
DRAFT STATUTORY INSTRUMENTS

2019 No.

The State Aid (EU Exit) Regulations 2019

PART 3

Procedure

CHAPTER 6

General

Complaints

33.—(1) An interested party may send a complaint to the CMA regarding alleged unlawful aid or alleged misuse of aid.

(2) A complaint must display reasonable grounds to show the existence of unlawful aid or misuse of aid and—

- (a) be in the specified form; and
- (b) contain the specified information.

(3) If the CMA considers that a complaint does not comply with paragraph (2), the CMA must—

- (a) notify the interested party; and
- (b) request that the interested party send further representations to the CMA within a set period.

(4) If the interested party does not send further representations within the set period—

- (a) the complaint is deemed to be withdrawn; and
- (b) the CMA must notify the interested party that the complaint is deemed to be withdrawn.

(5) If a complaint complies with paragraph (2) and the CMA is examining the complaint under regulation 15(2) or 19(2), the CMA must keep the aid grantor concerned regularly informed of the progress and outcome of the complaint.

(6) In this regulation—

“set period” means 20 working days starting with the first working day after the day on which the CMA notifies the interested party under paragraph (3)(a); and

“specified” means specified by the CMA in a notice published under regulation 55.

Decision based on incorrect information

34.—(1) This regulation applies if—

- (a) the CMA takes a specified decision; and
- (b) the CMA subsequently considers that—

- (i) the CMA may have been provided with incorrect or misleading information during the relevant examination or investigation; and

- (ii) the incorrect or misleading information may have been a determining factor for the decision.
- (2) The CMA may open an investigation for the purpose of deciding—
 - (a) whether to revoke the specified decision; and
 - (b) if so, what replacement decision to take.
- (3) If the CMA opens an investigation and decides to revoke a specified decision that was a decision that a measure does not constitute aid—
 - (a) taken under regulation 8(1)(a) or 11(2), regulations 11 and 12 apply as if the investigation was an investigation opened under regulation 8(1)(c);
 - (b) taken under regulation 15(5)(a) or 17(2), regulations 17 and 18 apply as if the investigation was an investigation opened under regulation 15(5)(c).
- (4) If the CMA opens an investigation and decides to revoke a specified decision that was a decision to approve aid—
 - (a) taken under regulation 8(1)(b) or 11(2), regulations 11 and 12 apply as if the investigation was an investigation opened under regulation 8(1)(c);
 - (b) taken under regulation 15(5)(b) or 17(2), regulations 17 and 18 apply as if the investigation was an investigation opened under regulation 15(5)(c);
 - (c) taken under regulation 21(2), regulations 21 and 22 apply as if the investigation was an investigation opened under regulation 19(6).
- (5) In this chapter, “specified decision” means a decision taken by the CMA—
 - (a) that a measure does not constitute aid under regulation 8(1)(a), 11(2), 15(5)(a) or 17(2); or
 - (b) to approve aid under regulation 8(1)(b), 11(2), 15(5)(b), 17(2) or 21(2).

Approvals

- 35.** If the CMA takes a decision to approve aid under regulation 8(1)(b), 11(2), 15(5)(b), 17(2) or 21(2), the decision may include—
- (a) conditions to which the approval is subject; and
 - (b) reporting obligations.

Timing for publication of decisions

- 36.**—(1) This regulation applies if the CMA is required to publish a decision and the reasons for the decision under—
- (a) regulation 10 (including as applied by regulations 16, 20 and 26); or
 - (b) regulation 12, 18, 22 or 28.
- (2) The CMA does not need to publish the reasons at the same time as the relevant decision if it is not reasonably practicable to do so.
- (3) The CMA must notify the aid grantor of the decision and the reasons for the decision in advance of publication to provide an opportunity for the aid grantor to indicate whether it considers that the CMA should treat any information in the decision or the reasons as confidential information.