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DRAFT STATUTORY INSTRUMENTS

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**2019 No.**

**The State Aid (EU Exit) Regulations 2019**

**PART 3**

**Procedure**

**CHAPTER 4**

**Existing aid schemes**

**Review of existing aid scheme**

**23.**—(1) The CMA may review an existing aid scheme for the purpose of deciding whether the scheme could be approved by the CMA if the aid was notified under Chapter 1 of this Part.

(2) If the CMA reasonably requires information for the purpose of this regulation, the CMA may request the aid grantor to send the information within a set period.

(3) If the aid grantor does not send the information within the set period, the CMA may take a decision under this regulation on the basis of the information available to the CMA.

(4) If the CMA considers that an existing aid scheme could not be approved by the CMA were the aid to be notified under Chapter 1 of this Part, the CMA must—

- (a) notify the aid grantor of its preliminary view; and
- (b) give the aid grantor an opportunity to send representations within a period of 20 working days starting with the first working day after the day on which the CMA notifies the aid grantor under sub-paragraph (a).

**Proposal for appropriate modifications**

**24.**—(1) The CMA must send a recommendation to an aid grantor proposing appropriate modifications to an existing aid scheme if both of the following apply—

- (a) the CMA notifies the aid grantor, under regulation 23(4), of its preliminary view that an existing aid scheme could not be approved by the CMA were the aid to be notified under Chapter 1 of this Part; and
- (b) after considering any representations sent by the aid grantor, the CMA concludes that the existing aid scheme could not be approved by the CMA were the aid to be notified under Chapter 1 of this Part.

(2) A recommendation must include a time period within which the recommendation must be implemented.

(3) A recommendation may, in particular, propose—

- (a) substantive amendment of the aid scheme;
- (b) the introduction of reporting requirements; or
- (c) the termination of the aid scheme.

### **Consequences of proposal for appropriate modifications**

- 25.**—(1) If the aid grantor accepts the CMA’s recommendation—
- (a) the aid grantor must notify the CMA; and
  - (b) the aid grantor must implement the CMA’s recommendation within the relevant time period.
- (2) The CMA must open an investigation in respect of the existing aid scheme if—
- (a) the aid grantor—
    - (i) does not accept the CMA’s recommendation; or
    - (ii) accepts the CMA’s recommendation but fails to implement the CMA’s recommendation within the relevant time period; and
  - (b) the CMA considers that implementation of the recommendation is still necessary.

### **Publicity**

**26.** Regulation 10 (publicity) applies to a decision taken under regulation 25(2) as it applies to a decision taken under regulation 8(1)(c).

### **Existing aid scheme investigation**

- 27.**—(1) If the CMA decides to open an investigation under regulation 25(2), the CMA must carry out such investigations as it considers appropriate to take a decision under paragraph (2).
- (2) The CMA must, after carrying out an investigation, decide whether the aid scheme could be approved if the aid was notified under Chapter 1 of this Part.
- (3) The CMA may consider the existing aid scheme as modified by the aid grantor if the CMA considers it appropriate to do so.

### **Publication of decision after existing aid scheme investigation**

- 28.**—(1) The CMA must publish the following as soon as is reasonably practicable after taking a decision under regulation 27—
- (a) the decision; and
  - (b) the reasons for the decision.
- (2) The CMA must notify any interested party who sent representations that the decision has been published.

### **Time limit for existing aid scheme investigation**

- 29.**—(1) The CMA must use its best endeavours to take a decision under regulation 27 within a period of 18 months starting with the date on which the decision to open the investigation was taken.
- (2) If the CMA has not taken a decision within the period referred to in paragraph (1), the aid grantor may request the CMA to take a decision on the basis of the information available to the CMA.
- (3) If the aid grantor makes a request under paragraph (2), the CMA must take a decision under regulation 27 within a period of 8 weeks starting with the day after the day on which the CMA receives the request.