



Competition Act 1998

1998 CHAPTER 41

PART I

COMPETITION

CHAPTER IV

[^{F1}APPEALS BEFORE THE TRIBUNAL AND PROCEEDINGS AND SETTLEMENTS RELATING TO INFRINGEMENTS OF COMPETITION LAW]

[^{F1}Claims for loss or damage: proceedings before the Tribunal]

Textual Amendments

- F1** S. 47A cross-heading inserted (9.3.2017) by [The Claims in respect of Loss or Damage arising from Competition Infringements \(Competition Act 1998 and Other Enactments \(Amendment\)\) Regulations 2017 \(S.I. 2017/385\)](#), reg. 1(2), [Sch. 2 para. 3](#)

[^{F2}47A Proceedings before the Tribunal: claims for damages etc.

- (1) A person may make a claim to which this section applies in proceedings before the Tribunal, subject to the provisions of this Act and Tribunal rules.
- (2) This section applies to a claim of a kind specified in subsection (3) which a person who has suffered loss or damage may make in civil proceedings brought in any part of the United Kingdom in respect of an infringement decision or an alleged infringement of—
 - (a) the Chapter I prohibition, [^{F3}or]
 - (b) the Chapter II prohibition,
 - ^{F4}(c)
 - ^{F5}(d)

Status: Point in time view as at 15/11/2021.

Changes to legislation: Competition Act 1998, Cross Heading: Claims for loss or damage: proceedings before the Tribunal is up to date with all changes known to be in force on or before 30 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (3) The claims are—
- (a) a claim for damages;
 - (b) any other claim for a sum of money;
 - (c) in proceedings in England and Wales or Northern Ireland, a claim for an injunction.
- (4) For the purpose of identifying claims which may be made in civil proceedings, any limitation rules or rules relating to prescription that would apply in such proceedings are to be disregarded.
- (5) The right to make a claim in proceedings under this section does not affect the right to bring any other proceedings in respect of the claim.
- [^{F6}(6) In this Part (except in section 49C) “infringement decision” means—
- (a) a decision of the CMA that the Chapter I prohibition or the Chapter II prohibition has been infringed, or
 - (b) a decision of the Tribunal on an appeal from the decision of the CMA that the Chapter I prohibition or the Chapter II prohibition has been infringed.]]

Textual Amendments

- F2** S. 47A substituted (1.10.2015) by Consumer Rights Act 2015 (c. 15), s. 100(5), **Sch. 8 para. 4(1)** (with Sch. 8 para. 4(2) and The Competition Appeal Tribunal Rules 2015 (S.I. 2015/1648), rules 1, 119(4)); S.I. 2015/1630, art. 3(j)
- F3** Word in s. 47A(2)(a) inserted (31.12.2020) by The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **16(2)(a)** (with Sch. 4 paras. 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)
- F4** S. 47A(2)(c) omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **16(2)(b)** (with Sch. 4 paras. 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)
- F5** S. 47A(2)(d) omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **16(2)(b)** (with Sch. 4 paras. 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)
- F6** S. 47A(6) substituted (31.12.2020) by The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **16(3)** (with Sch. 4 paras. 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)

Modifications etc. (not altering text)

- C1** Pt. 1 certain functions made exercisable concurrently by 1998 c. 41, s. 67(3) (as substituted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 2 para. 6(2)(a)**)
- C2** Pt. 1 certain functions made exercisable concurrently by 1991 c. 56, s. 31(3) (as substituted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 2 para. 4(2)(a)**)
- C3** Pt. 1 certain functions made exercisable concurrently by S.I. 1992/231 (N.I. 1) art. 46(3) (as substituted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 2 para. 5(2)(a)**)
- C4** Pt. 1 certain functions made exercisable concurrently by 1986 c. 44, s. 36A(3) (as substituted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 2 para. 1(2)(a)**)
- C5** Pt. 1 restricted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), regs. 1(a), **9(2)**

Status: Point in time view as at 15/11/2021.

Changes to legislation: Competition Act 1998, Cross Heading: Claims for loss or damage: proceedings before the Tribunal is up to date with all changes known to be in force on or before 30 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- | | |
|-----------|--|
| C6 | Pt. 1 certain functions made exercisable concurrently by 1989 c. 29, s. 43(3) (as substituted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261) , reg. 1(a), Sch. 2 para. 3(2)(a)) |
| C7 | Pt. 1 certain functions made exercisable concurrently by S.I. 1996/275 (N.I. 2), art. 23(3) (as substituted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261) , reg. 1(a), Sch. 2 para. 9(2)(a)) |

[^{F7}47B Collective proceedings before the Tribunal

- (1) Subject to the provisions of this Act and Tribunal rules, proceedings may be brought before the Tribunal combining two or more claims to which section 47A applies (“collective proceedings”).
- (2) Collective proceedings must be commenced by a person who proposes to be the representative in those proceedings.
- (3) The following points apply in relation to claims in collective proceedings—
 - (a) it is not a requirement that all of the claims should be against all of the defendants to the proceedings,
 - (b) the proceedings may combine claims which have been made in proceedings under section 47A and claims which have not, and
 - (c) a claim which has been made in proceedings under section 47A may be continued in collective proceedings only with the consent of the person who made that claim.
- (4) Collective proceedings may be continued only if the Tribunal makes a collective proceedings order.
- (5) The Tribunal may make a collective proceedings order only—
 - (a) if it considers that the person who brought the proceedings is a person who, if the order were made, the Tribunal could authorise to act as the representative in those proceedings in accordance with subsection (8), and
 - (b) in respect of claims which are eligible for inclusion in collective proceedings.
- (6) Claims are eligible for inclusion in collective proceedings only if the Tribunal considers that they raise the same, similar or related issues of fact or law and are suitable to be brought in collective proceedings.
- (7) A collective proceedings order must include the following matters—
 - (a) authorisation of the person who brought the proceedings to act as the representative in those proceedings,
 - (b) description of a class of persons whose claims are eligible for inclusion in the proceedings, and
 - (c) specification of the proceedings as opt-in collective proceedings or opt-out collective proceedings (see subsections (10) and (11)).
- (8) The Tribunal may authorise a person to act as the representative in collective proceedings—
 - (a) whether or not that person is a person falling within the class of persons described in the collective proceedings order for those proceedings (a “class member”), but
 - (b) only if the Tribunal considers that it is just and reasonable for that person to act as a representative in those proceedings.

Status: Point in time view as at 15/11/2021.

Changes to legislation: Competition Act 1998, Cross Heading: Claims for loss or damage: proceedings before the Tribunal is up to date with all changes known to be in force on or before 30 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (9) The Tribunal may vary or revoke a collective proceedings order at any time.
- (10) “Opt-in collective proceedings” are collective proceedings which are brought on behalf of each class member who opts in by notifying the representative, in a manner and by a time specified, that the claim should be included in the collective proceedings.
- (11) “Opt-out collective proceedings” are collective proceedings which are brought on behalf of each class member except—
- (a) any class member who opts out by notifying the representative, in a manner and by a time specified, that the claim should not be included in the collective proceedings, and
 - (b) any class member who—
 - (i) is not domiciled in the United Kingdom at a time specified, and
 - (ii) does not, in a manner and by a time specified, opt in by notifying the representative that the claim should be included in the collective proceedings.
- (12) Where the Tribunal gives a judgment or makes an order in collective proceedings, the judgment or order is binding on all represented persons, except as otherwise specified.
- (13) The right to make a claim in collective proceedings does not affect the right to bring any other proceedings in respect of the claim.
- (14) In this section and in section 47C, “specified” means specified in a direction made by the Tribunal.

Textual Amendments

F7 S. 47B substituted (1.10.2015) by [Consumer Rights Act 2015 \(c. 15\)](#), s. 100(5), **Sch. 8 para. 5(1)** (with [Sch. 8 para. 5\(2\)](#)); [S.I. 2015/1630](#), art. 3(j)

[^{F8}47C Collective proceedings: damages and costs

- ^{F9}(1)
- (2) The Tribunal may make an award of damages in collective proceedings without undertaking an assessment of the amount of damages recoverable in respect of the claim of each represented person.
- (3) Where the Tribunal makes an award of damages in opt-out collective proceedings, the Tribunal must make an order providing for the damages to be paid on behalf of the represented persons to—
- (a) the representative, or
 - (b) such person other than a represented person as the Tribunal thinks fit.
- (4) Where the Tribunal makes an award of damages in opt-in collective proceedings, the Tribunal may make an order as described in subsection (3).
- (5) Subject to subsection (6), where the Tribunal makes an award of damages in opt-out collective proceedings, any damages not claimed by the represented persons within a specified period must be paid to the charity for the time being prescribed by order made by the Lord Chancellor under section 194(8) of the Legal Services Act 2007.

Status: Point in time view as at 15/11/2021.

Changes to legislation: Competition Act 1998, Cross Heading: Claims for loss or damage: proceedings before the Tribunal is up to date with all changes known to be in force on or before 30 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (6) In a case within subsection (5) the Tribunal may order that all or part of any damages not claimed by the represented persons within a specified period is instead to be paid to the representative in respect of all or part of the costs or expenses incurred by the representative in connection with the proceedings.
- (7) The Secretary of State may by order amend subsection (5) so as to substitute a different charity for the one for the time being specified in that subsection.
- (8) A damages-based agreement is unenforceable if it relates to opt-out collective proceedings.
- (9) In this section—
- (a) “charity” means a body, or the trustees of a trust, established for charitable purposes only;
 - (b) “damages” (except in the term “exemplary damages”) includes any sum of money which may be awarded by the Tribunal in collective proceedings (other than costs or expenses);
 - (c) “damages-based agreement” has the meaning given in section 58AA(3) of the Courts and Legal Services Act 1990.]

Textual Amendments

- F8** S. 47C inserted (1.10.2015) by [Consumer Rights Act 2015 \(c. 15\), s. 100\(5\), Sch. 8 para. 6; S.I. 2015/1630, art. 3\(j\)](#)
- F9** S. 47C(1) omitted (9.3.2017) by virtue of [The Claims in respect of Loss or Damage arising from Competition Infringements \(Competition Act 1998 and Other Enactments \(Amendment\)\) Regulations 2017 \(S.I. 2017/385\), reg. 1\(2\), Sch. 2 para. 4\(1\)](#) (with Sch. 2 paras. 4(2), 10)

[^{F10}47D Proceedings under section 47A or collective proceedings: injunctions etc.

- (1) An injunction granted by the Tribunal in proceedings under section 47A or in collective proceedings—
 - (a) has the same effect as an injunction granted by the High Court, and
 - (b) is enforceable as if it were an injunction granted by the High Court.
- (2) In deciding whether to grant an injunction in proceedings under section 47A or in collective proceedings, the Tribunal must—
 - (a) in proceedings in England and Wales, apply the principles which the High Court would apply in deciding whether to grant an injunction under section 37(1) of the Senior Courts Act 1981, and
 - (b) in proceedings in Northern Ireland, apply the principles that the High Court would apply in deciding whether to grant an injunction.
- (3) Subsection (2) is subject to Tribunal rules which make provision of the kind mentioned in paragraph 15A(3) of Schedule 4 to the Enterprise Act 2002 (undertakings as to damages in relation to claims subject to the fast-track procedure).]]

Textual Amendments

- F7** S. 47B substituted (1.10.2015) by [Consumer Rights Act 2015 \(c. 15\), s. 100\(5\), Sch. 8 para. 5\(1\)](#) (with Sch. 8 para. 5(2)); S.I. 2015/1630, art. 3(j)

Status: Point in time view as at 15/11/2021.

Changes to legislation: Competition Act 1998, Cross Heading: Claims for loss or damage: proceedings before the Tribunal is up to date with all changes known to be in force on or before 30 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

F10 S. 47D inserted (1.10.2015) by Consumer Rights Act 2015 (c. 15), s. 100(5), **Sch. 8 para. 7**; S.I. 2015/1630, art. 3(j)

^{F11}47E Limitation or prescriptive periods for proceedings under section 47A and collective proceedings

.....

Textual Amendments

F11 S. 47E omitted (9.3.2017) by virtue of The Claims in respect of Loss or Damage arising from Competition Infringements (Competition Act 1998 and Other Enactments (Amendment)) Regulations 2017 (S.I. 2017/385), reg. 1(2), **Sch. 2 para. 5(1)** (with Sch. 2 paras. 5(2), 10)

Status:

Point in time view as at 15/11/2021.

Changes to legislation:

Competition Act 1998, Cross Heading: Claims for loss or damage: proceedings before the Tribunal is up to date with all changes known to be in force on or before 30 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.