

Status: Point in time view as at 31/10/2023.

Changes to legislation: Competition Act 1998, Chapter I is up to date with all changes known to be in force on or before 27 April 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)



Competition Act 1998

1998 CHAPTER 41

PART I

COMPETITION

CHAPTER I

AGREEMENTS

Modifications etc. (not altering text)

- C1** Pt. I Ch. I excluded (temp.) (11.1.2021) by [The Competition Act 1998 \(Groceries\) \(Public Policy Exclusion\) Order 2020 \(S.I. 2020/1568\)](#), arts. 1, 4 (with art. 7)

Introduction

1 Enactments replaced.

The following shall cease to have effect—

- (a) the Restrictive Practices Court Act 1976 (c. 33),
- (b) the Restrictive Trade Practices Act 1976 (c. 34),
- (c) the Resale Prices Act 1976 (c. 53), and
- (d) the Restrictive Trade Practices Act 1977 (c. 19).

Commencement Information

- I1** S. 1 partly in force; s. 1 was not in force at Royal Assent, see. s. 76(2)(3); s. 1(b) to (d) in force at 1.3.2000 by [S.I. 2000/344](#), art. 2, [Sch.](#)
- I2** S. 1(a) in force at 10.3.2013 by [S.I. 2013/284](#), art. 2(a)

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The prohibition

2 Agreements etc. preventing, restricting or distorting competition.

- (1) Subject to section 3, agreements between undertakings, decisions by associations of undertakings or concerted practices which—
 - (a) may affect trade within the United Kingdom, and
 - (b) have as their object or effect the prevention, restriction or distortion of competition within the United Kingdom,
 are prohibited unless they are exempt in accordance with the provisions of this Part.
- (2) Subsection (1) applies, in particular, to agreements, decisions or practices which—
 - (a) directly or indirectly fix purchase or selling prices or any other trading conditions;
 - (b) limit or control production, markets, technical development or investment;
 - (c) share markets or sources of supply;
 - (d) apply dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage;
 - (e) make the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts.
- (3) Subsection (1) applies only if the agreement, decision or practice is, or is intended to be, implemented in the United Kingdom.
- (4) Any agreement or decision which is prohibited by subsection (1) is void.
- (5) A provision of this Part which is expressed to apply to, or in relation to, an agreement is to be read as applying equally to, or in relation to, a decision by an association of undertakings or a concerted practice (but with any necessary modifications).
- (6) Subsection (5) does not apply where the context otherwise requires.
- (7) In this section “the United Kingdom” means, in relation to an agreement which operates or is intended to operate only in a part of the United Kingdom, that part.
- (8) The prohibition imposed by subsection (1) is referred to in this Act as “the Chapter I prohibition”.

Modifications etc. (not altering text)

- | | |
|-----------|---|
| C2 | S. 2 restricted (31.12.2020) by S.I. 2019/93, Sch. 4 para. 17A(1) (as inserted by The Competition (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1343), regs. 1(1), 40(2)) |
| C3 | S. 2(1) excluded (18.6.2001) by 2000 c. 8, ss. 164(1)(2)(4) ; S.I. 2001/1820, art. 2, Sch.
S. 2(1) excluded (3.9.2001) by 2000 c. 8, s. 311(9) ; S.I. 2001/2632, art. 2(2), Sch. Pt. 2 |
| C4 | S. 2(1) excluded (28.3.2012) by The Competition Act 1998 (Public Policy Exclusion) Order 2012 (S.I. 2012/710), arts. 1, 4 |
| C5 | S. 2(1) excluded (E.) (28.3.2020) by The Competition Act 1998 (Health Services for Patients in England) (Coronavirus) (Public Policy Exclusion) Order 2020 (S.I. 2020/368), arts. 1(1), 4 (with art. 1(2)) |
| C6 | S. 2(1) excluded (28.3.2020) by The Competition Act 1998 (Groceries) (Coronavirus) (Public Policy Exclusion) Order 2020 (S.I. 2020/369), arts. 1, 6 |

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- C7 S. 2(1) excluded (28.3.2020) by The Competition Act 1998 (Groceries) (Coronavirus) (Public Policy Exclusion) Order 2020 (S.I. 2020/369), arts. 1, 5
- C8 S. 2(1) excluded (28.3.2020) by The Competition Act 1998 (Solent Maritime Crossings) (Coronavirus) (Public Policy Exclusion) Order 2020 (S.I. 2020/370), arts. 1, 4
- C9 S. 2(1) excluded (21.4.2020) by The Competition Act 1998 (Health Services for Patients in Wales) (Coronavirus) (Public Policy Exclusion) Order 2020 (S.I. 2020/435), arts. 1(1), 4 (with art. 1(2))
- C10 S. 2(1) excluded (temp.) (2.5.2020) by The Competition Act 1998 (Dairy Produce) (Coronavirus) (Public Policy Exclusion) Order 2020 (S.I. 2020/481), arts. 1, 5, 6 (with art. 10)
- C11 S. 2(1) excluded (7.11.2021) by The Competition Act 1998 (Football Broadcasting Rights) (Public Policy Exclusion) Order 2021 (S.I. 2021/1148), arts. 1(1), 3 (with art. 5)
- C12 S. 2(1) excluded (7.11.2021) by The Competition Act 1998 (Football Broadcasting Rights) (Public Policy Exclusion) Order 2021 (S.I. 2021/1148), arts. 1(1), 4 (with art. 5)
- C13 S. 2(1) excluded (temp.) (15.11.2021) by The Competition Act 1998 (Carbon Dioxide) (Public Policy Exclusion) Order 2021 (S.I. 2021/1169), arts. 1(1), 4 (with art. 7)
- C14 S. 2(5) applied (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), regs. 1(a), 7(3)

Excluded agreements

3 Excluded agreements.

- (1) The Chapter I prohibition does not apply in any of the cases in which it is excluded by or as a result of—
 - (a) Schedule 1 (mergers and concentrations);
 - (b) Schedule 2 (competition scrutiny under other enactments);
 - (c) Schedule 3 (planning obligations and other general exclusions). ^{F1}...
 - ^{F2}(d)
- (2) The Secretary of State may at any time by order amend Schedule 1, with respect to the Chapter I prohibition, by—
 - (a) providing for one or more additional exclusions; or
 - (b) amending or removing any provision (whether or not it has been added by an order under this subsection).
- (3) The Secretary of State may at any time by order amend Schedule 3, with respect to the Chapter I prohibition, by—
 - (a) providing for one or more additional exclusions; or
 - (b) amending or removing any provision—
 - (i) added by an order under this subsection; or
 - (ii) included in paragraph 1, 2, 8 or 9 of Schedule 3.
- (4) The power under subsection (3) to provide for an additional exclusion may be exercised only if it appears to the Secretary of State that agreements which fall within the additional exclusion—
 - (a) do not in general have an adverse effect on competition, or
 - (b) are, in general, best considered under Chapter II or [^{F3}the ^{M1}Fair Trading Act 1973][^{F3}the Enterprise Act 2002].
- (5) An order under subsection (2)(a) or (3)(a) may include provision (similar to that made with respect to any other exclusion provided by the relevant Schedule) for the exclusion concerned to cease to apply to a particular agreement.

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- (6) Schedule 3 also gives the Secretary of State power to exclude agreements from the Chapter I prohibition in certain circumstances.

Textual Amendments

- F1** Word in s. 3(1) repealed (1.4.2003) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, [Sch. 26](#); S.I. 2003/766, art. 2, [Sch.](#) (with [art. 3](#)) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), [Sch.](#))
- F2** S. 3(1)(d) repealed (1.4.2003) by [Enterprise Act 2002 \(c. 40\)](#), ss. 207, 279, [Sch. 26](#) (with [Sch. 24](#) paras. 20, 22); S.I. 2003/766, art. 2, [Sch.](#) (with [art. 3](#)) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), [Sch.](#))
- F3** Words in s. 3(4)(b) substituted (20.6.2003 for specified purposes, 29.12.2004 in so far as not already in force) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, [Sch. 25 para. 38\(2\)](#); S.I. 2003/1397, art. 2(1), [Sch.](#) (with [art. 3\(1\)](#)); S.I. 2004/3233, art. 2, [Sch.](#) (with arts. 3-5)

Modifications etc. (not altering text)

- C15** S. 3 applied (31.10.2023) by [The Transport \(Scotland\) Act 2019 \(Consequential Provisions and Modifications\) Order 2023 \(S.I. 2023/80\)](#), arts. 1(3), [22](#)

Commencement Information

- I3** S. 3 wholly in force; s. 3 not in force at Royal Assent see s. 76(3); s. 3(1)(b) in force for certain purposes at 11.1.1999 and s. 3(1)(a)(c)(d)(2)-(6) in force at 11.1.1999 by [S.I. 1998/3166](#), art. 2, [Sch.](#); s. 3(1)(b) fully in force at 1.3.2000 by [S.I. 2000/344](#), art. 2, [Sch.](#)

Marginal Citations

- M1** 1973 c. 41.

Exemptions

4 Individual exemptions.

- [^{F4}(1) The [^{F5}OFT] may grant an exemption from the Chapter I prohibition with respect to a particular agreement if—
- (a) a request for an exemption has been made to [^{F5}it] under section 14 by a party to the agreement; and
 - (b) the agreement is one to which section 9 applies.
- (2) An exemption granted under this section is referred to in this Part as an individual exemption.
- (3) The exemption—
- (a) may be granted subject to such conditions or obligations as the [^{F5}OFT] considers it appropriate to impose; and
 - (b) has effect for such period as the [^{F5}OFT] considers appropriate.
- (4) That period must be specified in the grant of the exemption.
- (5) An individual exemption may be granted so as to have effect from a date earlier than that on which it is granted.

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- (6) On an application made in such way as may be specified by rules under section 51, the [F5OFT] may extend the period for which an exemption has effect; but, if the rules so provide, [F5it] may do so only in specified circumstances.]

Textual Amendments

- F4** S. 4 ceased to have effect (1.5.2004) by virtue of [The Competition Act 1998 and Other Enactments \(Amendment\) Regulations 2004 \(S.I. 2004/1261\)](#), reg. 1(a), **Sch. 1 para. 2** (with reg. 6(2))
- F5** Words in s. 4 substituted (1.4.2003) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, **Sch. 25 para. 38(3)**; [S.I. 2003/766](#), art. 2, Sch. (with art. 3) (as amended (20.7.2007) by [S.I. 2007/1846](#), reg. 3(2), Sch.)

5 Cancellation etc. of individual exemptions.

- [F6(1) If the [F7OFT] has reasonable grounds for believing that there has been a material change of circumstance since [F7it] granted an individual exemption, [F7it] may by notice in writing—
- cancel the exemption;
 - vary or remove any condition or obligation; or
 - impose one or more additional conditions or obligations.
- (2) If the [F7OFT] has a reasonable suspicion that the information on which [F7it] based [F7its] decision to grant an individual exemption was incomplete, false or misleading in a material particular, [F7it] may by notice in writing take any of the steps mentioned in subsection (1).
- (3) Breach of a condition has the effect of cancelling the exemption.
- (4) Failure to comply with an obligation allows the [F7OFT], by notice in writing, to take any of the steps mentioned in subsection (1).
- (5) Any step taken by the [F7OFT] under subsection (1), (2) or (4) has effect from such time as may be specified in the notice.
- (6) If an exemption is cancelled under subsection (2) or (4), the date specified in the notice cancelling it may be earlier than the date on which the notice is given.
- (7) The [F7OFT] may act under subsection (1), (2) or (4) on [F7its] own initiative or on a complaint made by any person.]

Textual Amendments

- F6** S. 5 ceased to have effect (1.5.2004) by virtue of [The Competition Act 1998 and Other Enactments \(Amendment\) Regulations 2004 \(S.I. 2004/1261\)](#), reg. 1(a), **Sch. 1 para. 3** (with reg. 6(2)(3))
- F7** Words in s. 5 substituted (1.4.2003) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, **Sch. 25 para. 38(4)**; [S.I. 2003/766](#), art. 2, Sch. (with art. 3) (as amended (20.7.2007) by [S.I. 2007/1846](#), reg. 3(2), Sch.)

6 Block exemptions.

- (1) If agreements which fall within a particular category of agreement are, in the opinion of the [F8CMA], likely to be [F9exempt agreements], the [F8CMA] may recommend that the Secretary of State make an order specifying that category for the purposes of this section.

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- (2) The Secretary of State may make an order (“a block exemption order”) giving effect to such a recommendation—
- (a) in the form in which the recommendation is made; or
 - (b) subject to such modifications as he considers appropriate.
- (3) An agreement which falls within a category specified in a block exemption order is exempt from the Chapter I prohibition.
- (4) An exemption under this section is referred to in this Part as a block exemption.
- (5) A block exemption order may impose conditions or obligations subject to which a block exemption is to have effect.
- (6) A block exemption order may provide—
- (a) that breach of a condition imposed by the order has the effect of cancelling the block exemption in respect of an agreement;
 - (b) that if there is a failure to comply with an obligation imposed by the order, the [F8CMA] may, by notice in writing, cancel the block exemption in respect of the agreement;
 - (c) that if the [F8CMA] considers that a particular agreement is not [F10an exempt agreement], [F11it] may cancel the block exemption in respect of that agreement.
- (7) A block exemption order may provide that the order is to cease to have effect at the end of a specified period.
- [F12(8) In this section—
- “exempt agreement” means an agreement which is exempt from the Chapter I prohibition as a result of section 9; and
- “specified” means specified in a block exemption order.]

Textual Amendments

- F8** Word in s. 6(1)(6) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 5 para. 2](#) (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F9** Words in s. 6(1) substituted (1.5.2004) by [The Competition Act 1998 and Other Enactments \(Amendment\) Regulations 2004 \(S.I. 2004/1261\)](#), reg. 1(a), [Sch. 1 para. 4\(2\)](#)
- F10** Words in s. 6(6)(c) substituted (1.5.2004) by [The Competition Act 1998 and Other Enactments \(Amendment\) Regulations 2004 \(S.I. 2004/1261\)](#), reg. 1(a), [Sch. 1 para. 4\(3\)](#)
- F11** Word in s. 6(6)(c) substituted (1.4.2003) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, [Sch. 25 para. 38\(5\)\(b\)](#); S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)
- F12** S. 6(8) substituted (1.5.2004) by [The Competition Act 1998 and Other Enactments \(Amendment\) Regulations 2004 \(S.I. 2004/1261\)](#), reg. 1(a), [Sch. 1 para. 4\(4\)](#)

Modifications etc. (not altering text)

- C16** S. 6 applied (31.10.2023) by [The Transport \(Scotland\) Act 2019 \(Consequential Provisions and Modifications\) Order 2023 \(S.I. 2023/80\)](#), arts. 1(3), [22](#)

7 Block exemptions: opposition.

- [F13(1) A block exemption order may provide that a party to an agreement which—
- (a) does not qualify for the block exemption created by the order, but

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- (b) satisfies specified criteria,
may notify the [F14OFT] of the agreement for the purposes of subsection (2).
- (2) An agreement which is notified under any provision included in a block exemption order by virtue of subsection (1) is to be treated, as from the end of the notice period, as falling within a category specified in a block exemption order unless the [F14OFT]—
- (a) is opposed to its being so treated; and
- (b) gives notice in writing to the party concerned of [F14;its] opposition before the end of that period.
- (3) If the [F14OFT] gives notice of [F14;its] opposition under subsection (2), the notification under subsection (1) is to be treated as both notification under section 14 and as a request for an individual exemption made under subsection (3) of that section.
- (4) In this section “notice period” means such period as may be specified with a view to giving the [F14OFT] sufficient time to consider whether to oppose under subsection (2).]

Textual Amendments

- F13** S. 7 ceased to have effect (1.5.2004) by virtue of [The Competition Act 1998 and Other Enactments \(Amendment\) Regulations 2004 \(S.I. 2004/1261\)](#), reg. 1(a), [Sch. 1 para. 5](#) (with reg. 6(2))
- F14** Words in s. 7 substituted (1.4.2003) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, [Sch. 25 para. 38\(6\)](#); [S.I. 2003/766](#), art. 2, [Sch.](#) (with art. 3) (as amended (20.7.2007) by [S.I. 2007/1846](#), reg. 3(2), [Sch.](#))

8 Block exemptions: procedure.

- (1) Before making a recommendation under section 6(1), the [F15CMA] must—
- (a) publish details of [F16;its] proposed recommendation in such a way as [F16;it] thinks most suitable for bringing it to the attention of those likely to be affected; and
- (b) consider any representations about it which are made to [F16;it].
- (2) If the Secretary of State proposes to give effect to such a recommendation subject to modifications, he must inform the [F15CMA] of the proposed modifications and take into account any comments made by the [F15CMA].
- (3) If, in the opinion of the [F15CMA], it is appropriate to vary or revoke a block exemption order [F17;it] may make a recommendation to that effect to the Secretary of State.
- (4) Subsection (1) also applies to any proposed recommendation under subsection (3).
- (5) Before exercising [F16;its] power to vary or revoke a block exemption order (in a case where there has been no recommendation under subsection (3)), the Secretary of State must—
- (a) inform the [F18CMA] of the proposed variation or revocation; and
- (b) take into account any comments made by the [F18CMA].
- (6) A block exemption order may provide for a block exemption to have effect from a date earlier than that on which the order is made.

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Textual Amendments

- F15** Word in s. 8(1)-(3) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 5 para. 3](#) (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F16** Word in s. 8(1) substituted (1.4.2003) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, [Sch. 25 para. 38\(7\)\(b\)](#); S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)
- F17** Word in s. 8(3) substituted (1.4.2003) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, [Sch. 25 para. 38\(7\)\(c\)](#); S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)
- F18** Word in s. 8(5) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 5 para. 3](#) (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

Modifications etc. (not altering text)

- C17** S. 8 applied (31.10.2023) by [The Transport \(Scotland\) Act 2019 \(Consequential Provisions and Modifications\) Order 2023 \(S.I. 2023/80\)](#), arts. 1(3), [22](#)

9 ^[F19] [Exempt agreements].

^[F20](1) ^[F21] An agreement is exempt from the Chapter I prohibition if it—

- (a) contributes to—
- (i) improving production or distribution, or
 - (ii) promoting technical or economic progress,
- while allowing consumers a fair share of the resulting benefit; ^[F22] and]
- (b) does not—
- (i) impose on the undertakings concerned restrictions which are not indispensable to the attainment of those objectives; or
 - (ii) afford the undertakings concerned the possibility of eliminating competition in respect of a substantial part of the products in question.

^[F23](2) In any proceedings in which it is alleged that the Chapter I prohibition is being or has been infringed by an agreement, any undertaking or association of undertakings claiming the benefit of subsection (1) shall bear the burden of proving that the conditions of that subsection are satisfied.]

Textual Amendments

- F19** Words in s. 9 sidenote substituted (1.5.2004) by [The Competition Act 1998 and Other Enactments \(Amendment\) Regulations 2004 \(S.I. 2004/1261\)](#), reg. 1(a), [Sch. 1 para. 6\(5\)](#)
- F20** S. 9(1): s. 9 renumbered as s. 9(1) (1.5.2004) by [The Competition Act 1998 and Other Enactments \(Amendment\) Regulations 2004 \(S.I. 2004/1261\)](#), reg. 1(a), [Sch. 1 para. 6\(1\)](#)
- F21** Words in s. 9(1) substituted (1.5.2004) by [The Competition Act 1998 and Other Enactments \(Amendment\) Regulations 2004 \(S.I. 2004/1261\)](#), reg. 1(a), [Sch. 1 para. 6\(2\)](#)
- F22** Word in s. 9(1)(a) substituted (1.5.2004) by [The Competition Act 1998 and Other Enactments \(Amendment\) Regulations 2004 \(S.I. 2004/1261\)](#), reg. 1(a), [Sch. 1 para. 6\(3\)](#)
- F23** S. 9(2) inserted (1.5.2004) by [The Competition Act 1998 and Other Enactments \(Amendment\) Regulations 2004 \(S.I. 2004/1261\)](#), reg. 1(a), [Sch. 1 para. 6\(4\)](#)

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10 [F24]Retained exemptions].

[F25](A1) An agreement is exempt from the Chapter I prohibition if it falls within a category of agreements specified as exempt in a retained block exemption regulation.]

F26(1)

F27(2)

(3) An exemption from the Chapter I prohibition under this section is referred to in this Part as a [F28]retained exemption].

(4) A [F29]retained exemption]—

F30(a)

(b) ceases to have effect—

(i) if the relevant [F31]retained block exemption regulation] ceases to have effect; or

(ii) on being cancelled by virtue of subsection (5) or (7).

(5) In such circumstances and manner as may be specified in rules made under section 51, the [F32]CMA] may—

(a) impose conditions or obligations subject to which a [F33]retained exemption] is to have effect [F34]in respect of an agreement];

(b) vary or remove any such condition or obligation;

(c) impose one or more additional conditions or obligations;

(d) cancel the exemption [F35]in respect of an agreement].

(6) In such circumstances as may be specified in rules made under section 51, the date from which cancellation of an exemption is to take effect may be earlier than the date on which notice of cancellation is given.

(7) Breach of a condition imposed by the [F36]CMA] has the effect of cancelling the exemption.

(8) In exercising [F37]its] powers under this section, the [F38]CMA] may require any person who is a party to the agreement in question to give [F37]it] such information as [F37]it] may require.

F39(9)

F39(10)

F39(11)

[F40](12) In this Part, “retained block exemption regulation” means the following regulations as amended from time to time—

(a) Council Regulation (EC) 169/2009 applying rules of competition to transport by rail, road and inland waterway;

(b) Commission Regulation (EC) 906/2009 on the application of Article 81(3) of the Treaty to certain categories of agreements, decisions and concerted practices between liner shipping companies (consortia);

(c) Commission Regulation (EU) 330/2010 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to categories of vertical agreements and concerted practices;

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- (d) Commission Regulation (EU) 461/2010 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to categories of vertical agreements and concerted practices in the motor vehicle sector;
- (e) Commission Regulation (EU) 1217/2010 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to certain categories of research and development agreements;
- (f) Commission Regulation (EU) 1218/2010 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to certain categories of specialisation agreements;
- (g) Commission Regulation (EU) 316/2014 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to categories of technology transfer agreements.]

Textual Amendments

- F24** Words in s. 10 heading substituted (31.12.2020) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/93\)](#), regs. 1(1), **3(2)** (with Sch. 4 paras. 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)
- F25** S. 10(A1) inserted (31.12.2020) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/93\)](#), regs. 1(1), **3(3)** (with Sch. 4 paras. 2, 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)
- F26** S. 10(1) omitted (31.12.2020) by virtue of [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/93\)](#), regs. 1(1), **3(4)** (with Sch. 4 paras. 2, 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)
- F27** S. 10(2) omitted (31.12.2020) by virtue of [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/93\)](#), regs. 1(1), **3(4)** (with Sch. 4 paras. 2, 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)
- F28** Words in s. 10(3) substituted (31.12.2020) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/93\)](#), regs. 1(1), **3(5)** (with Sch. 4 paras. 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)
- F29** Words in s. 10(4) substituted (31.12.2020) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/93\)](#), regs. 1(1), **3(6)(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)
- F30** S. 10(4)(a) omitted (31.12.2020) by virtue of [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/93\)](#), regs. 1(1), **3(6)(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)
- F31** Words in s. 10(4)(b) substituted (31.12.2020) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/93\)](#), regs. 1(1), **3(6)(c)** (with Sch. 4 paras. 2, 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)
- F32** Word in s. 10(5) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), **Sch. 5 para. 4** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F33** Words in s. 10(5)(a) substituted (31.12.2020) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/93\)](#), regs. 1(1), **3(7)(a)(i)** (with Sch. 4 paras. 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)
- F34** Words in s. 10(5)(a) inserted (31.12.2020) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/93\)](#), regs. 1(1), **3(7)(a)(ii)** (with Sch. 4 paras. 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)
- F35** Words in s. 10(5)(d) inserted (31.12.2020) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/93\)](#), regs. 1(1), **3(7)(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)
- F36** Word in s. 10(7) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), **Sch. 5 para. 4** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

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- F37** Words in s. 10(8) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 25 para. 38(8)(b); S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)
- F38** Word in s. 10(8) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 5 para. 4 (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F39** S. 10(9)-(11) omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), 3(8) (with Sch. 4 paras. 2, 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)
- F40** S. 10(12) inserted (31.12.2020) by The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), 3(9) (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)

- C18** S. 10 applied (31.10.2023) by The Transport (Scotland) Act 2019 (Consequential Provisions and Modifications) Order 2023 (S.I. 2023/80), arts. 1(3), 22

[^{F41}10A Power to vary etc retained block exemption regulations

- (1) The Secretary of State may by regulations vary or revoke a retained block exemption regulation.
- (2) In exercising the power under subsection (1), the Secretary of State must have regard to the conditions specified in section 9(1) for exemption from the Chapter 1 prohibition.
- (3) If, in the opinion of the CMA, it is appropriate to vary or revoke a retained block exemption regulation, the CMA may make a recommendation to that effect to the Secretary of State.
- (4) Before making a recommendation under subsection (3), the CMA must—
 - (a) publish details of its proposed recommendation in such a way as it thinks most suitable for bringing it to the attention of those likely to be affected; and
 - (b) consider any representations about it which are made to it.
- (5) Before exercising the power to vary or revoke a retained block exemption regulation (in a case where there has been no recommendation under subsection (3)), the Secretary of State must—
 - (a) inform the CMA of the proposed variation or revocation; and
 - (b) take into account any comments made by the CMA.]

Textual Amendments

- F41** S. 10A inserted (31.12.2020) by The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), 4 (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)

- C19** S. 10A applied (31.10.2023) by The Transport (Scotland) Act 2019 (Consequential Provisions and Modifications) Order 2023 (S.I. 2023/80), arts. 1(3), 22

^{F42}11 Exemption for certain other agreements.

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Textual Amendments

- F42** S. 11 omitted (31.12.2020) by virtue of [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/93\)](#), regs. 1(1), 5 (with Sch. 4 paras. 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)

Notification

12 Requests for ^{F43}OFT] to examine agreements.

- ^{F44}(1) Sections 13 and 14 provide for an agreement to be examined by the ^{F43}OFT] on the application of a party to the agreement who thinks that it may infringe the Chapter I prohibition.
- (2) Schedule 5 provides for the procedure to be followed—
- (a) by any person making such an application; and
 - (b) by the ^{F43}OFT], in considering such an application.
- (3) The Secretary of State may by regulations make provision as to the application of sections 13 to 16 and Schedule 5, with such modifications (if any) as may be prescribed, in cases where the ^{F43}OFT]—
- (a) has given a direction withdrawing an exclusion; or
 - (b) is considering whether to give such a direction.]

Textual Amendments

- F43** Words in s. 12 substituted (1.4.2003) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, **Sch. 25 para. 38(9)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)
- F44** Ss. 12-16 ceased to have effect (1.5.2004) by virtue of [The Competition Act 1998 and Other Enactments \(Amendment\) Regulations 2004 \(S.I. 2004/1261\)](#), reg. 1(a), **Sch. 1 para. 9** (with reg. 6(2))

Commencement Information

- I4** S. 12 wholly in force; s. 12 not in force at Royal Assent see s. 76(3); s. 12(3) in force at 11.1.1999 by S.I. 1998/3166, art. 2, Sch.; s. 12(1)(2) in force at 1.3.2000 by S.I. 2000/344, art. 2, Sch.

13 Notification for guidance.

- ^{F44}(1) A party to an agreement who applies for the agreement to be examined under this section must—
- (a) notify the ^{F45}OFT] of the agreement; and
 - (b) apply to ^{F45}the OFT] for guidance.
- (2) On an application under this section, the ^{F45}OFT] may give the applicant guidance as to whether or not, in ^{F45}its] view, the agreement is likely to infringe the Chapter I prohibition.
- (3) If the ^{F45}OFT] considers that the agreement is likely to infringe the prohibition if it is not exempt, ^{F45}its] guidance may indicate—
- (a) whether the agreement is likely to be exempt from the prohibition under—
 - (i) a block exemption;

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- (ii) a parallel exemption; or
 - (iii) a section 11 exemption; or
 - (b) whether ^{F45}it would be likely to grant the agreement an individual exemption if asked to do so.
- (4) If an agreement to which the prohibition applies has been notified to the ^{F45}OFT] under this section, no penalty is to be imposed under this Part in respect of any infringement of the prohibition by the agreement which occurs during the period—
- (a) beginning with the date on which notification was given; and
 - (b) ending with such date as may be specified in a notice in writing given to the applicant by the ^{F45}OFT] when the application has been determined.
- (5) The date specified in a notice under subsection (4)(b) may not be earlier than the date on which the notice is given.]

Textual Amendments

- F44** Ss. 12-16 ceased to have effect (1.5.2004) by virtue of [The Competition Act 1998 and Other Enactments \(Amendment\) Regulations 2004 \(S.I. 2004/1261\)](#), reg. 1(a), [Sch. 1 para. 9](#) (with reg. 6(2))
- F45** Words in s. 13 substituted (1.4.2003) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, [Sch. 25 para. 38\(10\)](#); [S.I. 2003/766](#), art. 2, [Sch.](#) (with art. 3) (as amended (20.7.2007) by [S.I. 2007/1846](#), reg. 3(2), [Sch.](#))

Modifications etc. (not altering text)

- C20** S. 13 applied (with modifications) (1.3.2000) by [S.I. 2000/263](#), [art. 4](#)

14 Notification for a decision.

- ^{F44}(1) A party to an agreement who applies for the agreement to be examined under this section must—
- (a) notify the ^{F46}OFT] of the agreement; and
 - (b) apply to ^{F46}the OFT] for a decision.
- (2) On an application under this section, the ^{F46}OFT] may make a decision as to—
- (a) whether the Chapter I prohibition has been infringed; and
 - (b) if it has not been infringed, whether that is because of the effect of an exclusion or because the agreement is exempt from the prohibition.
- (3) If an agreement is notified to the ^{F46}OFT] under this section, the application may include a request for the agreement to which it relates to be granted an individual exemption.
- (4) If an agreement to which the prohibition applies has been notified to the ^{F46}OFT] under this section, no penalty is to be imposed under this Part in respect of any infringement of the prohibition by the agreement which occurs during the period—
- (a) beginning with the date on which notification was given; and
 - (b) ending with such date as may be specified in a notice in writing given to the applicant by the ^{F46}OFT] when the application has been determined.
- (5) The date specified in a notice under subsection (4)(b) may not be earlier than the date on which the notice is given.]

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Textual Amendments

- F44** Ss. 12-16 ceased to have effect (1.5.2004) by virtue of [The Competition Act 1998 and Other Enactments \(Amendment\) Regulations 2004 \(S.I. 2004/1261\)](#), reg. 1(a), **Sch. 1 para. 9** (with reg. 6(2))
- F46** Words in s. 14 substituted (1.4.2003) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, **Sch. 25 para. 38(11)**; [S.I. 2003/766](#), art. 2, **Sch.** (with art. 3) (as amended (20.7.2007) by [S.I. 2007/1846](#), reg. 3(2), **Sch.**)

Modifications etc. (not altering text)

- C21** S. 14 applied (with modifications) (1.3.2000) by [S.I. 2000/263](#), **art. 5**

15 Effect of guidance.

- [^{F44}(1) This section applies to an agreement if the [^{F47}OFT] has determined an application under section 13 by giving guidance that—
- (a) the agreement is unlikely to infringe the Chapter I prohibition, regardless of whether or not it is exempt;
 - (b) the agreement is likely to be exempt under—
 - (i) a block exemption;
 - (ii) a parallel exemption; or
 - (iii) a section 11 exemption; or
 - (c) [^{F47}it] would be likely to grant the agreement an individual exemption if asked to do so.
- (2) The [^{F47}OFT] is to take no further action under this Part with respect to an agreement to which this section applies, unless—
- (a) [^{F47}it] has reasonable grounds for believing that there has been a material change of circumstance since [^{F47}it] gave [^{F47}its] guidance;
 - (b) [^{F47}it] has a reasonable suspicion that the information on which [^{F47}it] based [^{F47}its] guidance was incomplete, false or misleading in a material particular;
 - (c) one of the parties to the agreement applies to [^{F47}it] for a decision under section 14 with respect to the agreement; or
 - (d) a complaint about the agreement has been made to [^{F47}it] by a person who is not a party to the agreement.
- (3) No penalty may be imposed under this Part in respect of any infringement of the Chapter I prohibition by an agreement to which this section applies.
- (4) But the [^{F47}OFT] may remove the immunity given by subsection (3) if—
- (a) [^{F47}it] takes action under this Part with respect to the agreement in one of the circumstances mentioned in subsection (2);
 - (b) [^{F47}it] considers it likely that the agreement will infringe the prohibition; and
 - (c) [^{F47}it] gives notice in writing to the party on whose application the guidance was given that [^{F47}it] is removing the immunity as from the date specified in [^{F47}its] notice.
- (5) If the [^{F47}OFT] has a reasonable suspicion that information—
- (a) on which [^{F47}it] based [^{F47}its] guidance, and
 - (b) which was provided to [^{F47}it] by a party to the agreement,

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was incomplete, false or misleading in a material particular, the date specified in a notice under subsection (4)(c) may be earlier than the date on which the notice is given.]

Textual Amendments

- F44** Ss. 12-16 ceased to have effect (1.5.2004) by virtue of [The Competition Act 1998 and Other Enactments \(Amendment\) Regulations 2004](#) (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 9** (with reg. 6(2))
- F47** Words in s. 15 substituted (1.4.2003) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, **Sch. 25 para. 38(12)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

Modifications etc. (not altering text)

- C22** S. 15 applied (with modifications) (1.3.2000) by S.I. 2000/263, **art. 6**

16 Effect of a decision that the Chapter I prohibition has not been infringed.

[^{F44}(1) This section applies to an agreement if the [^{F48}OFT] has determined an application under section 14 by making a decision that the agreement has not infringed the Chapter I prohibition.

(2) The [^{F48}OFT] is to take no further action under this Part with respect to the agreement unless—

- (a) [^{F48}it] has reasonable grounds for believing that there has been a material change of circumstance since [^{F48}it] gave [^{F48}its] decision; or
- (b) [^{F48}it] has a reasonable suspicion that the information on which [^{F48}it] based [^{F48}its] decision was incomplete, false or misleading in a material particular.

(3) No penalty may be imposed under this Part in respect of any infringement of the Chapter I prohibition by an agreement to which this section applies.

(4) But the [^{F48}OFT] may remove the immunity given by subsection (3) if—

- (a) [^{F48}it] takes action under this Part with respect to the agreement in one of the circumstances mentioned in subsection (2);
- (b) [^{F48}it] considers that it is likely that the agreement will infringe the prohibition; and
- (c) [^{F48}it] gives notice in writing to the party on whose application the decision was made that [^{F48}it] is removing the immunity as from the date specified in [^{F48}its] notice.

(5) If the [^{F48}OFT] has a reasonable suspicion that information—

- (a) on which [^{F48}it] based [^{F48}its] decision, and
- (b) which was provided to [^{F48}it] by a party to the agreement,

was incomplete, false or misleading in a material particular, the date specified in a notice under subsection (4)(c) may be earlier than the date on which the notice is given.]

Textual Amendments

- F44** Ss. 12-16 ceased to have effect (1.5.2004) by virtue of [The Competition Act 1998 and Other Enactments \(Amendment\) Regulations 2004](#) (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 9** (with reg. 6(2))

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F48 Words in s. 16 substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(13)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

Modifications etc. (not altering text)

C23 S. 16 applied (with modifications) (1.3.2000) by S.I. 2000/263, **art. 7**

Status:

Point in time view as at 31/10/2023.

Changes to legislation:

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