

*Status: Point in time view as at 01/05/2004.*

*Changes to legislation: Competition Act 1998, SCHEDULE 9 is up to date with all changes known to be in force on or before 21 June 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)*

## SCHEDULES

### SCHEDULE 9

Section 51(2).

#### [<sup>F1</sup>OFT'S] RULES

##### Textual Amendments

- F1** Words in Sch. 9 substituted (1.4.2003) by [Enterprise Act 2002 \(c. 40\), s. 279, Sch. 25 para. 38\(55\)](#); [S.I. 2003/766, art. 2, Sch.](#) (with [art. 3](#)) (as amended (20.7.2007) by [S.I. 2007/1846, reg. 3\(2\), Sch.](#))

##### *General*

- [<sup>F2</sup>1] In this Schedule “rules” means rules made by the OFT under section 51.]

##### Textual Amendments

- F2** Sch. 9 para. 1 substituted (1.5.2004) by [The Competition Act 1998 and Other Enactments \(Amendment\) Regulations 2004 \(S.I. 2004/1261\), reg. 1\(a\), Sch. 1 para. 54\(2\)](#)

##### *Applications*

- 2 [<sup>F3</sup>Rules may make provision—
- (a) as to the form and manner in which an application for guidance or an application for a decision must be made;
  - (b) for the procedure to be followed in dealing with the application;
  - (c) for the application to be dealt with in accordance with a timetable;
  - (d) as to the documents and information which must be given to the [<sup>F1</sup>OFT] in connection with the application;
  - (e) requiring the applicant to give such notice of the application, to such other persons, as may be specified;
  - (f) as to the consequences of a failure to comply with any rule made by virtue of sub-paragraph (e);
  - (g) as to the procedure to be followed when the application is subject to the concurrent jurisdiction of the [<sup>F1</sup>OFT] and a regulator.]

##### Textual Amendments

- F3** Sch. 9 para. 2 ceased to have effect (1.5.2004) by virtue of [The Competition Act 1998 and Other Enactments \(Amendment\) Regulations 2004 \(S.I. 2004/1261\), reg. 1\(a\), Sch. 1 para. 54\(3\)](#) (with [reg. 6\(2\)](#))

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### Provisional decisions

- 3 [F4] Rules may make provision as to the procedure to be followed by the [F1]OFT] when making a provisional decision under paragraph 3 of Schedule 5 or paragraph 3 of Schedule 6.]

#### Textual Amendments

- F4** Sch. 9 para. 3 ceased to have effect (1.5.2004) by virtue of [The Competition Act 1998 and Other Enactments \(Amendment\) Regulations 2004 \(S.I. 2004/1261\)](#), reg. 1(a), **Sch. 1 para. 54(3)** (with reg. 6(2))

### Guidance

- 4 [F5] Rules may make provision as to—
- (a) the form and manner in which guidance is to be given;
  - (b) the procedure to be followed if—
    - (i) the [F1]OFT] takes further action with respect to an agreement after giving guidance that it is not likely to infringe the Chapter I prohibition; or
    - (ii) the [F1]OFT] takes further action with respect to [conduct after giving guidance that it is not likely to infringe the Chapter II prohibition.]

#### Textual Amendments

- F5** Sch. 9 para. 4 ceased to have effect (1.5.2004) by virtue of [The Competition Act 1998 and Other Enactments \(Amendment\) Regulations 2004 \(S.I. 2004/1261\)](#), reg. 1(a), **Sch. 1 para. 54(3)** (with reg. 6(2))

### Decisions

- 5 (1) Rules may make provision as to—
- (a) the form and manner in which notice of any decision is to be given;
  - (b) the person or persons to whom the notice is to be given;
  - (c) the manner in which the [F1]OFT] is to publish a decision;
  - [F6](d) the procedure to be followed if—
    - (i) the OFT takes further action with respect to an agreement after having decided that it does not infringe the Chapter I prohibition;
    - (ii) the OFT takes further action with respect to an agreement after having decided that it does not infringe the prohibition in Article 81(1);
    - (iii) the OFT takes further action with respect to conduct after having decided that it does not infringe the Chapter II prohibition; or
    - (iv) the OFT takes further action with respect to conduct after having decided that it does not infringe the prohibition in Article 82.]

[F7](2) In this paragraph “decision” means a decision of the OFT—

- (a) as to whether or not an agreement has infringed the Chapter I prohibition;

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- (b) as to whether or not an agreement has infringed the prohibition in Article 81(1);
- (c) as to whether or not conduct has infringed the Chapter II prohibition; or
- (d) as to whether or not conduct has infringed the prohibition in Article 82.]

**Textual Amendments**

- F6** Sch. 9 para. 5(1)(d) substituted (1.5.2004) by [The Competition Act 1998 and Other Enactments \(Amendment\) Regulations 2004 \(S.I. 2004/1261\)](#), reg. 1(a), **Sch. 1 para. 54(4)**
- F7** Sch. 9 para. 5(2) substituted (1.5.2004) by [The Competition Act 1998 and Other Enactments \(Amendment\) Regulations 2004 \(S.I. 2004/1261\)](#), reg. 1(a), **Sch. 1 para. 54(5)**

*Individual exemptions*

- 6 <sup>[F8]</sup>Rules may make provision as to—
- (a) the procedure to be followed by the <sup>[F1]</sup>OFT when deciding whether, in accordance with section 5—
    - (i) to cancel an individual exemption that <sup>[F1]</sup>it has granted,
    - (ii) to vary or remove any of its conditions or obligations, or
    - (iii) to impose additional conditions or obligations;
  - (b) the form and manner in which notice of such a decision is to be given.]

**Textual Amendments**

- F8** Sch. 9 para. 6 ceased to have effect (1.5.2004) by virtue of [The Competition Act 1998 and Other Enactments \(Amendment\) Regulations 2004 \(S.I. 2004/1261\)](#), reg. 1(a), **Sch. 1 para. 54(6)** (with regs. 6(2), 10)

- 7 <sup>[F9]</sup>Rules may make provision as to—
- (a) the form and manner in which an application under section 4(6) for the extension of an individual exemption is to be made;
  - (b) the circumstances in which the <sup>[F1]</sup>OFT will consider such an application;
  - (c) the procedure to be followed by the <sup>[F1]</sup>OFT when deciding whether to grant such an application;
  - (d) the form and manner in which notice of such a decision is to be given.]

**Textual Amendments**

- F9** Sch. 9 para. 7 ceased to have effect (1.5.2004) by virtue of [The Competition Act 1998 and Other Enactments \(Amendment\) Regulations 2004 \(S.I. 2004/1261\)](#), reg. 1(a), **Sch. 1 para. 54(6)** (with reg. 6(2))

*Block exemptions*

- <sup>[F10]</sup>8 Rules may make provision as to—
- (a) the procedure to be followed by the OFT if it cancels a block exemption;

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- (b) the procedure to be followed by the OFT if it withdraws the benefit of a regulation of the Commission pursuant to Article 29(2) of the EC Competition Regulation.]

#### Textual Amendments

**F10** Sch. 9 para. 8 substituted (1.5.2004) by [The Competition Act 1998 and Other Enactments \(Amendment\) Regulations 2004 \(S.I. 2004/1261\)](#), reg. 1(a), [Sch. 1 para. 54\(7\)](#)

#### *Parallel exemptions*

- 9 Rules may make provision as to—
- (a) the circumstances in which the [F<sup>1</sup>OFT] may—
- (i) impose conditions or obligations in relation to a parallel exemption,
  - (ii) vary or remove any such conditions or obligations,
  - (iii) impose additional conditions or obligations, or
  - (iv) cancel the exemption;
- (b) as to the procedure to be followed by the [F<sup>1</sup>OFT] if [F<sup>1</sup>it] is acting under section 10(5);
- (c) the form and manner in which notice of a decision to take any of the steps in sub-paragraph (a) is to be given;
- (d) the circumstances in which an exemption may be cancelled with retrospective effect.

#### *Section 11 exemptions*

- 10 Rules may, with respect to any exemption provided by regulations made under section 11, make provision similar to that made with respect to parallel exemptions by section 10 or by rules under paragraph 9.

#### *Directions withdrawing exclusions*

- 11 Rules may make provision as to the factors which the [F<sup>1</sup>OFT] may take into account when [F<sup>1</sup>it] is determining the date on which a direction given under paragraph 4(1) of Schedule 1 or paragraph 2(3) or 9(3) of Schedule 3 is to have effect.

#### *Disclosure of information*

- 12 (1) Rules may make provision as to the circumstances in which the [F<sup>1</sup>OFT] is to be required, before disclosing information given to [F<sup>1</sup>it] by a third party in connection with the exercise of any of the [F<sup>1</sup>OFT's] functions under Part I, to give notice, and an opportunity to make representations, to the third party.
- (2) In relation to the agreement (or conduct) concerned, “third party” means a person who is not a party to the agreement (or who has not engaged in the conduct).

#### *Applications under section 47*

- 13 Rules may make provision as to—

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- (a) the period within which an application under section 47(1) must be made;
- (b) the procedure to be followed by the [F<sup>1</sup>OFT] in dealing with the application;
- (c) the person or persons to whom notice of the [F<sup>1</sup>OFT's] response to the application is to be given.

#### *Enforcement*

- 14 Rules may make provision as to the procedure to be followed when the [F<sup>1</sup>OFT] takes action under any of sections [F<sup>11</sup>32 to 40] with respect to the enforcement of the provisions of this Part.

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#### **Textual Amendments**

- F11** Words in Sch. 9 para. 14 substituted (1.5.2004) by [The Competition Act 1998 and Other Enactments \(Amendment\) Regulations 2004 \(S.I. 2004/1261\)](#), reg. 1(a), [Sch. 1 para. 54\(9\)](#)

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