STATUTORY INSTRUMENTS

1999 No. 2281

COMPETITION

The Competition Act 1998 (Provisional Immunity from Penalties) Regulations 1999

Made - - - -	*10th August 1999*
Laid before Parliament	*11th August 1999*
Coming into force	*1st March 2000*

The Secretary of State in exercise of the powers conferred on him by sections 41(5), 59(1) and 71 of the Competition Act 1998**(a)** hereby makes the following Regulations:

Citation

1. These Regulations may be cited as the Competition Act 1998 (Provisional Immunity from Penalties) Regulations 1999 and shall come into force on 1st March 2000.

Provisional immunity from penalties

2. For the purposes of section 41 of the Competition Act 1998 the expression "provisional immunity from penalties" means immunity from fines for breach of the prohibition contained in Article 81(1)**(b)** of the Treaty by reason of:

(i) Article 15(5)(a) of Council Regulation (EEC) No. 17/62 the First Regulation implementing Articles 85 and 86 of the Treaty**(c)**;

(ii) Article 19(4) of Council Regulation (EEC) No. 4056/86 laying down detailed rules for the application of Articles 85 and 86 of the Treaty to maritime transport**(d)**; and

(iii) Article 12(5) of Council Regulation (EEC) No. 3975/87 laying down the procedure for the application of the rules on competition to undertakings in the air transport sector**(e)**.

Kim Howells
Parliamentary Under Secretary of State for
Competition and Consumer Affairs,
Department of Trade and Industry

10th August 1999

(a) 1998 c. 41.
(b) Previously Article 85(1) renumbered as a result of Article 12 of the Treaty signed at Amsterdam on 2nd October 1997 amending the Treaty on European Union, the Treaties establishing the European Communities and certain related Acts.
(c) OJ No. L213, 21.2.62, p. 204 (OJ/SE 1959–62, p. 87). Article 86 was renumbered Article 82 as a result of Article 12 of the Treaty signed at Amsterdam on 2nd October 1997.
(d) OJ No. L378, 31.12.86, p. 4.
(e) OJ No. L374, 21.12.87, p. 1.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 41 of the Competition Act 1998 confers immunity from penalties for infringement of the Chapter I prohibition where a party has notified an agreement to the European Commission seeking an exemption under Article 81(3) of the Treaty establishing the European Community and before the Commission determines the matter. If however the Commission withdraws from the agreement the benefit of "provisional immunity from penalties" then the immunity under section 41 also ceases to apply. These Regulations prescribe what is meant by "provisional immunity from penalties" by reference to the First Regulation implementing Articles 85 and 86 of the Treaty (now Articles 81 and 82), and the implementing regulations in respect of maritime transport and air transport. Under each of these regulations the Commission may withdraw immunity from fines in respect of notified agreements by informing the undertakings concerned that, after preliminary examination, it is of the opinion that Article 81(1) of the Treaty applies and that application of Article 81(3) is not justified.

£1.00

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WO 5255 8/99 ON (MFK)