

---

STATUTORY INSTRUMENTS

---

**2000 No. 263**

**COMPETITION**

**The Competition Act 1998 (Notification of Excluded Agreements and Appealable Decisions) 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 12(3), 46(3), 47(1), 59(1) and 71 of, and paragraph 19(3) of Schedule 13 to, the Competition Act 1998<sup>(1)</sup> hereby makes the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Competition Act 1998 (Notification of Excluded Agreements and Appealable Decisions) Regulations 2000 and shall come into force on 1st March 2000.

**Interpretation**

2. In these Regulations “the Act” means the Competition Act 1998 and references to sections and Schedules are references to sections of and Schedules to the Act.

**General**

3. Sections 13 (notification for guidance), 14 (notification for a decision), 15 (effect of guidance) and 16 (effect of a decision) and Schedule 5 (notification under Chapter I: procedure) shall apply, with the modifications set out below, to an application for guidance or a decision in respect of an agreement to which the Chapter I prohibition does not apply by reason of:

- (a) an exclusion in respect of which the Director has given a direction withdrawing the exclusion or is considering whether to give such a direction, or
- (b) a transitional period under Schedule 13.

#### **Notification for guidance**

4. Section 13 shall apply with the addition at the end of subsection (2) of the words “or would be likely to if the prohibition applied.”.

#### **Notification for a decision**

5. Section 14 shall apply with the insertion in subsection (2) after paragraph (b) of:

“; or

(c) if it has not been infringed, whether the Chapter I prohibition would be infringed if it applied to the agreement.”

#### **Effect of guidance**

6. Section 15 shall apply with the insertion in subsection (1) at the end of paragraph (a) of:

“(aa) the agreement would be unlikely to infringe the Chapter I prohibition if it applied;”.

#### **Effect of a decision that the Chapter I prohibition has not been infringed**

7. Section 16 shall apply with the insertion at the end of subsection (1) of the words “or would not do so if the prohibition applied to the agreement.”

#### **Schedule 5**

8. Schedule 5 shall apply to notifications of agreements under sections 13 and 14 as applied by these Regulations, subject to the modifications set out in regulation 9, save that an applicant shall not be required under Schedule 5 to do any act or supply any information to the Director in respect of an application for guidance or a decision that he has already done or supplied to the Director in respect of a direction withdrawing an exclusion or terminating the transitional period in respect of an agreement or of the Director’s consideration of whether to give such a direction.

9. Paragraph 3 shall apply with the insertion in subparagraph (1)(a) after “prohibition,” of:

“(aa) or that the agreement concerned would infringe the Chapter I prohibition if it applied.”.

#### **Appealable decisions**

10. The following are prescribed as decisions for the purpose of sections 46 and 47:

- (a) a decision of the Director imposing conditions or obligations subject to which a parallel exemption is to have effect, or varying or removing any such conditions or obligations; and
- (b) a decision of the Director under section 14, as applied by Regulation 5 of these Regulations, that the Chapter I prohibition would be infringed if it applied to the agreement.

*Kim Howells,*  
Parliamentary Under Secretary of State for  
Consumers and Corporate Affairs,  
Department of Trade and Industry

7th February 2000

---

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These regulations apply, with modifications, sections 13 to 16 of the Competition Act (“the Act”) (notification for guidance and decisions, effect of guidance and effect of a decision that the Chapter I prohibition has not been infringed) to cases where the Director has given a direction withdrawing an exclusion from the Chapter I prohibition, or is considering giving such a direction. They also apply those sections to applications in respect of agreements that benefit from a transitional period provided under Schedule 13 to the Act. The regulations apply, with modifications, the procedures under Schedule 5 in respect of applications under these regulations.

The regulations add to the decisions which are appealable under sections 46 and 47 of the Act decisions imposing conditions or obligations or varying them in respect of parallel exemptions under section 10 of the Act, and decisions under section 14, as applied by these regulations, that an agreement would infringe the prohibition if it applied.