



# Competition Act 1998

## 1998 CHAPTER 41

### PART I

#### COMPETITION

#### CHAPTER V

#### MISCELLANEOUS

#### *Interpretation and governing principles*

#### **59 Interpretation.**

(1) In this Part—

<sup>F1</sup>  
...

“Article 85” means Article 85 of the Treaty;

“Article 86” means Article 86 of the Treaty;

“block exemption” has the meaning given in section 6(4);

“block exemption order” has the meaning given in section 6(2);

“the Chapter I prohibition” has the meaning given in section 2(8);

“the Chapter II prohibition” has the meaning given in section 18(4);

“the Commission” (except in relation to the Competition Commission) means the European Commission;

“the Council” means the Council of the European Union;

“the court”, except in sections 58 [<sup>F2</sup>, 58A] and 60 and the expression “European Court”, means—

(a) in England and Wales, the High Court;

(b) in Scotland, the Court of Session; and

(c) in Northern Ireland, the High Court;

<sup>F3</sup>  
...

*Status: Point in time view as at 20/06/2003.*

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- “document” includes information recorded in any form;
- “the EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as it has effect for the time being;
- “the European Court” means the Court of Justice of the European Communities and includes the Court of First Instance;
- “individual exemption” has the meaning given in section 4(2);
- “information” includes estimates and forecasts;
- “investigating officer” has the meaning given in section 27(1);
- “Minister of the Crown” has the same meaning as in the Ministers of the <sup>M1</sup>Crown Act 1975;
- “officer”, in relation to a body corporate, includes a director, manager or secretary and, in relation to a partnership in Scotland, includes a partner;
- [<sup>F4</sup>“ the OFT” means the Office of Fair Trading;]
- “parallel exemption” has the meaning given in section 10(3);
- “person”, in addition to the meaning given by the <sup>M2</sup>Interpretation Act 1978, includes any undertaking;
- “premises” does not include domestic premises unless—
- (a) they are also used in connection with the affairs of an undertaking, or
- (b) documents relating to the affairs of an undertaking are kept there,
- but does include any vehicle;
- “prescribed” means prescribed by regulations made by the Secretary of State;
- “regulator” has the meaning given by section 54;
- “section 11 exemption” has the meaning given in section 11(3); and
- “the Treaty” means the treaty establishing the European Community.
- [<sup>F5</sup>“ the Tribunal” means the Competition Appeal Tribunal;
- “Tribunal rules” means rules under section 15 of the Enterprise Act 2002.]
- (2) The fact that to a limited extent the Chapter I prohibition does not apply to an agreement, because of an exclusion provided by or under this Part or any other enactment, does not require those provisions of the agreement to which the exclusion relates to be disregarded when considering whether the agreement infringes the prohibition for other reasons.
- (3) For the purposes of this Part, the power to require information, in relation to information recorded otherwise than in a legible form, includes power to require a copy of it in a legible form.
- (4) Any power conferred on the [<sup>F6</sup>OFT] by this Part to require information includes power to require any document which [<sup>F6</sup>it] believes may contain that information.

#### Textual Amendments

- F1** Words in s. 59(1) repealed (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 5 para. 6(a), Sch. 26; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)
- F2** Word in s. 59(1) inserted (20.6.2003) by Enterprise Act 2002 (c. 40), ss. 20(3), 279; S.I. 2003/1397, art. 2(1), Sch.
- F3** Words in s. 59(1) repealed (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 25 para. 38(44)(a), Sch. 26; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

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- F4** Words in s. 59(1) inserted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 25 para. 38(44)(a); S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)
- F5** Words in s. 59(1) inserted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 5 para. 6(b), Sch. 26; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)
- F6** Words in s. 59(4) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 25 para. 38(44)(b); S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

#### Commencement Information

- I1** S. 59 wholly in force at 11.1.1999; s. 59 not in force at Royal Assent see s. 76(3); s. 59 in force for certain purposes at 26.11.1998 by S.I. 1998/2750, art. 2; s. 59 in force in so far as not already in force by S.I. 1998/3166, art. 2, Sch.

#### Marginal Citations

- M1** 1975 c. 26.  
**M2** 1978 c. 30.

## 60 Principles to be applied in determining questions.

- (1) The purpose of this section is to ensure that so far as is possible (having regard to any relevant differences between the provisions concerned), questions arising under this Part in relation to competition within the United Kingdom are dealt with in a manner which is consistent with the treatment of corresponding questions arising in Community law in relation to competition within the Community.
- (2) At any time when the court determines a question arising under this Part, it must act (so far as is compatible with the provisions of this Part and whether or not it would otherwise be required to do so) with a view to securing that there is no inconsistency between—
  - (a) the principles applied, and decision reached, by the court in determining that question; and
  - (b) the principles laid down by the Treaty and the European Court, and any relevant decision of that Court, as applicable at that time in determining any corresponding question arising in Community law.
- (3) The court must, in addition, have regard to any relevant decision or statement of the Commission.
- (4) Subsections (2) and (3) also apply to—
  - (a) the [F7OFT]; and
  - (b) any person acting on behalf of the [F7OFT], in connection with any matter arising under this Part.
- (5) In subsections (2) and (3), “court” means any court or tribunal.
- (6) In subsections (2)(b) and (3), “decision” includes a decision as to—
  - (a) the interpretation of any provision of Community law;
  - (b) the civil liability of an undertaking for harm caused by its infringement of Community law.

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**Textual Amendments**

- F7** Word in s. 60 substituted (1.4.2003) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, [Sch. 25 para. 38\(45\)](#); [S.I. 2003/766](#), [art. 2](#), [Sch.](#) (with [art. 3](#)) (as amended (20.7.2007) by [S.I. 2007/1846](#), reg. 3(2), [Sch.](#))

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**Modifications etc. (not altering text)**

- C1** S. 60 applied by 1986 c. 46, s. 9A(11) (as inserted (20.6.2003) by [Enterprise Act 2002 \(c. 40\)](#), [ss. 204\(2\)](#), 279; [S.I. 2003/1397](#), [art. 2\(1\)](#), [Sch.](#))

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