

## SCHEDULE 3

Regulation 63

### Amendment of retained direct EU legislation

## PART 1

### Revocation of retained direct EU legislation

1. The following instruments are revoked—
  - (a) Council Regulation (EEC) 17/62: First Regulation implementing Articles 85 and 86 of the Treaty;
  - (b) Council Regulation (EEC) 19/65 on the application of Article 85(3) of the Treaty to certain categories of agreements and concerted practices;
  - (c) Council Regulation (EEC) 2821/71 on the application of Article 85(3) of the Treaty to categories of agreements, decisions and concerted practices;
  - (d) Council Regulation (EEC) No 2988/74 concerning limitation periods in proceedings and the enforcement of sanctions under the rules of the European Economic Community relating to transport and competition;
  - (e) Council Regulation (EEC) 1534/91 on the application of Article 85(3) of the Treaty to certain categories of agreements, decisions and concerted practices in the insurance sector;
  - (f) Council Regulation (EC) 1/2003 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty;
  - (g) Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings;
  - (h) Council Regulation (EC) 246/2009 on the application of Article 81(3) of the Treaty to certain categories of agreements, decisions and concerted practices between liner shipping companies (consortia);
  - (i) Council Regulation (EC) 487/2009 on the application of Article 81(3) of the Treaty to certain categories of agreements and concerted practices in the air transport sector;
  - (j) Annex 14 to the EEA Agreement insofar as it forms part of domestic law on and after exit day by virtue of section 3(1) of the European Union (Withdrawal) Act 2018.
2. EU decisions and EU regulations made by the European Commission under the instruments revoked by paragraph 1 (as they form part of domestic law on and after exit day by virtue of section 3(1) of the European Union (Withdrawal) Act 2018) are revoked, with the exception of EU regulations made by the European Commission under the EU regulations specified in paragraph 1(b), (c) and (h).

## PART 2

### Amendment of retained EU Regulations

#### **Council Regulation (EC) 169/2009**

3.—(1) Council Regulation (EC) No 169/2009 applying rules of competition to transport by rail, road and inland waterway is amended as follows.

(2) In Article 2—

*Status: This is the original version (as it was originally made).*

- (a) in paragraph 1, for “in Article 81(1) of the Treaty” substitute “imposed by section 2(1) of the Competition Act 1998”;
- (b) omit paragraph 2.
- (3) In Article 3—
  - (a) in paragraph 1, for the words from “Article 81(1)” to “that Article” substitute “section 2(1) of the Competition Act 1998 are exempt from the prohibition imposed by that provision”;
  - (b) omit paragraph 2.
- (4) Omit Article 5(2).
- (5) In the words after Article 5, omit the words from “This Regulation shall be binding” to “Member States.”.

#### **Commission Regulation (EC) 906/2009**

4.—(1) 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) is amended as follows.

- (2) In Article 1, for “Community ports” substitute “ports in the United Kingdom”.
- (3) In Article 2, after paragraph 3 insert—
  - “3A. “the Chapter 1 prohibition” means the prohibition imposed by section 2(1) of the Competition Act 1998;”.
- (4) In Article 3, for the words before paragraph 1 substitute—

“Subject to the provisions of this Regulation, the following activities of a consortium are exempt from the Chapter 1 prohibition:”.
- (5) In the words after Article 7, omit the words from “This Regulation shall be binding” to “Member States.”.

#### **Commission Regulation (EU) 330/2010**

5.—(1) 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 is amended as follows.

- (2) In Article 1(1)—
  - (a) after point (a), insert—
    - “(aa) “the Chapter 1 prohibition” means the prohibition imposed by section 2(1) of the Competition Act 1998;”;
  - (b) in point (b), for “Article 101(1) of the Treaty” substitute “the Chapter 1 prohibition”;
  - (c) after point (c), insert—
    - “(ca) “retained block exemption regulation” has the meaning given in section 10(10) of the Competition Act 1998;
    - (cb) “block exemption order” has the meaning given in section 6 of the Competition Act 1998;”;
  - (d) in point (h), for “Article 101(1) of the Treaty” substitute “the Chapter 1 prohibition”.
- (3) In Article 2—
  - (a) in paragraph 1, for the first subparagraph substitute—

“Subject to the provisions of this Regulation, vertical agreements are exempt from the Chapter 1 prohibition.”;

- (b) in paragraph 2—
  - (i) for “EUR 50 million” substitute “£44 million”;
  - (ii) for “Article 101 of the Treaty” substitute “the Chapter 1 prohibition”;
- (c) in paragraph 5, for the words from “block exemption regulation” to the end substitute “retained block exemption regulation or of any block exemption order, unless otherwise provided for in such a regulation or order”.
- (4) Omit Articles 6 and 9.
- (5) In the words after Article 10, omit the words from “This Regulation shall be binding” to “Member States.”.

### **Commission Regulation (EU) 461/2010**

**6.—(1)** 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 is amended as follows.

- (2) In Article 1(1)—
  - (a) after point (a), insert—
    - “(aa) “the Chapter 1 prohibition” means the prohibition imposed by section 2(1) of the Competition Act 1998;”;
  - (b) in point (b), for “Article 101(1) of the Treaty” substitute “the Chapter 1 prohibition”.
- (3) Omit Article 2.
- (4) For the first paragraph of Article 4 substitute—

“Subject to the provisions of this Regulation, a vertical agreement is exempt from the Chapter 1 prohibition if—

- (a) it relates to the conditions under which the parties may purchase, sell or resell spare parts for motor vehicles or provide repair and maintenance services for motor vehicles;
- (b) it fulfils the requirements for an exemption under Regulation (EU) No. 330/2010; and
- (c) it does not contain any of the hardcore clauses listed in Article 5 of this Regulation.”.
- (5) Omit Articles 6 and 7.
- (6) In the words after Article 8, omit the words from “This Regulation shall be binding” to “Member States.”.

### **Commission Regulation (EU) 1217/2010**

**7.—(1)** 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 is amended as follows.

- (2) In Article 1(1), after point (q), insert—
  - “(ra) “the Chapter 1 prohibition” means the prohibition imposed by section 2(1) of the Competition Act 1998;”.
- (3) In Article 2(1)—
  - (a) for the first subparagraph substitute—

*Status: This is the original version (as it was originally made).*

“Subject to the provisions of this Regulation, research and development agreements are exempt from the Chapter 1 prohibition.”;

- (b) in the second subparagraph, for “Article 101(1) of the Treaty” substitute “the Chapter 1 prohibition”.
- (4) In Article 4(1), for “internal market” substitute “United Kingdom”.
- (5) In Article 5, in points (f) and (g), for “internal market” substitute “United Kingdom”;
- (6) In Article 6—
  - (a) in point (a), for “which the parties hold in the internal market” (in both places it occurs) substitute “held by the parties which have effect in the United Kingdom”;
  - (b) in point (b), for “internal market” substitute “United Kingdom”.
- (7) Omit Article 8.
- (8) In the words after Article 9, omit the words from “This Regulation shall be binding” to “Member States.”.

#### **Commission Regulation (EU) 1218/2010**

**8.—(1)** 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 is amended as follows.

- (2) In Article 1(1), after point (h), insert—
  - “(ha) “the Chapter 1 prohibition” means the prohibition imposed by section 2(1) of the Competition Act 1998;”.
- (3) In Article 2(1)—
  - (a) for the first subparagraph substitute—

“Subject to the provisions of this Regulation, specialisation agreements are exempt from the Chapter 1 prohibition.”;
  - (b) in the second subparagraph, for “Article 101(1) of the Treaty” substitute “the Chapter 1 prohibition”.
- (4) Omit Article 6.
- (5) In the words after Article 7, omit the words from “This Regulation shall be binding” to “Member States.”.

#### **Commission Regulation (EU) 316/2014**

**9.—(1)** 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 is amended as follows.

- (2) In Article 1(1), after point (c), insert—
  - “(ca) “the Chapter 1 prohibition” means the prohibition imposed by section 2(1) of the Competition Act 1998;”.
- (3) In Article 2—
  - (a) for paragraph 1 substitute—

“Subject to the provisions of this Regulation, technology transfer agreements are exempt from the Chapter 1 prohibition.”;
  - (b) in paragraph 2, for “Article 101(1) of the Treaty” substitute “the Chapter 1 prohibition”.

(4) In Article 5(1), in point (b), for “which the other party holds in the Union” substitute “held by the other party which have effect in the United Kingdom”.

(5) Omit Articles 6, 7 and 10.

(6) In the words after Article 11, omit the words from “This Regulation shall be binding” to “Member States.”.

### **Effect of certain revocations**

**10.**—(1) The revocation of the provisions of Commission Regulations listed in sub-paragraph (2) is not to be read as—

- (a) preventing the Secretary of State from exercising the power under section 10A(1) of the Competition Act 1998<sup>(1)</sup> to disapply those Regulations as described in those provisions, or
- (b) limiting that power in any other way.

(2) Those provisions are—

- (a) Article 6 of 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;
- (b) Article 6 of 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;
- (c) Article 7 of 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.

(3) The revocation of Article 6 of 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 is not to be read as—

- (a) preventing the Competition and Markets Authority from exercising its power under section 10(5) of the Competition Act 1998 to impose conditions or obligations subject to which an exemption is to have effect or to cancel the exemption for an agreement in the circumstances described in that Article, or
- (b) limiting that power in any other way.

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(1) 1998 c. 41; section 10A is inserted into the Competition Act 1998 by regulation 4 of these Regulations.