

SCHEDULES

SCHEDULE 13

TRANSITIONAL PROVISIONS AND SAVINGS

PART IV

ON AND AFTER THE STARTING DATE

CHAPTER II

CONTINUING PROCEEDINGS

The general rule

- 14 (1) The Chapter I prohibition does not apply to an agreement at any time when the agreement is the subject of continuing proceedings under the RTPA.
- (2) The Chapter I prohibition does not apply to an agreement relating to goods which are the subject of continuing proceedings under section 16 or 17 of the RPA to the extent to which the agreement consists of exempt provisions.
- (3) In sub-paragraph (2) “exempt provisions” means those provisions of the agreement which would, disregarding section 14 of the RPA, be—
- (a) void as a result of section 9(1) of the RPA; or
 - (b) unlawful as a result of section 9(2) or 11 of the RPA.
- (4) If the Chapter I prohibition does not apply to an agreement because of this paragraph, the provisions of, or made under, the RTPA or the RPA are to continue to have effect in relation to the agreement.
- (5) The repeals made by section 1 do not affect—
- (a) continuing proceedings; or
 - (b) proceedings of the kind referred to in paragraph 11 or 12 of this Schedule which are continuing after the starting date.

Meaning of “continuing proceedings”

- 15 (1) For the purposes of this Schedule “continuing proceedings” means proceedings in respect of an application made to the Court under the RTPA or the RPA, but not determined, before the starting date.
- (2) But proceedings under section 3 or 26 of the RTPA to which paragraph 11 or 12 applies are not continuing proceedings.

Status: This is the original version (as it was originally enacted).

- (3) The question whether (for the purposes of Part III, or this Part, of this Schedule) an application has been determined is to be decided in accordance with sub-paragraphs (4) and (5).
- (4) If an appeal against the decision on the application is brought, the application is not determined until—
 - (a) the appeal is disposed of or withdrawn; or
 - (b) if as a result of the appeal the case is referred back to the Court—
 - (i) the expiry of the period within which an appeal (“the further appeal”) in respect of the Court’s decision on that reference could have been brought had this Act not been passed; or
 - (ii) if later, the date on which the further appeal is disposed of or withdrawn.
- (5) Otherwise, the application is not determined until the expiry of the period within which any party to the application would have been able to bring an appeal against the decision on the application had this Act not been passed.

RTPA section 4 proceedings

- 16 Proceedings on an application for an order under section 4 of the RTPA are also continuing proceedings if—
- (a) leave to make the application is applied for before the starting date but the proceedings in respect of that application for leave are not determined before that date; or
 - (b) leave to make an application for an order under that section is granted before the starting date but the application itself is not made before that date.

RPA section 16 or 17 proceedings

- 17 Proceedings on an application for an order under section 16 or 17 of the RPA are also continuing proceedings if—
- (a) leave to make the application is applied for before the starting date but the proceedings in respect of that application for leave are not determined before that date; or
 - (b) leave to make an application for an order under section 16 or 17 of the RPA is granted before the starting date, but the application itself is not made before that date.

Continuing proceedings which are discontinued

- 18 (1) On an application made jointly to the Court by all the parties to any continuing proceedings, the Court must, if it is satisfied that the parties wish it to do so, discontinue the proceedings.
- (2) If, on an application under sub-paragraph (1) or for any other reason, the Court orders the proceedings to be discontinued, this Schedule has effect (subject to paragraphs 21 and 22) from the date on which the proceedings are discontinued as if they had never been instituted.