collective settlement—
 - (a) if the period within which persons may opt out of or (in the case of persons not domiciled in the United Kingdom) opt in to the collective proceedings has expired, subsections (8) and (10) apply so as to determine the persons bound by the settlement;
 - (b) if that period has not yet expired, subsections (9) and (10) apply so as to determine the persons bound by the settlement.
- (7) If the period within which persons may opt out of the collective proceedings expires on a different date from the period within which persons not domiciled in the United Kingdom may opt in to the collective proceedings, the references in subsection (6) to the expiry of a period are to the expiry of whichever of those periods expires later.
- (8) Where this subsection applies, a collective settlement approved by the Tribunal is binding on all persons falling within the class of persons described in the collective proceedings order who—
 - (a) were domiciled in the United Kingdom at the time specified for the purposes of determining domicile in relation to the collective proceedings (see section 47B(11)(b)(i)) and did not opt out of those proceedings, or
 - (b) opted in to the collective proceedings.
- (9) Where this subsection applies, a collective settlement approved by the Tribunal is binding on all persons falling within the class of persons described in the collective proceedings order.
- (10) But a collective settlement is not binding on a person who—
 - (a) opts out by notifying the representative, in a manner and by a time specified, that the claim should not be included in the collective settlement, or
 - (b) is not domiciled in the United Kingdom at a time specified, and does not, in a manner and by a time specified, opt in by notifying the representative that the claim should be included in the collective settlement.
- (11) This section does not affect a person's right to offer to settle opt-in collective proceedings.
- (12) In this section and in section 49B, “specified” means specified in a direction made by the Tribunal.]

[^{F3}49B Collective settlements: where a collective proceedings order has not been made

- (1) The Tribunal may, in accordance with this section and Tribunal rules, make an order approving the settlement of claims (a “collective settlement”) where—
 - (a) a collective proceedings order has not been made in respect of the claims, but

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- (b) if collective proceedings were brought, the claims could be made at the commencement of the proceedings (disregarding any limitation or prescriptive period applicable to a claim in collective proceedings).
- (2) An application for approval of a proposed collective settlement must be made to the Tribunal by—
 - (a) a person who proposes to be the settlement representative in relation to the collective settlement, and
 - (b) the person who, if collective proceedings were brought in respect of the claims, would be a defendant in those proceedings (or, where more than one person would be a defendant in those proceedings, such of those persons as wish to be bound by the proposed collective settlement).
- (3) The persons applying to the Tribunal under subsection (2) must provide agreed details of the claims to be settled by the proposed collective settlement and the proposed terms of that settlement.
- (4) The Tribunal may make an order approving a proposed collective settlement (see subsection (8)) only if it first makes a collective settlement order.
- (5) The Tribunal may make a collective settlement order only—
 - (a) if it considers that the person described in subsection (2)(a) is a person who, if the order were made, the Tribunal could authorise to act as the settlement representative in relation to the collective settlement in accordance with subsection (7), and
 - (b) in respect of claims which, if collective proceedings were brought, would be eligible for inclusion in the proceedings (see section 47B(6)).
- (6) A collective settlement order must include the following matters—
 - (a) authorisation of the person described in subsection (2)(a) to act as the settlement representative in relation to the collective settlement, and
 - (b) description of a class of persons whose claims fall within subsection (5)(b).
- (7) The Tribunal may authorise a person to act as the settlement representative in relation to a collective settlement—
 - (a) whether or not that person is a person falling within the class of persons described in the collective settlement order for that settlement, but
 - (b) only if the Tribunal considers that it is just and reasonable for that person to act as the settlement representative in relation to that settlement.
- (8) Where the Tribunal has made a collective settlement order, it may make an order approving a proposed collective settlement only if satisfied that its terms are just and reasonable.
- (9) A collective settlement approved by the Tribunal is binding on all persons falling within the class of persons described in the collective settlement order.
- (10) But a collective settlement is not binding on a person who—
 - (a) opts out by notifying the settlement representative, in a manner and by a time specified, that the claim should not be included in the collective settlement, or
 - (b) is not domiciled in the United Kingdom at a time specified, and does not, in a manner and by a time specified, opt in by notifying the settlement representative that the claim should be included in the collective settlement.

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- (11) In this section, “settlement representative” means a person who is authorised by a collective settlement order to act in relation to a collective settlement.]

Textual Amendments

- F3** S. 49B inserted (1.10.2015) by [Consumer Rights Act 2015 \(c. 15\)](#), s. 100(5), [Sch. 8 para. 11\(1\)](#) (with [Sch. 8 para. 11\(2\)](#)); [S.I. 2015/1630](#), art. 3(j)

[^{F4}49C Approval of redress schemes by the CMA

- (1) A person may apply to the CMA for approval of a redress scheme.
- (2) The CMA may consider an application before the infringement decision to which the redress scheme relates has been made, but may approve the scheme only—
 - (a) after that decision has been made, or
 - (b) in the case of a decision of the CMA, at the same time as that decision is made.
- (3) In deciding whether to approve a redress scheme, the CMA may take into account the amount or value of compensation offered under the scheme.
- (4) The CMA may approve a redress scheme under subsection (2)(b) subject to a condition or conditions requiring the provision of further information about the operation of the scheme (including about the amount or value of compensation to be offered under the scheme or how this will be determined).
- (5) If the CMA approves a redress scheme subject to such a condition, it may—
 - (a) approve the scheme subject to other conditions;
 - (b) withdraw approval from the scheme if any conditions imposed under subsection (4) or paragraph (a) are not met;
 - (c) approve a redress scheme as a replacement for the original scheme (but may not approve that scheme subject to conditions).
- (6) An approved scheme may not be varied by the CMA or the compensating party.
- (7) But, where the CMA approves a redress scheme subject to a condition of the kind mentioned in subsection (4), subsection (6) does not prevent further information provided in accordance with the condition from forming part of the terms of the scheme.
- (8) The Secretary of State may make regulations relating to the approval of redress schemes, and the regulations may in particular—
 - (a) make provision as to the procedure governing an application for approval of a redress scheme, including the information to be provided with the application;
 - (b) provide that the CMA may approve a redress scheme only if it has been devised according to a process specified in the regulations;
 - (c) provide that the CMA may approve a redress scheme only if it is in a form, or contains terms, specified in the regulations (which may include terms requiring a settlement agreement under the scheme to be in a form, or contain terms, specified in the regulations);
 - (d) provide that the CMA may approve a redress scheme only if (so far as the CMA can judge from facts known to it) the scheme is intended to be administered in a manner specified in the regulations;

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- (e) describe factors which the CMA may or must take into account, or may not take into account, in deciding whether to approve a redress scheme.
- (9) The CMA must publish guidance with regard to—
- (a) applications for approval of redress schemes,
 - (b) the approval of redress schemes, and
 - (c) the enforcement of approved schemes, and in particular as to the criteria which the CMA intends to adopt in deciding whether to bring proceedings under section 49E(4).
- (10) Guidance under subsection (9) must be approved by the Secretary of State before it is published.
- (11) In this section and sections 49D and 49E—
- “approved scheme” means a redress scheme approved by the CMA,
- “compensating party” means a person offering compensation under an approved scheme,
- [^{F5}“infringement decision” means a decision of the CMA that the Chapter I prohibition or the Chapter II prohibition has been infringed,] and
- “redress scheme” means a scheme under which a person offers compensation in consequence of an infringement decision made in respect of that person.
- (12) For the purposes of this section and section 49E, “compensation”—
- (a) may be monetary or non-monetary, and
 - (b) may be offered to persons who have not suffered a loss as a result of the infringement decision to which the redress scheme relates.

Textual Amendments

- F4** Ss. 49C-49E inserted (3.8.2015 for specified purposes, 1.10.2015 in so far as not already in force) by Consumer Rights Act 2015 (c. 15), s. 100(5), **Sch. 8 para. 12**; S.I. 2015/1584, art. 3(a); S.I. 2015/1630, art. 3(j)
- F5** Words in s. 49C(11) substituted (31.12.2020) by The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **17** (with Sch. 4 paras. 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)

49D Redress schemes: recovery of costs

- (1) The CMA may require a person making an application for approval of a redress scheme to pay some or all of the CMA's reasonable costs relating to the application.
- (2) A requirement to pay costs is imposed by giving that person written notice specifying—
 - (a) the amount to be paid,
 - (b) how that amount has been calculated, and
 - (c) by when that amount must be paid.
- (3) A person required to pay costs under this section may appeal to the Tribunal against the amount.

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- (4) Where costs required to be paid under this section relate to an approved scheme, the CMA may withdraw approval from that scheme if the costs have not been paid by the date specified in accordance with subsection (2)(c).
- (5) Costs required to be paid under this section are recoverable by the CMA as a debt.

Textual Amendments

F4 Ss. 49C-49E inserted (3.8.2015 for specified purposes, 1.10.2015 in so far as not already in force) by [Consumer Rights Act 2015 \(c. 15\)](#), s. 100(5), [Sch. 8 para. 12](#); S.I. 2015/1584, art. 3(a); S.I. 2015/1630, art. 3(j)

49E Enforcement of approved schemes

- (1) A compensating party is under a duty to comply with the terms of an approved scheme (“the duty”).
- (2) The duty is owed to any person entitled to compensation under the terms of the approved scheme.
- (3) Where such a person suffers loss or damage as a result of a breach of the duty, the person may bring civil proceedings before the court for damages, an injunction or interdict or any other appropriate relief or remedy.
- (4) Where the CMA considers that the compensating party is in breach of the duty, the CMA may bring civil proceedings before the court for an injunction or interdict or any other appropriate relief or remedy.
- (5) Subsection (4) is without prejudice to any right that a person has to bring proceedings under subsection (3).
- (6) In any proceedings brought under subsection (3) or (4), it is a defence for the compensating party to show that it took all reasonable steps to comply with the duty.
- (7) Where the CMA considers that it is no longer appropriate for the compensating party to be subject to the duty, the CMA may give notice in writing to that party stating that it is released from the duty.
- (8) Where a person has entered into a settlement agreement with the compensating party, that agreement remains enforceable notwithstanding the release of the compensating party under subsection (7) from the duty.
- (9) In this section “the court” means—
 - (a) in England and Wales, the High Court or the county court,
 - (b) in Northern Ireland, the High Court or a county court,
 - (c) in Scotland, the Court of Session or the sheriff.]]

Textual Amendments

F4 Ss. 49C-49E inserted (3.8.2015 for specified purposes, 1.10.2015 in so far as not already in force) by [Consumer Rights Act 2015 \(c. 15\)](#), s. 100(5), [Sch. 8 para. 12](#); S.I. 2015/1584, art. 3(a); S.I. 2015/1630, art. 3(j)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- [Blanket Amendment](#) words substituted by [2005 c. 4 Sch. 11 para. 5](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 31G-31L and cross-heading inserted by S.I. 2019/93, reg. 8A (as inserted) by [S.I. 2019/1245 reg. 3](#) (This amendment not applied to [legislation.gov.uk](#). The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
- s. 46(3)(ha)(hb) inserted by S.I. 2019/93, reg. 14(d) (as inserted) by [S.I. 2019/1245 reg. 5](#) (This amendment not applied to [legislation.gov.uk](#). The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
- s. 47(1)(ca) inserted by S.I. 2019/93, reg. 15(b) (as substituted) by [S.I. 2019/1245 reg. 6](#) (This amendment not applied to [legislation.gov.uk](#). The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
- s. 60A(10) inserted by [2023 c. 28 s. 6\(10\)](#)
- Sch. 6A para. 1A inserted by S.I. 2019/93, reg. 29A(2) (as inserted) by [S.I. 2019/1245 reg. 7](#) (This amendment not applied to [legislation.gov.uk](#). The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
- Sch. 6A Pt. 3 inserted by S.I. 2019/93, reg. 29A(4) (as inserted) by [S.I. 2019/1245 reg. 7](#) (This amendment not applied to [legislation.gov.uk](#). The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)