



# Competition Act 1998

## 1998 CHAPTER 41

### PART IV

#### SUPPLEMENTAL AND TRANSITIONAL

#### **70 Contracts as to patented products etc**

Sections 44 and 45 of the Patents Act 1977 shall cease to have effect.

#### **71 Regulations, orders and rules**

- (1) Any power to make regulations or orders which is conferred by this Act is exercisable by statutory instrument.
- (2) The power to make rules which is conferred by section 48 is exercisable by statutory instrument.
- (3) Any statutory instrument made under this Act may—
  - (a) contain such incidental, supplemental, consequential and transitional provision as the Secretary of State considers appropriate; and
  - (b) make different provision for different cases.
- (4) No order is to be made under—
  - (a) section 3,
  - (b) section 19,
  - (c) section 36(8),
  - (d) section 50, or
  - (e) paragraph 6(3) of Schedule 4,unless a draft of the order has been laid before Parliament and approved by a resolution of each House.
- (5) Any statutory instrument made under this Act, apart from one made—
  - (a) under any of the provisions mentioned in subsection (4), or

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(b) under section 76(3),  
shall be subject to annulment by a resolution of either House of Parliament.

## **72 Offences by bodies corporate etc**

- (1) This section applies to an offence under any of sections 42 to 44, 55(8) or 65.
- (2) If an offence committed by a body corporate is proved—
  - (a) to have been committed with the consent or connivance of an officer, or
  - (b) to be attributable to any neglect on his part,the officer as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.
- (3) In subsection (2) “officer”, in relation to a body corporate, means a director, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity.
- (4) If the affairs of a body corporate are managed by its members, subsection (2) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.
- (5) If an offence committed by a partnership in Scotland is proved—
  - (a) to have been committed with the consent or connivance of a partner, or
  - (b) to be attributable to any neglect on his part,the partner as well as the partnership is guilty of the offence and liable to be proceeded against and punished accordingly.
- (6) In subsection (5) “partner” includes a person purporting to act as a partner.

## **73 Crown application**

- (1) Any provision made by or under this Act binds the Crown except that—
  - (a) the Crown is not criminally liable as a result of any such provision;
  - (b) the Crown is not liable for any penalty under any such provision; and
  - (c) nothing in this Act affects Her Majesty in her private capacity.
- (2) Subsection (1)(a) does not affect the application of any provision of this Act in relation to persons in the public service of the Crown.
- (3) Subsection (1)(c) is to be interpreted as if section 38(3) of the Crown Proceedings Act 1947 (interpretation of references in that Act to Her Majesty in her private capacity) were contained in this Act.
- (4) If, in respect of a suspected infringement of the Chapter I prohibition or of the Chapter II prohibition otherwise than by the Crown or a person in the public service of the Crown, an investigation is conducted under section 25—
  - (a) the power conferred by section 27 may not be exercised in relation to land which is occupied by a government department, or otherwise for purposes of the Crown, without the written consent of the appropriate person; and
  - (b) section 28 does not apply in relation to land so occupied.

- (5) In any case in which consent is required under subsection (4), the person who is the appropriate person in relation to that case is to be determined in accordance with regulations made by the Secretary of State.
- (6) Sections 62 and 63 do not apply in relation to land which is occupied by a government department, or otherwise for purposes of the Crown, unless the matter being investigated is a suspected infringement by the Crown or by a person in the public service of the Crown.
- (7) In subsection (6) “infringement” means an infringement of Community law relating to Article 85 or 86 of the Treaty establishing the European Community.
- (8) If the Secretary of State certifies that it appears to him to be in the interests of national security that the powers of entry—
  - (a) conferred by section 27, or
  - (b) that may be conferred by a warrant under section 28, 62 or 63,should not be exercisable in relation to premises held or used by or on behalf of the Crown and which are specified in the certificate, those powers are not exercisable in relation to those premises.
- (9) Any amendment, repeal or revocation made by this Act binds the Crown to the extent that the enactment amended, repealed or revoked binds the Crown.

#### **74 Amendments, transitional provisions, savings and repeals**

- (1) The minor and consequential amendments set out in Schedule 12 are to have effect.
- (2) The transitional provisions and savings set out in Schedule 13 are to have effect.
- (3) The enactments set out in Schedule 14 are repealed.

#### **75 Consequential and supplementary provision**

- (1) The Secretary of State may by order make such incidental, consequential, transitional or supplemental provision as he thinks necessary or expedient for the general purposes, or any particular purpose, of this Act or in consequence of any of its provisions or for giving full effect to it.
- (2) An order under subsection (1) may, in particular, make provision—
  - (a) for enabling any person by whom any powers will become exercisable, on a date specified by or under this Act, by virtue of any provision made by or under this Act to take before that date any steps which are necessary as a preliminary to the exercise of those powers;
  - (b) for making savings, or additional savings, from the effect of any repeal made by or under this Act.
- (3) Amendments made under this section shall be in addition, and without prejudice, to those made by or under any other provision of this Act.
- (4) No other provision of this Act restricts the powers conferred by this section.

#### **76 Short title, commencement and extent**

- (1) This Act may be cited as the Competition Act 1998.

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- (2) Sections 71 and 75 and this section and paragraphs 1 to 7 and 35 of Schedule 13 come into force on the passing of this Act.
- (3) The other provisions of this Act come into force on such day as the Secretary of State may by order appoint; and different days may be appointed for different purposes.
- (4) This Act extends to Northern Ireland.