
Changes to legislation: Competition Act 1998, Part 5 is up to date with all changes known to be in force on or before 08 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

SCHEDULES

[^{F1}SCHEDULE 8A

FURTHER PROVISION ABOUT CLAIMS IN RESPECT OF LOSS OR DAMAGE BEFORE A COURT OR THE TRIBUNAL

Textual Amendments

- F1** Sch. 8A inserted (9.3.2017) by [The Claims in respect of Loss or Damage arising from Competition Infringements \(Competition Act 1998 and Other Enactments \(Amendment\)\) Regulations 2017 \(S.I. 2017/385\)](#), reg. 1(2), [Sch. 1 para. 4](#) (with Sch. 1 para. 5)

PART 5

LIMITATION AND PRESCRIPTIVE PERIODS

Time limits for bringing competition proceedings

17. (1) Under the law of England and Wales and the law of Northern Ireland, proceedings in respect of a competition claim may not be brought before a court or the Tribunal after the end of the limitation period for the claim determined in accordance with this Part of this Schedule.
- (2) Under the law of Scotland—
- (a) proceedings in respect of a competition claim may not be brought before a court or the Tribunal after the end of the prescriptive period for the claim determined in accordance with this Part of this Schedule, and
- (b) accordingly, an obligation in respect of the loss or damage that is the subject of the claim is extinguished,
- except where the subsistence of the obligation in relation to which the claim is made was relevantly acknowledged before the end of that period.
- (3) Section 6 of the Prescription and Limitation (Scotland) Act 1973 (extinction of obligations by prescriptive periods of 5 years) does not apply in relation to an obligation described in sub-paragraph (2).
- (4) The following provisions of the Prescription and Limitation (Scotland) Act 1973 apply for the purposes of, or in relation to, sub-paragraph (2) as they apply for the purposes of, or in relation to, section 6 of that Act—
- (a) section 10 (relevant acknowledgment);
- (b) section 13 (prohibition of contracting out);
- (c) section 14(1)(c) and (d) (computation of prescriptive periods).

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Length of limitation or prescriptive period

18. (1) The limitation period is 6 years.
- (2) The prescriptive period is 5 years.
- (3) But see—
- (a) the provision in paragraphs 20 to 25 for the running of the period to be suspended in certain circumstances, and
 - (b) paragraph 23(5), which extends the period in certain circumstances.

Beginning of limitation or prescriptive period

19. (1) The limitation or prescriptive period for a competition claim against an infringer begins with the later of—
- (a) the day on which the infringement of competition law that is the subject of the claim ceases, and
 - (b) the claimant’s day of knowledge.
- (2) “The claimant’s day of knowledge” is the day on which the claimant first knows or could reasonably be expected to know—
- (a) of the infringer’s behaviour,
 - (b) that the behaviour constitutes an infringement of competition law,
 - (c) that the claimant has suffered loss or damage arising from that infringement, and
 - (d) the identity of the infringer.
- (3) Where the claimant has acquired the right to make the competition claim from another person (whether by operation of law or otherwise) —
- (a) the reference in sub-paragraph (2) to the day on which the claimant first knows or could reasonably be expected to know something is to be read as a reference to the first day on which either the claimant or a person in whom the cause of action was previously vested first knows or could reasonably be expected to know it, and
 - (b) the reference to the claimant in sub-paragraph (2)(c) is to be read as a reference to the injured person.
- (4) In sub-paragraph (3), “injured person”, in relation to a competition claim, means a person who suffered the loss or damage that is the subject of the claim.
- (5) Where a person (“P”) has acquired an infringer’s liability in respect of an infringement of competition law from another person (whether by operation of law or otherwise)—
- (a) the reference to an infringer in sub-paragraph (1) is to be read as a reference to P, but
 - (b) the references to the infringer in sub-paragraph (2) are to be read as references to the original infringer.
- (6) The references in sub-paragraphs (2) and (3) to a person knowing something are to a person having sufficient knowledge of it to bring competition proceedings.
- (7) This paragraph has effect subject to the provision in paragraphs 20 to 25, which defers the beginning of the limitation or prescriptive period in certain circumstances.

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Effect of disability on beginning of limitation period: England and Wales and Northern Ireland

20. (1) This paragraph applies if the claimant in relation to a competition claim is under a disability on the day on which, but for this paragraph, the limitation period for the claim would begin.
- (2) In England and Wales and Northern Ireland, the limitation period for the claim begins with the earlier of—
- (a) the day on which the claimant ceases to be under a disability, and
 - (b) the day on which the claimant dies.
- (3) Where—
- (a) the claimant has acquired the right to make the competition claim from another person (whether by operation of law or otherwise), and
 - (b) but for this paragraph, the limitation period would begin on the day specified in paragraph 19(2),
- the references to the claimant in sub-paragraphs (1) and (2) of this paragraph are to be read as references to the person by reference to whose knowledge that day would fall to be determined in accordance with paragraph 19(3).
- (4) In England and Wales, references in this paragraph to a person being “under a disability” have the same meaning as in the Limitation Act 1980 (see section 38(2) of that Act).
- (5) In Northern Ireland, references in this paragraph to a person being “under a disability” have the same meaning as in the Limitation (Northern Ireland) Order 1989 (S.I. 1989/1339 (N.I. 11)) (see article 47 of that Order).

Suspension during investigation by competition authority

21. (1) Where a competition authority investigates an infringement of competition law, the period of the investigation is not to be counted when calculating whether the limitation or prescriptive period for a competition claim in respect of loss or damage arising from the infringement has expired.
- (2) The period of an investigation by a competition authority begins when the competition authority takes the first formal step in the investigation.
- (3) The period of an investigation by a competition authority ends—
- (a) if the competition authority makes a decision in relation to the infringement as a result of the investigation, at the end of the period of one year beginning with the day on which the decision becomes final, and
 - (b) otherwise, at the end of the period of one year beginning with the day on which the competition authority closes the investigation.

Modifications etc. (not altering text)

- C1** Sch. 8A para. 21(3) modified (31.12.2020) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/93\)](#), reg. 1(1), [Sch. 4 para. 7\(4\)\(b\)](#) (as amended by [S.I. 2020/1343](#), reg. [36\(3\)\(d\)](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

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Suspension during consensual dispute resolution process

22. (1) This paragraph applies where—
- (a) a dispute arising from an infringement of competition law is the subject of a consensual dispute resolution process,
 - (b) a competition claim is made which arises from the dispute, and
 - (c) the claimant and the defendant participated in the consensual dispute resolution process.
- (2) The period of the consensual dispute resolution process is not to be counted when calculating whether the limitation or prescriptive period for the claim expired.
- (3) The period of a consensual dispute resolution process in relation to a dispute begins with the first day on which either of the following occurs—
- (a) the claimant and the defendant (with or without others) enter into an agreement to engage in the process in respect of the dispute, or
 - (b) the claimant and the defendant submit the dispute to the person who is to run the process.
- (4) The period of a consensual dispute resolution process ends with the first day on which one of the following occurs —
- (a) the claimant and the defendant reach an agreement to resolve the dispute;
 - (b) where the process is the subject of an agreement or rules, the process comes to an end in accordance with the agreement or rules;
 - (c) the claimant or defendant notifies the other that it has withdrawn from the process;
 - (d) the claimant or the defendant asks the other to confirm that it wishes to continue with the process and does not receive a response within the period of 14 days beginning with the day on which the request is made;
 - (e) the claimant and the defendant are notified that the person to whom they submitted the dispute refuses to deal with it;
 - (f) the claimant and defendant are notified that the person running the process cannot continue to act in relation to the dispute and fail to agree to submit the dispute to another person within the period of 14 days beginning with the day on which they are notified.
- (5) Where the competition claim is made in collective proceedings, the references to the claimant in sub-paragraphs (1)(c), (3) and (4) are to be read as references to the claimant or the representative.
- (6) Where the claimant has acquired the right to make the competition claim from another person (whether by operation of law or otherwise), the references to the claimant in sub-paragraphs (1)(c), (3), (4) and (5) are to be read as references to the claimant or a person in whom the cause of action was previously vested.
- (7) Where the defendant has acquired the infringer's liability in respect of the infringement of competition law from another person (whether by operation of law or otherwise), the references to the defendant in sub-paragraphs (1)(c), (3) and (4) are to be read as references to the defendant or a person who has previously held the liability.

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Suspension during collective proceedings

23. (1) Where a competition claim is made in collective proceedings at the commencement of those proceedings (“the section 47B claim”), this paragraph applies for the purpose of determining the limitation or prescriptive period for the claim if it is subsequently made in proceedings under section 47A.
- (2) The period of the collective proceedings is not to be counted when calculating whether the limitation or prescriptive period has expired.
- (3) The period of collective proceedings begins with the day on which the collective proceedings are commenced.
- (4) The period of collective proceedings ends with the first day on which one of the following occurs—
- (a) the Tribunal declines to make a collective proceedings order in respect of the collective proceedings;
 - (b) the Tribunal makes a collective proceedings order in respect of the proceedings, but the order does not provide that the section 47B claim is eligible for inclusion in the proceedings;
 - (c) the Tribunal rejects the section 47B claim;
 - (d) in the case of opt-in collective proceedings, the period within which a person may choose to have the section 47B claim included in the proceedings expires without the person having done so;
 - (e) in the case of opt-out collective proceedings—
 - (i) a person domiciled in the United Kingdom chooses (within the period in which such a choice may be made) to have the section 47B claim excluded from the collective proceedings, or
 - (ii) the period within which a person not domiciled in the United Kingdom may choose to have the section 47B claim included in the collective proceedings expires without the person having done so;
 - (f) the section 47B claim is withdrawn;
 - (g) the Tribunal revokes the collective proceedings order in respect of the collective proceedings;
 - (h) the Tribunal varies the collective proceedings order in such a way that the section 47B claim is no longer included in the collective proceedings;
 - (i) the section 47B claim is settled with or without the Tribunal’s approval;
 - (j) the section 47B claim is dismissed, discontinued or otherwise disposed of without an adjudication on the merits.
- (5) Where—
- (a) there is a period of collective proceedings in relation to a competition claim, and
 - (b) but for this sub-paragraph, the limitation or prescriptive period would expire before the end of the period of 6 months beginning with the day after the day on which the period of collective proceedings ends,
- the limitation or prescriptive period for the claim is to be treated as expiring at the end of that 6 month period.

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Suspension of prescriptive period during period of disability: Scotland

24. (1) This paragraph applies if the injured person in relation to a competition claim is under legal disability for a period at any time.
- (2) In Scotland, the period during which the injured person is under legal disability is not to be counted when calculating whether the prescriptive period for the claim has expired.
- (3) References in this paragraph to a person being “under legal disability” have the same meaning as in the Prescription and Limitation (Scotland) Act 1973 (see section 15(1) of that Act).
- (4) In this paragraph, “injured person”, in relation to a competition claim, means a person who suffered the loss or damages that is the subject of the claim.

Continuity of limitation or prescriptive period

25. For the purposes of calculating whether the limitation or prescriptive period for a competition claim has expired, a period described in paragraph 21, 22, 23 or 24 is not to be regarded as separating the time immediately before it from the time immediately after it.

New claims in pending actions: England and Wales and Northern Ireland

26. (1) In section 35 of the Limitation Act 1980 (new claims in pending actions)—
- (a) subsection (1) applies for the purposes of this Part of this Schedule as it applies for the purposes of that Act, and
 - (b) subsections (3) to (8) apply in relation to a competition claim that is a new claim and to competition proceedings as they apply in relation to other new claims and proceedings.
- (2) In Article 73 of the Limitation (Northern Ireland) Order 1989 ([S.I. 1989/1339 \(N.I. 11\)](#)) (new claims in pending actions)—
- (a) paragraph (1) applies for the purposes of this Part of this Schedule as it applies for the purposes of that Order, and
 - (b) paragraphs (2) to (7) apply in relation to a competition claim that is a new claim and to competition proceedings as they apply in relation to other new claims and proceedings.]

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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.)