

This Statutory Instrument has been made in consequence of defects in S.I. 2020/368, S.I. 2020/369, S.I. 2020/370 and S.I. 2020/435 and is being issued free of charge to all known recipients of those Statutory Instruments.

STATUTORY INSTRUMENTS

2020 No. 933

COMPETITION

The Competition Act 1998 (Coronavirus) (Public Policy Exclusions) (Amendment and Revocation) Order 2020

Made - - - - 2nd September 2020
Laid before Parliament 3rd September 2020
Coming into force in accordance with article 1

The Secretary of State, in exercise of the powers conferred by section 71(3) of, and paragraph 7(1), (2) and (3) of Schedule 3 to, the Competition Act 1998⁽¹⁾, makes the following Order.

Citation and commencement

1.—(1) This Order may be cited as the Competition Act 1998 (Coronavirus) (Public Policy Exclusions) (Amendment and Revocation) Order 2020.

(2) This article and articles 2 and 3 come into force on 25th September 2020.

(3) Article 4 comes into force on 8th October 2020.

Amendment of Public Policy Exclusion Orders

2. The Schedule to this Order has effect.

Revocation of the Competition Act 1998 (Dairy Produce) (Coronavirus) (Public Policy Exclusion) Order 2020

3. The Competition Act 1998 (Dairy Produce) (Coronavirus) (Public Policy Exclusion) Order 2020⁽²⁾ is revoked.

(1) 1998 c. 41.

(2) S.I. 2020/481.

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Revocation of the Competition Act 1998 (Groceries) (Coronavirus) (Public Policy Exclusion) Order 2020

4. The Competition Act 1998 (Groceries) (Coronavirus) (Public Policy Exclusion) Order 2020(3) is revoked.

2nd September 2020

Paul Scully
Parliamentary Under Secretary of State
Department for Business, Energy and Industrial
Strategy

SCHEDULE

Article 2

Amendment of Public Policy Exclusion Orders

The Competition Act 1998 (Health Services for Patients in England) (Coronavirus) (Public Policy Exclusion) Order 2020

1. The Competition Act 1998 (Health Services for Patients in England) (Coronavirus) (Public Policy Exclusion) Order 2020(4) is amended as follows.
2. In article 2, in the definition of “the healthcare disruption period”, for the words from “on the date specified” to the end substitute “upon the revocation of this Order;”.
3. Omit article 5 and the heading before it.

The Competition Act 1998 (Groceries) (Coronavirus) (Public Policy Exclusion) Order 2020

4. The Competition Act 1998 (Groceries) (Coronavirus) (Public Policy Exclusion) Order 2020 is amended as follows.
5. In article 2, in the definition of “the groceries supply disruption period”, for the words from “on the date specified” to the end substitute “upon the revocation of this Order.”.
6. Omit article 7 and the heading before it.

The Competition Act 1998 (Solent Maritime Crossings) (Coronavirus) (Public Policy Exclusion) Order 2020

7. The Competition Act 1998 (Solent Maritime Crossings) (Coronavirus) (Public Policy Exclusion) Order 2020(5) is amended as follows.
8. In article 2, in the definition of “the crossings disruption period”, for the words from “on the date specified” to the end substitute “upon the revocation of this Order;”.
9. Omit article 5 and the heading before it.

The Competition Act 1998 (Health Services for Patients in Wales) (Coronavirus) (Public Policy Exclusion) Order 2020

10. The Competition Act 1998 (Health Services for Patients in Wales) (Coronavirus) (Public Policy Exclusion) Order 2020(6) is amended as follows.
11. In article 2, in the definition of “the healthcare disruption period”, for the words from “on the date specified” to the end substitute “upon the revocation of this Order;”.
12. Omit article 5 and the heading before it.

(4) [S.I. 2020/368](#).
(5) [S.I. 2020/370](#).
(6) [S.I. 2020/435](#).

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EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends—

- The Competition Act 1998 (Health Services for Patients in England) (Coronavirus) (Public Policy Exclusion) Order 2020 (S.I. 2020/368) (“the Health Services for Patients in England Order”);
- The Competition Act 1998 (Groceries) (Coronavirus) (Public Policy Exclusion) Order 2020 (S.I. 2020/369) (“the Groceries Order”);
- The Competition Act 1998 (Solent Maritime Crossings) (Coronavirus) (Public Policy Exclusion) Order 2020 (S.I. 2020/370) (“the Solent Crossings Order”); and
- The Competition Act 1998 (Health Services for Patients in Wales) (Coronavirus) (Public Policy Exclusion) Order 2020 (S.I. 2020/435) (“the Health Services for Patients in Wales Order”)

collectively “the Coronavirus Public Policy Exclusion Orders”. The Order also revokes the Groceries Order and the Competition Act 1998 (Dairy Produce) (Coronavirus) (Public Policy Exclusion) Order 2020 (S.I. 2020/481) (“the Dairy Produce Order”).

The amendments in the Schedule have been made in response to the Joint Committee on Statutory Instruments (“JCSI”) 12th Report of Session 2019-2021 which reported the Health Services for Patients in Wales Order and the 13th Report of Session 2019-2021 which reported the Dairy Produce Order. Both reports were for doubtful vires.

The Coronavirus Public Policy Exclusion Orders and the Dairy Produce Order each make provision excluding from the Chapter I prohibition in the Competition Act 1998 agreements between specified undertakings intended to address or alleviate the effects or likely effects of coronavirus on the provision of goods or services in the sectors to which they relate.

Each of the Coronavirus Public Policy Exclusion Orders and the Dairy Produce Order make provision exempting agreements made during and which relate to a particular period of time, defined in each instrument as the relevant “disruption period”. The Orders further provide for the relevant disruption period to be brought to an end by the issuing of a notice by the Secretary of State. The amendments in the Schedule omit the articles under which the Secretary of State is to issue a notice bringing the relevant disruption period to an end in each of the Orders. They amend the definitions of the relevant “disruption period” in the Groceries, Solent Crossings, Health Services for Patients in England and Health Services for Patients in Wales Orders to provide that they will continue until revocation of the relevant Order.

The Dairy Produce Order contained a sunset provision, in addition to provisions relating to a demand disruption period. The Dairy Produce Order expired at the end of 1st August 2020, in line with the sunset provision. As it no longer has any effect, the instrument is revoked for completeness.

The Groceries Order is also revoked as the Secretary of State is satisfied that the exceptional and compelling reasons of public policy for which it was required have abated such that the exclusion will no longer be required after 7th October 2020.

A copy of the JCSI reports on the Health Services for Patients in Wales and Dairy Produce Orders can be found on <http://parliament.uk/jcsi/>.

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As this Order has been made in consequence of defects in the Coronavirus Public Policy Exclusion Orders, it is being issued free of charge to all known recipients of those Orders.

No impact assessment has been prepared for this Order as no, or no significant, impact on the private, voluntary or public sector is foreseen.