

Statutory Instruments

S.I. No. 195 of 2004

European Communities (Implementation of the Rules on Competition laid down in Articles 81 and 82 of the Treaty) Regulations 2004

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S.I. No. 195 of 2004

European Communities (Implementation of the Rules on Competition laid down in Articles 81 and 82 of the Treaty) Regulations 2004

I, MARY HARNEY, Minister for Enterprise, Trade and Employment, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972), and for the purpose of giving full effect to Council Regulation (EC) No. 1/2003 of 16 December 2002 as amended by Council Regulation (EC) No. 411/2004 of 26 February 2004, hereby make the following regulations:

1. (1) These Regulations may be cited as the European Communities (Implementation of the Rules on Competition laid down in Articles 81 and 82 of the Treaty) Regulations 2004.

(2) These Regulations shall come into operation on 1 May 2004.

2. In these Regulations -

“Act” means the Competition Act 2002 (No. 14 of 2002);

“Authority” means the Competition Authority;

“Council Regulation” means Council Regulation (EC) No. 1/2003 of 16 December 2002¹ on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty as amended by Council Regulation (EC) No. 411/2004 of 26 February 2004² repealing Regulation (EEC) No. 3975/87 and amending Regulations (EEC) No. 3976/87 and (EC) No. 1/2003, in connection with air transport between the Community and third countries.

“functions” includes powers and duties.

3. (1) Each of the following, namely –

(a) the District Court,

(b) the Circuit Court,

(c) the High Court,

(d) the Court of Criminal Appeal, and

(e) the Supreme Court,

is, as respects the State, designated as the competition authority for the purposes of Article 5 of the Council Regulation and the respective jurisdiction of each of those courts for the purposes of that Article is that specified in paragraph (2) of this Regulation.

(2) For the purposes of Article 5 of the Council Regulation, the functions and jurisdiction of each court mentioned in paragraph (1) of this Regulation are those specified in, and conferred on it by –

1. OJ No. L 1, 4.1.2003, p1

2. OJ No. L 68, 6.3.2004, p1

- (a) the Act, and
- (b) in the case of any appellate jurisdiction of it arising by virtue of the operation of any other enactment and relating to a matter arising under the Act, that other enactment.

4. (1) Subject to paragraphs (2) and (3) of this Regulation, the Authority is, as respects the State, designated as the competition authority for the purpose of performing the functions assigned to competition authorities of the Member States by the provisions of Chapters IV, V, VII, VIII, and IX of the Council Regulation and is, accordingly, empowered to do anything mentioned in any of those provisions as being performable by such an authority.

(2) Each of the following, namely -

- (a) the Authority,
- (b) the Director of Public Prosecutions, and
- (c) a court referred to in Regulation 3(1) of these Regulations or, as appropriate, the office of that court,

is, as respects the State, designated as a competition authority for the purpose of performing any function assigned to competition authorities of Member States by Articles 11(1), 11(5), 27(2) and 28(2) of the Council Regulation and is, accordingly, empowered to do anything mentioned in any of those provisions as being performable by such an authority.

(3) The functions assigned to competition authorities of the Member States by Article 11(4) of the Council Regulation shall, as respects the State, be performed –

- (a) in the case of any proposed decision to withdraw the benefit of a block exemption Regulation, by the Authority,
- and
- (b) in the case of any other proposed decision, by the relevant court referred to in Regulation 3(1) of these Regulations or, as appropriate, the office of that court,

and the Authority and such a court or, as appropriate, office are, accordingly, empowered to do anything mentioned in that provision as being performable by such competition authorities.

5. The District Court shall be the national judicial authority for the purpose of Articles 20(8) and 21(3) of the Council Regulation.

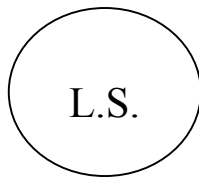
6. For the purpose of the application in the State of Articles 11(6), 35(3) and 35(4) of the Council Regulation, the expression “authority prosecuting the case” in Article 35(4) shall be construed as a reference to -

- (a) in the case of summary proceedings in relation to an offence under section 6 or 7 of, or proceedings taken under section 14(2) of, the Act, the Authority, or
- (b) in the case of proceedings on indictment in relation to an offence under section 6 or 7 of the Act, the Director of Public Prosecutions.

7. For the avoidance of doubt, in these Regulations the expression “as respects the State”, in relation to the designation of a court or body for a particular purpose or the conferral on it of a particular function, is not to be read as placing a restriction on the body or court from performing the particular function concerned in respect of any matter or thing outside the State.

GIVEN under my Official Seal,

This 30th day of April 2004.



MARY HARNEY
Minister for Enterprise, Trade and Employment.

Explanatory Note

(This note is not part of the Instrument and does not purport to be a legal interpretation)

These Regulations are for the purpose of giving effect in the State to EU Council Regulation No. 1/2003 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty. The Council Regulation introduces significant changes in the public and private enforcement of Community competition law and is directly applicable in all Member States from 1 May 2004.

These Regulations designate the national authorities which will be responsible for the implementation in the State of the public enforcement provisions of the Council Regulation. The Courts are designated for the purpose of Article 5 of the Council Regulation (power to apply Articles 81 and 82 in individual cases) and in accordance with their existing jurisdiction under the Competition Act 2002. Most of the other functions assigned to national competition authorities by the Council Regulation are allocated to the Competition Authority. Certain functions are allocated concurrently to the Authority, the Director of Public Prosecutions and the Courts or are apportioned between the Authority and the Courts. Clarification of the terms “national judicial authority” and “authority prosecuting the case” is also provided for.