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## SCHEDULES

### SCHEDULE 8

#### APPEALS

#### PART I

#### GENERAL

#### *Interpretation*

<sup>F1</sup>1 .....

#### Textual Amendments

**F1** Sch. 8 para. 1 repealed (1.4.2003) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, Sch. 5 para. 8(2), [Sch. 26](#); [S.I. 2003/766](#), art. 2, [Sch.](#) (with art. 3) (as amended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.](#))

#### *General procedure*

- 2 (1) An appeal to the [<sup>F2</sup>Tribunal under section [<sup>F3</sup>46, 47 or 49D(3)]] must be made by sending a notice of appeal to it] within the specified period.
- (2) The notice of appeal must set out the grounds of appeal in sufficient detail to indicate—
- (a) under which provision of this Act the appeal is brought;
  - (b) to what extent (if any) the appellant contends that the decision against, or with respect to which, the appeal is brought was based on an error of fact or was wrong in law; and
  - (c) to what extent (if any) the appellant is appealing against the [<sup>F4</sup>[<sup>F5</sup>CMA's] exercise of its] discretion in making the disputed decision.
- (3) The [<sup>F6</sup>Tribunal] may give an appellant leave to amend the grounds of appeal identified in the notice of appeal.
- [<sup>F7</sup>(4) In this paragraph references to the Tribunal are to the Tribunal as constituted (in accordance with section 14 of the Enterprise Act 2002) for the purposes of the proceedings in question.
- (5) Nothing in this paragraph restricts the power under section 15 of the Enterprise Act 2002 (Tribunal rules) to make provision as to the manner of instituting proceedings before the Tribunal.]

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#### Textual Amendments

- F2** Words in Sch. 8 para. 2(1) substituted (1.4.2003) by [Enterprise Act 2002 \(c. 40\), s. 279, Sch. 5 para. 8\(3\)\(a\)](#); [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 Sch. 8 para. 2(1) substituted (1.10.2015) by [Consumer Rights Act 2015 \(c. 15\), s. 100\(5\), Sch. 8 para. 17\(2\)](#); [S.I. 2015/1630, art. 3\(j\)](#)
- F4** Words in Sch. 8 para. 2(2)(c) substituted (1.4.2003) by [Enterprise Act 2002 \(c. 40\), s. 279, Sch. 25 para. 38\(54\)\(b\)](#); [S.I. 2003/766, art. 2, Sch.](#) (with [art. 3](#)) (as amended (20.7.2007) by [S.I. 2007/1846, reg. 3\(2\), Sch.](#))
- F5** Word in Sch. 8 para. 2(2) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\), s. 103\(3\), Sch. 5 para. 57\(2\)](#) (with [s. 28](#)); [S.I. 2014/416, art. 2\(1\)\(d\)](#) (with [Sch.](#))
- F6** Word in Sch. 8 para. 2(3) substituted (1.4.2003) by [Enterprise Act 2002 \(c. 40\), s. 279, Sch. 5 para. 8\(3\)\(b\)](#); [S.I. 2003/766, art. 2, Sch.](#) (with [art. 3](#)) (as amended (20.7.2007) by [S.I. 2007/1846, reg. 3\(2\), Sch.](#))
- F7** Sch. 8 para. 2(4)(5) inserted (1.4.2003) by [Enterprise Act 2002 \(c. 40\), s. 279, Sch. 5 para. 8\(3\)\(c\)](#); [S.I. 2003/766, art. 2, Sch.](#) (with [art. 3](#)) (as amended (20.7.2007) by [S.I. 2007/1846, reg. 3\(2\), Sch.](#))

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

- C1** Sch. 8 para. 2(2) applied (1.3.2000) by [S.I. 2000/261, Rule 6](#)

#### *Decisions of the tribunal*

- 3 <sup>[F8]</sup>(A1) This paragraph applies to any appeal under section 46 or 47 other than—
- (a) an appeal under section 46 against, or with respect to, a decision of the kind specified in subsection (3)(g) or (h) of that section, and
  - (b) an appeal under section 47(1)(b) or (c).]
- (1) The <sup>[F9]</sup>Tribunal] must determine the appeal on the merits by reference to the grounds of appeal set out in the notice of appeal.
  - (2) The <sup>[F9]</sup>Tribunal] may confirm or set aside the decision which is the subject of the appeal, or any part of it, and may—
    - (a) remit the matter to the <sup>[F10]</sup>CMA] ,
    - (b) impose or revoke, or vary the amount of, a penalty,
    - (c) <sup>[F11]</sup>grant or cancel an individual exemption or vary any conditions or obligations imposed in relation to the exemption by the <sup>[F10]</sup>CMA] ,]
    - (d) give such directions, or take such other steps, as the <sup>[F10]</sup>CMA] could <sup>[F12]</sup>itself] have given or taken, or
    - (e) make any other decision which the <sup>[F10]</sup>CMA] could <sup>[F12]</sup>itself] have made.
  - (3) Any decision of the <sup>[F9]</sup>Tribunal] on an appeal has the same effect, and may be enforced in the same manner, as a decision of the <sup>[F10]</sup>CMA] .
  - (4) If the <sup>[F9]</sup>Tribunal] confirms the decision which is the subject of the appeal it may nevertheless set aside any finding of fact on which the decision was based.

#### Textual Amendments

- F8** Sch. 8 para. 3(A1) 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. 53\(2\)](#) (with [reg. 8](#))

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- F9** Word in Sch. 8 para. 3 substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 5 para. 8(4), 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.)
- F10** Word in Sch. 8 para. 3(2)(3) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 5 para. 57(3) (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F11** Sch. 8 para. 3(2)(c) 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. 53(3) (with regs. 6(2), 8)
- F12** Word in Sch. 8 para. 3(2)(d)(e) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 25 para. 38(54)(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.)

[<sup>F13</sup>3A.(1) This paragraph applies to—

- (a) any appeal under section 46 against, or with respect to, a decision of the kind specified in subsection (3)(g) or (h) of that section, and
- (b) any appeal under section 47(1)(b) or (c).

(2) The Tribunal must, by reference to the grounds of appeal set out in the notice of appeal, determine the appeal by applying the same principles as would be applied by a court on an application for judicial review.

(3) The Tribunal may—

- (a) dismiss the appeal or quash the whole or part of the decision to which it relates; and
- (b) where it quashes the whole or part of that decision, remit the matter back to the [<sup>F14</sup>CMA] with a direction to reconsider and make a new decision in accordance with the ruling of the Tribunal.]

#### Textual Amendments

- F13** Sch. 8 para. 3A 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. 53(4) (with reg. 8)
- F14** Word in Sch. 8 para. 3A(3) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 5 para. 57(4) (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

[<sup>F15</sup>3B (1) This paragraph applies to an appeal under section 49D(3).

(2) The Tribunal must determine the appeal on the merits by reference to the grounds of appeal set out in the notice of appeal.

(3) The Tribunal may—

- (a) approve the amount of costs which is the subject of the appeal, or
- (b) impose a requirement to pay costs of a different amount.

(4) The Tribunal may also give such directions, or take such other steps, as the CMA could itself have given or taken.

(5) A requirement imposed by the Tribunal under sub-paragraph (3)(b) has the same effect, and may be enforced in the same manner, as a requirement imposed by the CMA under section 49D.]

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**Textual Amendments**

**F15** Sch. 8 para. 3B inserted (1.10.2015) by [Consumer Rights Act 2015 \(c. 15\)](#), s. 100(5), **Sch. 8 para. 17(3)**; [S.I. 2015/1630](#), art. 3(j)

**F16**<sup>4</sup> .....

**Textual Amendments**

**F16** Sch. 8 paras. 4-14 repealed (1.4.2003) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, [Sch. 5 para. 8\(5\)](#), **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.](#))

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Blanket Amendment words substituted by [2005 c. 4 Sch. 11 para. 5](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 31G-31L and cross-heading inserted by S.I. 2019/93, reg. 8A (as inserted) by [S.I. 2019/1245 reg. 3](#) (This amendment not applied to legislation.gov.uk. The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
- s. 46(3)(ha)(hb) inserted by S.I. 2019/93, reg. 14(d) (as inserted) by [S.I. 2019/1245 reg. 5](#) (This amendment not applied to legislation.gov.uk. The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
- s. 47(1)(ca) inserted by S.I. 2019/93, reg. 15(b) (as substituted) by [S.I. 2019/1245 reg. 6](#) (This amendment not applied to legislation.gov.uk. The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
- s. 60A(10) inserted by [2023 c. 28 s. 6\(10\)](#)
- Sch. 6A para. 1A inserted by S.I. 2019/93, reg. 29A(2) (as inserted) by [S.I. 2019/1245 reg. 7](#) (This amendment not applied to legislation.gov.uk. The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
- Sch. 6A Pt. 3 inserted by S.I. 2019/93, reg. 29A(4) (as inserted) by [S.I. 2019/1245 reg. 7](#) (This amendment not applied to legislation.gov.uk. The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)