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**Changes to legislation:** Competition Act 1998, Part V is up to date with all changes known to be in force on or before 14 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

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## SCHEDULES

### SCHEDULE 13

#### TRANSITIONAL PROVISIONS AND SAVINGS

##### PART V

#### THE FAIR TRADING ACT 1973

##### *References to the Monopolies and Mergers Commission*

- 40 (1) If, on the date on which the repeal by this Act of a provision mentioned in subparagraph (2) comes into force, the Monopolies and Mergers Commission has not completed a reference which was made to it before that date, continued consideration of the reference may include consideration of a question which could not have been considered if the provision had not been repealed.
- (2) The provisions are—
- (a) sections 10(2), 54(5) and 78(3) and paragraph 3(1) and (2) of Schedule 8 to the Fair Trading Act 1973 (c. 41);
  - (b) section 11(8)(b) of the Competition Act 1980 (c. 21);
  - (c) section 14(2) of the Telecommunications Act 1984 (c. 12);
  - (d) section 45(3) of the Airports Act 1986 (c. 31);
  - (e) section 25(2) of the Gas Act 1986 (c. 44);
  - (f) section 13(2) of the Electricity Act 1989 (c. 29);
  - (g) section 15(2) of the Water Industry Act 1991 (c. 56);
  - (h) article 16(2) of the <sup>M1</sup>Electricity (Northern Ireland) Order 1992;
  - (i) section 14(2) of the Railways Act 1993 (c. 43);
  - (j) article 36(3) of the <sup>M2</sup>Airports (Northern Ireland) Order 1994;
  - (k) article 16(2) of the <sup>M3</sup>Gas (Northern Ireland) Order 1996.

##### **Marginal Citations**

- M1** S.I. 1992/231 (N.I. 1).  
**M2** S.I. 1994/426 (N.I. 1).  
**M3** S.I. 1996/275 (N.I. 2).

##### *Orders under Schedule 8*

- 41 (1) In this paragraph—
- “the 1973 Act” means the <sup>M4</sup>Fair Trading Act 1973;
  - “agreement” means an agreement entered into before the date on which the repeal of the limiting provisions comes into force;

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- “the order” means an order under section 56 or 73 of the 1973 Act;
- “the limiting provisions” means sub-paragraph (1) or (2) of paragraph 3 of Schedule 8 to the 1973 Act (limit on power to make orders under paragraph 1 or 2 of that Schedule) and includes any provision of the order included because of either of those sub-paragraphs; and
- “transitional period” means the period which—
- (a) begins on the day on which the repeal of the limiting provisions comes into force; and
  - (b) ends on the first anniversary of the starting date.
- (2) Sub-paragraph (3) applies to any agreement to the extent to which it would have been unlawful (in accordance with the provisions of the order) but for the limiting provisions.
- (3) As from the end of the transitional period, the order is to have effect in relation to the agreement as if the limiting provisions had never had effect.

**Marginal Citations**

**M4** 1973 c. 41.

*Part III of the Act*

- 42 (1) The repeals made by section 1 do not affect any proceedings in respect of an application which is made to the Court under Part III of the <sup>M5</sup>Fair Trading Act 1973, but is not determined, before the starting date.
- (2) The question whether (for the purposes of sub-paragraph (1)) an application has been determined is to be decided in accordance with sub-paragraphs (3) and (4).
- (3) 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.
- (4) 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.
- (5) Any amendment made by Schedule 12 to this Act which substitutes references to a relevant Court for references to the Court is not to affect proceedings of the kind referred to in sub-paragraph (1).

**Marginal Citations**

**M5** 1973 c. 41.

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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.)