
STATUTORY INSTRUMENTS

2000 No. 262

COMPETITION

**The Competition Act 1998 (Small Agreements and
Conduct of Minor Significance) Regulations 2000**

<i>Made</i>	- - - -	<i>7th February 2000</i>
<i>Laid before Parliament</i>		<i>8th February 2000</i>
<i>Coming into force</i>	- -	<i>1st March 2000</i>

The Secretary of State in exercise of the powers conferred on him by sections 39, 40, 59(1) and 71 of the Competition Act 1998(1) hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Competition Act 1998 (Small Agreements and Conduct of Minor Significance) Regulations 2000 and shall come into force on 1st March 2000.

Interpretation

2. In these Regulations:

“the Act” means the Competition Act 1998;

“applicable turnover” means the turnover of an undertaking for a business year determined in accordance with the Schedule to this Order; and where a business year does not equal twelve months the applicable turnover shall be the amount which bears the same proportion to the applicable turnover during that business years as twelve months does to that period;

“business year” means a period of more than six months in respect of which an undertaking publishes accounts or, if no such accounts have been published for the period, prepares accounts.

Small agreements

3. The category of agreements prescribed for the purposes of section 39(1) of the Act is all agreements between undertakings the combined applicable turnover of which for the business year ending in the calendar year preceding one during which the infringement occurred does not exceed £20 million.

Conduct of minor significance

4. The category of conduct prescribed for the purposes of section 40(1) of the Act is conduct by an undertaking the applicable turnover of which for the business year ending in the calendar year preceding one during which the infringement occurred does not exceed £50 million.

5. Where in the application of regulation 3 or 4 there is a calendar year in respect of which an undertaking has no business year ending in the preceding calendar year then the applicable turnover shall be the turnover for the preceding calendar year.

SCHEDULE

Article 2

APPLICABLE TURNOVER

Interpretation

1. In this Schedule:

“credit institution” means a credit institution for the purposes of Article 1 of Council Directive (EEC) No. 77/780 the First Council Directive on the co-ordination of laws, regulations and administrative provisions relating to the taking up and pursuit of the business of credit institutions;(2)

“financial institution” means a financial institution for the purposes of Article 1(6) of Council Directive (EEC) No. 89/646 the Second Council Directive on the co-ordination of laws, regulations and administrative provisions relating to the taking up and pursuit of the business of credit institutions and amending Directive 77/780/EEC(3);

“insurance undertaking” means an insurance undertaking carrying on the business of direct insurance of a class set out in the Annex to Council Directive (EEC) 73/239 the First Council Directive on the coordination of laws, regulations and administrative provisions relating to the taking-up and pursuit of the business of direct insurance other than life assurance(4) or in Article 1 of Council Directive (EEC) 79/267 the First Council Directive on the coordination of laws, regulations and administrative provisions relating to the taking up and pursuit of the business of direct life assurance(5); and

terms used in this Schedule in respect of the determination of the applicable turnover of credit institutions, financial institutions and insurance undertakings shall (except where the contrary intention appears) have the same meaning as in the relevant Directive.

2. The provisions of this Schedule shall be interpreted in accordance with generally accepted accounting principles and practices.

General

3. The applicable turnover of an undertaking, other than a credit institution, financial institution, insurance undertaking, or an association of undertakings, shall be limited to the amounts derived by the undertaking from the sale of products and the provision of services falling within the undertaking’s ordinary activities after deduction of sales rebates, value added tax and other taxes directly related to turnover.

4. Where an undertaking consists of two or more undertakings that each prepare accounts then the applicable turnover shall be calculated by adding together the respective applicable turnover of each, save that no account shall be taken of any turnover resulting from the sale of products or the provision of services between them.

Credit institutions and financial institutions

5. The applicable turnover of a credit institution or financial institution shall be limited to the sum of the following income items listed in Council Directive (EEC) 86/635(6) received by that institution after deductions of value added tax and other taxes directly related to those items:

- (i) interest income and similar income;

(2) OJ No. L322, 17.12.77, p. 30.

(3) OJ No. L386, 30.12.89, p. 1.

(4) OJ No. L228, 16.8.73, p. 3.

(5) OJ No. L63, 13.3.79, p. 1.

(6) OJ No. L372, 31.12.86, p. 1.

- (ii) income from securities:
 - income from shares and other variable yield securities,
 - income from participating interests,
 - income from shares in affiliated undertakings,
- (iii) commissions receivable;
- (iv) net profit on financial operations; and
- (v) other operating income.

Insurance undertakings

6. The applicable turnover of an insurance undertaking shall be limited to the value of gross premiums received which shall comprise all amounts received and receivable in respect of insurance contracts issued by or on behalf of the undertaking, including outgoing reinsurance premiums, and after deduction of taxes and parafiscal contributions or levies charged by reference to the amounts of individual premiums or the total volume of premiums.

Turnover of associations of undertakings

7. The turnover of an association of undertakings shall be the aggregate applicable turnover of the undertakings that are members of the association.

Aid granted to undertakings

8. Any aid granted by a public body to an undertaking which relates to one of the undertaking ordinary activities shall be included in the calculation of turnover if the undertaking is itself the recipient of the aid and if the aid is directly linked to the sale of products or the provision of services by the undertaking and is therefore reflected in the price.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations specify for the purposes of sections 39 and 40 of the Competition Act 1998 the category of agreements and conduct which enjoy limited immunity from the imposition of penalties for breach of the Chapter I or the Chapter II prohibitions respectively.

A Regulatory Impact Assessment has been prepared in relation to this Order. A copy may be obtained from Competition Policy and Utilities Review Directorate, Bay 608, 1, Victoria Street SW1H 0ET, telephone 020-7215 2823.