
STATUTORY INSTRUMENTS

2019 No. 1245

**The Competition (Amendment etc.) (EU Exit)
(No. 2) Regulations 2019 (expired—not approved)**

PART 7

Amendment of Part 7 of the 2019 Regulations: saving and transitional provision

Amendment of Schedule 4: saving and transitional provision

35.—(1) Schedule 4 to the 2019 Regulations is amended as follows.

(2) In paragraph 4—

(a) in sub-paragraph (1), after the definition of “EU element” insert—

““modified pre-exit competition law” has the meaning given in sub-paragraph (1A).”;

(b) after sub-paragraph (1), insert—

“(1A) “Modified pre-exit competition law” means—

(a) Part 1 of the 1998 Act—

(i) without the modifications made by Part 2 of these Regulations, other than the modifications made by regulations 21(3), 22 and 23 (principles to be applied in determining questions), and

(ii) with the further modifications set out in paragraph (1B);

(b) section 16 of the 2002 Act ^{M1} without the modification made by regulation 33 of these Regulations;

(c) the enactments listed in paragraphs 2, 3 to 9, 11(2) and 12 to 15 of Schedule 1 to these Regulations and in paragraphs 11 and 13 of Part 3 of Schedule 2 to these Regulations without the modifications made by those paragraphs;

(d) subordinate legislation made under Part 1 of the 1998 Act without the modifications made by Part 1 of Schedule 2 to these Regulations, except for the modifications made by paragraph 4(4) of that Schedule;

(e) the Competition Appeal Tribunal Rules 2015 with the modifications made by paragraph 8(1) to (3) of Schedule 2 to these Regulations.

(1B) The further modifications mentioned in sub-paragraph (1A)(a)(ii) are as follows—

(a) references (however expressed) to a decision of the European Commission or a Member State competition authority that there has been an infringement of the prohibition in Article 101(1) or 102 of the Treaty on the Functioning of the European Union do not include a decision made on or after exit day;

(b) paragraph 21(3) of Schedule 8A to the 1998 Act has effect as if—

(i) in paragraph (a), after “if the competition authority makes a decision” there were inserted “ before exit day ”;

- (ii) the “and” at the end of paragraph (a) were omitted;
- (iii) in paragraph (b), for “otherwise” there were substituted “ if the competition authority closes the investigation before exit day without making such a decision ”; and
- (iv) after paragraph (b) there were inserted—
 - “, and
 - (c) otherwise at the end of the period of one year beginning with exit day.”.

(1C) The reference in sub-paragraph (1B)(a) to a decision by a Member State competition authority is to be interpreted in accordance with paragraph 3(6) of Schedule 8A to the 1998 Act (see paragraph (c) of that provision).”.

- (3) In paragraph 7—
 - (a) in sub-paragraph (2), for “the enactments mentioned in sub-paragraphs (3) to (8) have effect as described there”, substitute “ modified pre-exit competition law applies ”;
 - (b) omit sub-paragraphs (3) to (9).
- (4) In paragraph 13(2), for “the enactments mentioned in paragraph 7(3) to (8) have effect as described there” substitute “ modified pre-exit competition law (as defined in Part 3 of this Schedule) applies ”.
- (5) At the start of Part 6, after the heading insert—

“**13A.** In this Part of this Schedule—

“domestic competition infringement” means an infringement or alleged infringement of the Chapter I prohibition or the Chapter II prohibition (in each case as defined in section 59 of the 1998 Act);

“EU competition infringement” means an infringement or alleged infringement of—

- (a) the prohibition in Article 101(1) of the Treaty on the Functioning of the European Union,
- (b) the prohibition in Article 102 of that Treaty,
- (c) the prohibition in Article 53 of the European Economic Area Agreement, or
- (d) the prohibition in Article 54 of that Agreement.”.

- (6) Omit paragraph 14(1) and the heading before it.
- (7) Omit paragraph 15.
- (8) Before paragraph 16 insert—

“**15A.** In proceedings before a court or tribunal relating to claims (and defences to claims) described in paragraph 14(2), including where the proceedings also relate to a domestic competition infringement, modified pre-exit competition law (as defined in Part 3 of this Schedule) applies.

15B. In proceedings before a court or tribunal relating to a domestic competition infringement which occurs before exit day, including where the infringement continues on or after exit day, modified pre-exit competition law (as defined in Part 3 of this Schedule) applies.”.

(9) Omit paragraph 17 and the heading before it.

(10) In paragraph 19, after sub-paragraph (5), insert—

“(6) If sub-paragraph (4) applies to an EU merger decision and that decision also falls within the definition of a retained EU commitments decision under Part 3 of Schedule 3 to these Regulations, the CMA may revoke the decision.

(7) If the CMA decides under sub-paragraph (6) to revoke a retained EU commitments decision, the CMA must publish its decision and the reasons for it.”.]

Marginal Citations

M1 Section 16 of the Enterprise Act 2002 was amended by paragraph 81(a) of Schedule 9 to the [Crime and Courts Act 2013 \(c. 22\)](#), [paragraph 21](#) of Schedule 8 to the [Consumer Rights Act 2015 \(c. 15\)](#) and [S.I. 2012/1809](#).

Changes to legislation:

There are currently no known outstanding effects for the The Competition (Amendment etc.) (EU Exit) (No. 2) Regulations 2019 (expired—not approved), PART 7.