

SCHEDULES

SCHEDULE 8

PRIVATE ACTIONS IN COMPETITION LAW

PART 1

COMPETITION ACT 1998

5 (1) For section 47B substitute—

“47B Collective proceedings before the Tribunal

- (1) Subject to the provisions of this Act and Tribunal rules, proceedings may be brought before the Tribunal combining two or more claims to which section 47A applies (“collective proceedings”).
- (2) Collective proceedings must be commenced by a person who proposes to be the representative in those proceedings.
- (3) The following points apply in relation to claims in collective proceedings—
 - (a) it is not a requirement that all of the claims should be against all of the defendants to the proceedings,
 - (b) the proceedings may combine claims which have been made in proceedings under section 47A and claims which have not, and
 - (c) a claim which has been made in proceedings under section 47A may be continued in collective proceedings only with the consent of the person who made that claim.
- (4) Collective proceedings may be continued only if the Tribunal makes a collective proceedings order.
- (5) The Tribunal may make a collective proceedings order only—
 - (a) if it considers that the person who brought the proceedings is a person who, if the order were made, the Tribunal could authorise to act as the representative in those proceedings in accordance with subsection (8), and
 - (b) in respect of claims which are eligible for inclusion in collective proceedings.
- (6) Claims are eligible for inclusion in collective proceedings only if the Tribunal considers that they raise the same, similar or related issues of fact or law and are suitable to be brought in collective proceedings.
- (7) A collective proceedings order must include the following matters—
 - (a) authorisation of the person who brought the proceedings to act as the representative in those proceedings,

Status: This is the original version (as it was originally enacted).

- (b) description of a class of persons whose claims are eligible for inclusion in the proceedings, and
 - (c) specification of the proceedings as opt-in collective proceedings or opt-out collective proceedings (see subsections (10) and (11)).
 - (8) The Tribunal may authorise a person to act as the representative in collective proceedings—
 - (a) whether or not that person is a person falling within the class of persons described in the collective proceedings order for those proceedings (a “class member”), but
 - (b) only if the Tribunal considers that it is just and reasonable for that person to act as a representative in those proceedings.
 - (9) The Tribunal may vary or revoke a collective proceedings order at any time.
 - (10) “Opt-in collective proceedings” are collective proceedings which are brought on behalf of each class member who opts in by notifying the representative, in a manner and by a time specified, that the claim should be included in the collective proceedings.
 - (11) “Opt-out collective proceedings” are collective proceedings which are brought on behalf of each class member except—
 - (a) any class member who opts out by notifying the representative, in a manner and by a time specified, that the claim should not be included in the collective proceedings, and
 - (b) any class member who—
 - (i) is not domiciled in the United Kingdom at a time specified, and
 - (ii) does not, in a manner and by a time specified, opt in by notifying the representative that the claim should be included in the collective proceedings.
 - (12) Where the Tribunal gives a judgment or makes an order in collective proceedings, the judgment or order is binding on all represented persons, except as otherwise specified.
 - (13) The right to make a claim in collective proceedings does not affect the right to bring any other proceedings in respect of the claim.
 - (14) In this section and in section 47C, “specified” means specified in a direction made by the Tribunal.”
- (2) Section 47B of the Competition Act 1998 (as substituted by sub-paragraph (1)) applies to claims arising before the commencement of this paragraph as it applies to claims arising after that time.