

SCHEDULE 10

Amendments to legislation

PART 1

Amendments to UK primary legislation

Criminal Justice and Police Act 2001

1.—(1) The Criminal Justice and Police Act 2001(1) is amended as follows.

(2) In section 50(6), after “section 28(2)(b) of the Competition Act 1998 (c. 41)”, insert “or paragraph 8(1)(b) of Schedule 4 to the State Aid (EU Exit) Regulations 2019”.

(3) After section 57(1)(t)(2), insert—

“(u) paragraph 14 of Schedule 4 to the State Aid (EU Exit) Regulations 2019.”.

(4) After section 63(2)(i)(3), insert—

“(j) paragraph 8(1)(g) of Schedule 4 to the State Aid (EU Exit) Regulations 2019.”.

(5) After section 64(3)(a)(iii)(4), insert—

“(iv) paragraph 8 of Schedule 4 to the State Aid (EU Exit) Regulations 2019.”.

(6) After section 65(3A)(5), insert—

“(3B) In relation to property which has been seized in exercise, or purported exercise, of—

(a) the power of seizure conferred by paragraph 8 of Schedule 4 to the State Aid (EU Exit) Regulations 2019, or

(b) so much of any power of seizure conferred by section 50 as is exercisable by reference to that power,

references in this Part to an item subject to legal privilege shall be read as references to a privileged communication within the meaning of paragraph 17 of Schedule 4 to those Regulations.”.

(7) In Schedule 1, after paragraph 67(6), insert—

“*State Aid (EU Exit) Regulations 2019*

67A. Each of the powers of seizure conferred by paragraph 8 of Schedule 4 to the State Aid (EU Exit) Regulations 2019 (seizure of documents or information).”.

(1) 2001 c.16.

(2) Section 57(1) was amended by regulation 13 of S.I. 2016/680, article 364 of S.I. 2001/3649, Schedule 6 to the Human Tissue Act 2004 (c. 30), Schedule 3 to the Animal Welfare Act 2006 (c. 45), Schedule 1 to S.I. 2009/1951, Schedule 27 to the Finance Act 2007 (c. 11), Schedule 7 to the Human Fertilisation and Embryology Act 2008 (c. 22), Schedule 6 to the Consumer Rights Act 2015 (c. 15) and Schedule 19 to the Data Protection Act 2018 (c. 12).

(3) Section 63(2) was amended by Schedule 17 to the Gambling Act 2005 (c. 19) and Schedules 23 and 27 to the Finance Act 2007.

(4) Section 64(3) was amended by Schedules 11 and 12 to the Proceeds of Crime Act 2002 (c. 29), Schedule 10 to the Serious Crime Act 2007 (c. 27), Schedule 1 to S.I. 2009/1941 and Schedule 8 to the Policing and Crime Act 2009 (c. 26).

(5) Section 65 was amended by Schedule 11 to the Proceeds of Crime Act 2002 (c. 29), regulation 26 of S.I. 2006/3363, Schedule 1 to S.I. 2009/1941, Schedule 27 to the Finance Act 2007, Schedule 6 to the Consumer Rights Act 2015 and Schedule 19 to the Data Protection Act 2018.

(6) There are amendments to Schedule 1 but none are relevant to these Regulations.

Enterprise Act 2002

- 2.—(1) The Enterprise Act 2002(7) is amended as follows.
- (2) After section 241A(2)(d)(8), insert—
- “(e) state aid information.”
- (3) After section 243(3)(d)(9), insert—
- “(e) state aid information.”
- (4) For section 245(4)(10), substitute—
- “(3A) A person who commits an offence under this section in England and Wales is liable—
- (a) on summary conviction to imprisonment for a term not exceeding three months or to a fine or to both;
- (b) on conviction on indictment to imprisonment for a term not exceeding two years or to a fine or to both.
- (4) A person who commits an offence under this section in Scotland or Northern Ireland is liable—
- (a) on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding the statutory maximum or to both;
- (b) on conviction on indictment to imprisonment for a term not exceeding two years or to a fine or to both.”
- (5) In section 273(11), at the appropriate place insert—
- ““state aid information” means information that comes to a public authority in connection with the exercise of any function it has under or by virtue of—
- (a) the Financial Transparency (EC Directive) Regulations 2009;
- (b) [Commission Regulation \(EU\) No. 651/2014](#) of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty;
- (c) [Commission Regulation \(EU\) No. 702/2014](#) of 25 June 2014 declaring certain categories of aid in the agricultural and forestry sectors and in rural areas compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union;
- (d) [Commission Regulation \(EU\) No. 1388/2014](#) of 16 December 2014 declaring certain categories of aid to undertakings active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union;
- (e) the State Aid (EU Exit) Regulations 2019.”
- (6) In each of Schedules 14 and 15(12), at the appropriate places insert—
- “Financial Transparency (EC Directive) Regulations 2009.”;

(7) [2002 c. 40](#).

(8) Section 241A was inserted by section 1281 of the Companies Act [2006 \(c. 46\)](#) and amended by section 114(2) of, and Schedule 19 to, the Financial Services Act [2012 \(c. 21\)](#).

(9) Section 243 was amended by section 114(2) of, and Schedule 19 to, the Financial Services Act 2012.

(10) The effect of section 85(1) of the Legal Aid, Sentencing and Punishment of Offenders Act [2012 \(c. 10\)](#) was to remove the upper limit for fines that a magistrates’ court can impose on summary conviction in England and Wales.

(11) Section 273 was amended by section 26(3) of, and Schedule 5 to, the Enterprise and Regulatory Reform Act [2013 \(c. 24\)](#).

(12) There are amendments to Schedules 14 and 15 but none are relevant.

“[Commission Regulation \(EU\) No. 651/2014](#) of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty.”;

“[Commission Regulation \(EU\) No. 702/2014](#) of 25 June 2014 declaring certain categories of aid in the agricultural and forestry sectors and in rural areas compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union.”;

“[Commission Regulation \(EU\) No. 1388/2014](#) of 16 December 2014 declaring certain categories of aid to undertakings active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union.”; and

“State Aid (EU Exit) Regulations 2019.”.

Banking Act 2009

3.—(1) The Banking Act 2009(**13**) is amended as follows.

(2) In section 3(**14**)—

(a) in subsection (1), in the definition of “extraordinary public financial support”, for the words from “has” to the end, substitute—

“means—

- (a) public financial support that constitutes state aid, or
- (b) public financial support at supra-national level which, if provided at national level, would constitute state aid,

that is provided in order to preserve or restore the viability, liquidity or solvency of a bank, a banking group company or a group of which a bank forms part;”;

(b) before subsection (3), insert—

“(2D) In the definition of “extraordinary public financial support” the term “state aid” refers to aid which would (but for any relevant approval or exemption) be prohibited under Article 107(1) of the Treaty on the Functioning of the European Union, as that Article has effect in domestic law by virtue of section 4 of the European Union (Withdrawal) Act 2018 and regulation 3(1) and (2) of the State Aid (EU Exit) Regulations 2019.”.

(3) In section 145A(**15**)—

(a) in subsection (1)(b), for the words from “aid to which” to the end, substitute “State aid”;

(b) after subsection (1), insert—

“(1A) In this section, “State aid” means aid to which Article 107(1) or Article 108(3) of TFEU applies.”;

(c) in subsection (2)—

- (i) omit “the United Kingdom to fulfil”;
- (ii) after “subsection (3)”, insert “to be fulfilled”.

(d) in subsection (3)—

- (i) in paragraph (a), for “European Commission”, substitute “CMA”;
- (ii) in paragraph (b), for “Commission”, substitute “CMA”;

(13) 2009 c. 1.

(14) Section 3 was amended by [S.I. 2014/3329](#) and [S.I. 2016/1239](#).

(15) Section 145A was amended by section 103 of the Financial Services Act 2012 (c. 21) and [S.I. 2014/3329](#).

- (iii) in paragraph (c), for the words from “is, or would” to the end, substitute “is not, or would not be, prohibited by Article 107(1) of TFEU;”;
- (iv) in paragraph (d), for the words from “under” to the end, substitute “to be carried out for the purposes of Article 108(3) of TFEU;”;
- (v) in paragraph (e), for “European Commission”, substitute “CMA”;
- (vi) in paragraphs (f) and (g), for “Commission” in each place it occurs, substitute “CMA”;
- (e) omit subsection (9);
- (f) in subsection (10), for the words from “TFEU means” to the end, substitute—
 - “—
 - (a) “CMA” means the Competition and Markets Authority;
 - (b) “TFEU” means the Treaty on the Functioning of the European Union; and
 - (c) a reference to Article 107(1) or 108(3) of TFEU is a reference to that Article as it has effect in domestic law by virtue of section 4 of the European Union (Withdrawal) Act 2018 and regulation 3(1) and (2) of the State Aid (EU Exit) Regulations 2019.”.
- (4) In section 256A(16)—
 - (a) in subsection (1)(a), for the words from “any of the” to “(“State aid”),” substitute “Article 107(1) or Article 108(3) of the Treaty on the Functioning of the European Union applies, as those Articles have effect in domestic law by virtue of section 4 of the European Union (Withdrawal) Act 2018 and regulation 3(1) and (2) of the State Aid (EU Exit) Regulations 2019;”;
 - (b) in subsection (2)—
 - (i) omit “the United Kingdom to pursue”;
 - (ii) for “(read with subsection (9) of that section)”, substitute “to be pursued”.

Enterprise and Regulatory Reform Act 2013

- 4.—(1) The Enterprise and Regulatory Reform Act 2013(17) is amended as follows.
- (2) In Schedule 4, after paragraph 29(3), insert—
 - “(4) In addition to sub-paragraph (1), anything that the CMA Board is required or permitted to do under or by virtue of the state aid legislation may be done by a member of the CMA panel, who is authorised for that purpose by the CMA Board, whether generally or specifically.
 - (5) In this paragraph, “state aid legislation” means—
 - (a) the Financial Transparency (EC Directive) Regulations 2009;
 - (b) [Commission Regulation \(EU\) No. 651/2014](#) of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty;
 - (c) [Commission Regulation \(EU\) No. 702/2014](#) of 25 June 2014 declaring certain categories of aid in the agricultural and forestry sectors and in rural areas compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union;

(16) Section 256A was amended by Schedule 2(1) to the Financial Services (Banking Reform) Act 2013 (c. 33) and S.I. 2014/3329.
 (17) 2013 c. 24.

- (d) [Commission Regulation \(EU\) No. 1388/2014](#) of 16 December 2014 declaring certain categories of aid to undertakings active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union;
- (e) the State Aid (EU Exit) Regulations 2019.”.