
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under section 11 of the Competition Act 1998 (“the Act”). Section 11 of the Act enables the Secretary of State to make such provision as she considers appropriate for the purpose of granting an exemption from the prohibition in Chapter I of the Act in prescribed circumstances for agreements in relation to which a ruling has been given by virtue of Article 84 of the Treaty on the question whether or not agreements of a particular kind are prohibited by Article 81.

References in these Regulations to Articles of the Treaty are to Articles of the Treaty establishing the European Community as renumbered by the Treaty of Amsterdam.

Article 84 applies to cases where the Council of Ministers of the European Community has not made regulations under Article 83 giving effect to Articles 81 and 82 of the EC Treaty. Subject to the possibility of exemption under Article 81(3), Article 81 prohibits agreements between undertakings which have as their object or effect the prevention, restriction or distortion of competition within the common market and which may affect trade between Member States. Article 82 prohibits the abuse by one or more undertakings of a dominant position in the common market or in a substantial part of it in so far as it may affect trade between Member States.

No implementing regulation has been made under Article 83 in respect of air transport services between Member States of the European Community and countries outside the European Community or in respect of international maritime tramp vessel services.

The EC Competition Law (Articles 84 and 85) Enforcement Regulations 2001 (“the enforcement regulations”) (S.I.2001/2916) provide for decisions to be made by the Director General of Fair Trading where it appears to him that the United Kingdom might have a duty to rule, by virtue of Article 84, on whether an agreement or conduct is prohibited by Article 81 or 82.

Pursuant to the enforcement regulations, the Director may, in certain circumstances, grant an exemption from the prohibition in Article 81(1) (“the Community prohibition”). The exemption may be granted subject to such conditions or obligations as the Director considers it appropriate to impose.

These Regulations prescribe the circumstances in which agreements which have been granted an exemption from the Community prohibition under the enforcement regulations will be exempt from the Chapter I prohibition.

These Regulations come into force on 30th September 2001.