

SCHEDULE 3

Regulation 4(5)

Aid granted by Act of Parliament

Interpretation

1.—(1) For the purposes of this Schedule, aid is granted by Act of Parliament if an Act makes provision that—

- (a) amounts to a grant of new aid; or
- (b) requires a grant of new aid by a Minister of the Crown or any other person.

(2) An Act does not require a grant of new aid if a power could be exercised, or a duty performed, in a way that would not amount to a grant of new aid.

Aid granted by Act of Parliament

2.—(1) If a Minister of the Crown requests that the CMA consider a proposal to grant aid by Act of Parliament, the CMA must prepare an advisory opinion in respect of the proposal.

(2) If the CMA is satisfied that a complaint sent to it by an interested party provides information sufficient to indicate that aid has been granted by an Act of Parliament, the CMA must prepare an advisory opinion in respect of the Act.

(3) The CMA may on its own initiative prepare an advisory opinion in respect of—

- (a) a proposal to grant aid by Act of Parliament; or
- (b) an Act of Parliament.

(4) However, sub-paragraph (2) does not apply if the CMA has already prepared an advisory opinion under this Schedule in respect of the relevant provisions of the Act or an earlier proposal related to the relevant provisions of the Act.

Investigation

3. In order to prepare an advisory opinion under this Schedule, the CMA may carry out such investigations as it considers appropriate.

Advisory opinion: proposals to grant aid

4.—(1) An advisory opinion in respect of a proposal to grant aid by Act of Parliament prepared in accordance with paragraph 2(1) or 2(3)(a) must—

- (a) advise if the proposal is a proposal to grant aid by Act of Parliament;
- (b) if the CMA advise that it is such a proposal, advise whether the proposal would be notifiable under Article 108(3) of the TFEU were it a proposal to grant the aid otherwise than by Act of Parliament;
- (c) if the CMA advise that it would be notifiable, advise whether the proposal would be likely (if notified in accordance with these Regulations) to be approved by the CMA; and
- (d) give reasons for the conclusions.

(2) In preparing its advisory opinion, the CMA may take account of plans to modify the proposal.

Advisory opinion: aid granted

5.—(1) An advisory opinion in respect of an Act prepared in accordance with paragraph 2(2) or 2(3)(b) must—

Draft Legislation: This is a draft item of legislation and has not yet been made as a UK Statutory Instrument.

- (a) advise whether aid has been granted by Act of Parliament;
 - (b) if the CMA advise that it has been, advise whether the aid would be notifiable under Article 108(3) of the TFEU were the aid granted otherwise than by Act of Parliament;
 - (c) if the CMA advise that it would be notifiable, advise whether the aid would be likely (if notified in accordance with these Regulations) to be approved by the CMA; and
 - (d) give reasons for the conclusions.
- (2) In preparing its advisory opinion, the CMA may take account of plans to modify the aid.

Publicity

- 6.—(1) The CMA must publish an advisory opinion prepared under this Schedule.
- (2) The CMA must send a copy of the advisory opinion to a Minister of the Crown in advance of publication to provide an opportunity for the Minister to indicate whether the Minister considers that the CMA should treat any information in the opinion as confidential information.