

SCHEDULE 4

Saving and transitional provision

PART 7

Enterprise Act 2002

Cases decided under the EC Merger Regulation before exit day

- 19.**—(1) This paragraph applies in a case in which immediately before exit day—
- (a) a concentration has been examined by the European Commission under the EC Merger Regulation; and
 - (b) the EU merger decision has been taken in relation to the concentration.
- (2) On or after exit day, in relation to the concentration concerned—
- (a) a reference may not be made under section 22 or 33 of the 2002 Act;
 - (b) an intervention notice may not be given under section 42 of that Act, and
 - (c) a reference may not be made under section 45 of that Act⁽¹⁾.
- (3) Sub-paragraph (2)(b) and (c) have effect subject to paragraph 25 of this Schedule.
- (4) If, on or after exit day, the EU merger decision in relation to the concentration concerned is annulled in full or in part by the European Court following an appeal—
- (a) sub-paragraph (2) ceases to have effect in relation to that concentration; and
 - (b) despite their repeal by these Regulations, subsections (3) to (5) of section 122 of the 2002 Act continue to have effect in relation to that concentration but with the modification set out in sub-paragraph (5).
- (5) Section 122(4) has effect in relation to the concentration concerned as if the reference to “the EC Merger Regulation or anything done under or in accordance with them” were a reference to—
- (a) Council Regulation (EC) 139/2004 on the control of concentrations between undertakings as it has effect in EU law before exit day or anything done under or in accordance with that instrument before exit day; and
 - (b) sub-paragraph (2) of this paragraph.

(1) Section 45 was amended by paragraphs 59 and 85 of Schedule 5 to the Enterprise and Regulatory Reform Act 2013; there is another amendment to section 45 but it is not relevant.