



# Competition Act 1998

## 1998 CHAPTER 41

### PART IV

#### SUPPLEMENTAL AND TRANSITIONAL

##### Modifications etc. (not altering text)

- C1** Pt. IV modified (31.12.2020) by S.I. 2019/93, Sch. 4 para. 8C(3) (as inserted by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1343\)](#), regs. 1(1), **37(2)**)

#### **70** Contracts as to patented products etc.

Sections 44 and 45 of the <sup>M1</sup>Patents Act 1977 shall cease to have effect.

##### Marginal Citations

- M1** 1977 c. 37.

#### **71** Regulations, orders and rules.

- (1) Any power to make regulations or orders which is conferred by this Act is exercisable by statutory instrument.
- (2) The power to make rules which is conferred by section 48 is exercisable by statutory instrument.
- (3) Any statutory instrument made under this Act may—
  - (a) contain such incidental, supplemental, consequential and transitional provision as the Secretary of State considers appropriate; and
  - (b) make different provision for different cases.
- (4) No order is to be made under—
  - (a) section 3,

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- (b) section 19,
  - (c) section 36(8),
  - [<sup>F1</sup>(ca) section 45(8),]
  - [<sup>F2</sup>(cb) section 47C(7),]
  - (d) section 50, or
  - (e) paragraph 6(3) of Schedule 4,
- unless a draft of the order has been laid before Parliament and approved by a resolution of each House.
- (5) Any statutory instrument made under this Act, apart from one made—
- (a) under any of the provisions mentioned in subsection (4), or
  - (b) under section 76(3),
- shall be subject to annulment by a resolution of either House of Parliament.

#### Textual Amendments

- F1** S. 71(4)(ca) inserted (20.6.2003) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, [Sch. 25 para. 38\(49\)](#); [S.I. 2003/1397](#), art. 2(1), [Sch.](#) (with art. 8)
- F2** S. 71(4)(cb) inserted (1.10.2015) by [Consumer Rights Act 2015 \(c. 15\)](#), s. 100(5), [Sch. 8 para. 16](#); [S.I. 2015/1630](#), art. 3(j)

## 72 Offences by bodies corporate etc.

- (1) This section applies to an offence under any of sections 42 to 44 <sup>F3</sup>....
- (2) If an offence committed by a body corporate is proved—
- (a) to have been committed with the consent or connivance of an officer, or
  - (b) to be attributable to any neglect on his part,
- the officer as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.
- (3) In subsection (2) “officer”, in relation to a body corporate, means a director, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity.
- (4) If the affairs of a body corporate are managed by its members, subsection (2) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.
- (5) If an offence committed by a partnership in Scotland is proved—
- (a) to have been committed with the consent or connivance of a partner, or
  - (b) to be attributable to any neglect on his part,
- the partner as well as the partnership is guilty of the offence and liable to be proceeded against and punished accordingly.
- (6) In subsection (5) “partner” includes a person purporting to act as a partner.

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### Textual Amendments

**F3** Words in s. 72(1) omitted (31.12.2020) by virtue of [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/93\)](#), regs. 1(1), **25**; 2020 c. 1, Sch. 5 para. 1(1)

## 73 Crown application.

- (1) Any provision made by or under this Act binds the Crown except that—
  - (a) the Crown is not criminally liable as a result of any such provision;
  - (b) the Crown is not liable for any penalty under any such provision; and
  - (c) nothing in this Act affects Her Majesty in her private capacity.
- (2) Subsection (1)(a) does not affect the application of any provision of this Act in relation to persons in the public service of the Crown.
- (3) Subsection (1)(c) is to be interpreted as if section 38(3) of the <sup>M2</sup>Crown Proceedings Act 1947 (interpretation of references in that Act to Her Majesty in her private capacity) were contained in this Act.
- [<sup>F4</sup>(4) If an investigation is conducted under section 25 <sup>F5</sup>... in respect of an agreement where none of the parties is the Crown or a person in the public service of the Crown, or in respect of conduct otherwise than by the Crown or such a person—
  - (a) the power conferred by section 27 <sup>F6</sup>... may not be exercised in relation to land which is occupied by a government department, or otherwise for purposes of the Crown, without the written consent of the appropriate person; and
  - (b) [<sup>F7</sup>sections 28 and 28A do not apply] in relation to land so occupied.]
- (5) In any case in which consent is required under subsection (4), the person who is the appropriate person in relation to that case is to be determined in accordance with regulations made by the Secretary of State.
- <sup>F8</sup>(6) .....
- [<sup>F9</sup>(6A) In [<sup>F10</sup>subsection (4)] “agreement” includes a suspected agreement and is to be read as applying equally to, or in relation to, a decision by an association of undertakings or a concerted practice; and “conduct” includes suspected conduct.]
- (7) [<sup>F11</sup>In subsection (6) “infringement” means an infringement of [<sup>F12</sup>EU] law relating to Article 85 or 86 of the Treaty establishing the European Community.]
- (8) If the Secretary of State certifies that it appears to him to be in the interests of national security that the powers of entry—
  - (a) conferred by section 27 <sup>F13</sup>..., or
  - (b) that may be conferred by a warrant under [<sup>F14</sup>section 28 or 28A],should not be exercisable in relation to premises held or used by or on behalf of the Crown and which are specified in the certificate, those powers are not exercisable in relation to those premises.
- (9) Any amendment, repeal or revocation made by this Act binds the Crown to the extent that the enactment amended, repealed or revoked binds the Crown.

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### Textual Amendments

- F4** S. 73(4) 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. 46(2)**
- F5** Words in s. 73(4) omitted (31.12.2020) by virtue of [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/93\)](#), regs. 1(1), **26(2)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F6** Words in s. 73(4)(a) omitted (31.12.2020) by virtue of [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/93\)](#), regs. 1(1), **26(2)(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F7** Words in s. 73(4)(b) substituted (31.12.2020) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/93\)](#), regs. 1(1), **26(2)(c)**; 2020 c. 1, Sch. 5 para. 1(1)
- F8** S. 73(6) omitted (31.12.2020) by virtue of [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/93\)](#), regs. 1(1), **26(3)**; 2020 c. 1, Sch. 5 para. 1(1)
- F9** S. 73(6A) 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. 46(4)**
- F10** Words in s. 73(6A) substituted (31.12.2020) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/93\)](#), regs. 1(1), **26(4)**; 2020 c. 1, Sch. 5 para. 1(1)
- F11** S. 73(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. 46(5)** (with reg. 6(2))
- F12** Words in Act substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), arts. 2, 3, 6 (with arts. 3(2)(3), 4(2), 6(4)(5))
- F13** Words in s. 73(8)(a) omitted (31.12.2020) by virtue of [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/93\)](#), regs. 1(1), **26(5)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F14** Words in s. 73(8)(b) substituted (31.12.2020) by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/93\)](#), regs. 1(1), **26(5)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

### Marginal Citations

- M2** 1947 c. 44.

## 74 Amendments, transitional provisions, savings and repeals.

- (1) The minor and consequential amendments set out in Schedule 12 are to have effect.
- (2) The transitional provisions and savings set out in Schedule 13 are to have effect.
- (3) The enactments set out in Schedule 14 are repealed.

### Commencement Information

- I1** S. 74 partly in force; s. 74 not in force at Royal Assent see s. 76(3); s. 74 in force for certain purposes at 1.11.1999 by [S.I. 1998/3166](#), art. 2, **Sch.**; s. 74(1)(3) in force for certain purposes at 1.4.1999 by [S.I. 1999/505](#), art. 2, **Sch. 2**; s. 74 in force for certain purposes at 1.3.2000 by [S.I. 2000/344](#), art. 2, **Sch.**
- I2** S. 74(3) in force at 10.3.2013 in so far as not already in force by [S.I. 2013/284](#), art. 2(b)

## 75 Consequential and supplementary provision.

- (1) The Secretary of State may by order make such incidental, consequential, transitional or supplemental provision as he thinks necessary or expedient for the general purposes, or any particular purpose, of this Act or in consequence of any of its provisions or for giving full effect to it.
- (2) An order under subsection (1) may, in particular, make provision—

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- (a) for enabling any person by whom any powers will become exercisable, on a date specified by or under this Act, by virtue of any provision made by or under this Act to take before that date any steps which are necessary as a preliminary to the exercise of those powers;
  - (b) for making savings, or additional savings, from the effect of any repeal made by or under this Act.
- (3) Amendments made under this section shall be in addition, and without prejudice, to those made by or under any other provision of this Act.
- (4) No other provision of this Act restricts the powers conferred by this section.

#### **F15 75A Rules in relation to Part 2 and Part 2A**

.....

##### **Textual Amendments**

- F15** S. 75A omitted (31.12.2020) by virtue of [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/93\)](#), regs. 1(1), 27; 2020 c. 1, Sch. 5 para. 1(1)

#### **76 Short title, commencement and extent.**

- (1) This Act may be cited as the Competition Act 1998.
- (2) Sections 71 and 75 and this section and paragraphs 1 to 7 and 35 of Schedule 13 come into force on the passing of this Act.
- (3) The other provisions of this Act come into force on such day as the Secretary of State may by order appoint; and different days may be appointed for different purposes.
- (4) This Act extends to Northern Ireland.

##### **Subordinate Legislation Made**

- P1** S. 76 power partly exercised (9.11.1998): 26.11.1998 appointed for specified provisions by [S.I. 1998/2750](#), [art. 2](#)
- P2** S. 76 power partly exercised (16.12.1998): 11.1.1999 appointed for specified provisions by [S.I. 1998/3166](#), [art. 2](#), [Sch.](#)
- P3** S. 76 power partly exercised (2.3.1999): 1.4.1999 appointed for specified provisions by [S.I. 1999/505](#), [art. 2](#), [Sch. 2](#)
- P4** S. 76 power partly exercised (19.10.1999): 10.11.1999 appointed for specified provisions by [S.I. 1999/2859](#), [art. 2](#)

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