

Editorial Notes

CODIFICATION

Act Mar. 3, 1911, vested jurisdiction in “district” courts, instead of “circuit” courts.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Act June 25, 1948, eff. Sept. 1, 1948, substituted “United States attorneys” for “district attorneys of the United States”. See section 541 et seq. of Title 28, Judiciary and Judicial Procedure.

§ 5. Bringing in additional parties

Whenever it shall appear to the court before which any proceeding under section 4 of this title may be pending, that the ends of justice require that other parties should be brought before the court, the court may cause them to be summoned, whether they reside in the district in which the court is held or not; and subpoenas to that end may be served in any district by the marshal thereof.

(July 2, 1890, ch. 647, § 5, 26 Stat. 210.)

§ 6. Forfeiture of property in transit

Any property owned under any contract or by any combination, or pursuant to any conspiracy (and being the subject thereof) mentioned in section 1 of this title, and being in the course of transportation from one State to another, or to a foreign country, shall be forfeited to the United States, and may be seized and condemned by like proceedings as those provided by law for the forfeiture, seizure, and condemnation of property imported into the United States contrary to law.

(July 2, 1890, ch. 647, § 6, 26 Stat. 210.)

§ 6a. Conduct involving trade or commerce with foreign nations

Sections 1 to 7 of this title shall not apply to conduct involving trade or commerce (other than import trade or import commerce) with foreign nations unless—

(1) such conduct has a direct, substantial, and reasonably foreseeable effect—

(A) on trade or commerce which is not trade or commerce with foreign nations, or on import trade or import commerce with foreign nations; or

(B) on export trade or export commerce with foreign nations, of a person engaged in such trade or commerce in the United States; and

(2) such effect gives rise to a claim under the provisions of sections 1 to 7 of this title, other than this section.

If sections 1 to 7 of this title apply to such conduct only because of the operation of paragraph (1)(B), then sections 1 to 7 of this title shall apply to such conduct only for injury to export business in the United States.

(July 2, 1890, ch. 647, § 7, as added Pub. L. 97-290, title IV, § 402, Oct. 8, 1982, 96 Stat. 1246.)

Editorial Notes

PRIOR PROVISIONS

A prior section 7 of act July 2, 1890, ch. 647, 26 Stat. 210, related to suits by persons injured by acts in violation of sections 1 to 7 of this title and was classified as a note under section 15 of this title, prior to repeal by act July 7, 1955, ch. 283, § 3, 69 Stat. 283, effective six months after July 7, 1955.

§ 7. “Person” or “persons” defined

The word “person”, or “persons”, wherever used in sections 1 to 7 of this title shall be deemed to include corporations and associations existing under or authorized by the laws of either the United States, the laws of any of the Territories, the laws of any State, or the laws of any foreign country.

(July 2, 1890, ch. 647, § 8, 26 Stat. 210.)

§ 7a. Definitions

In sections 7a to 7a-3 of this title:

(1) Antitrust Division

The term “Antitrust Division” means the United States Department of Justice Antitrust Division.

(2) Antitrust leniency agreement

The term “antitrust leniency agreement,” or “agreement,” means a leniency letter agreement, whether conditional or final, between a person and the Antitrust Division pursuant to the Corporate Leniency Policy of the Antitrust Division in effect on the date of execution of the agreement.

(3) Antitrust leniency applicant

The term “antitrust leniency applicant,” or “applicant,” means, with respect to an antitrust leniency agreement, the person that has entered into the agreement.

(4) Claimant

The term “claimant” means a person or class, that has brought, or on whose behalf has been brought, a civil action alleging a violation of section 1 or 3 of this title or any similar State law, except that the term does not include a State or a subdivision of a State with respect to a civil action brought to recover damages sustained by the State or subdivision.

(5) Cooperating individual

The term “cooperating individual” means, with respect to an antitrust leniency agreement, a current or former director, officer, or employee of the antitrust leniency applicant who is covered by the agreement.

(6) Person

The term “person” has the meaning given it in subsection (a) of section 12 of this title.

(Pub. L. 108-237, title II, § 212, June 22, 2004, 118 Stat. 666; Pub. L. 111-190, § 2, June 9, 2010, 124 Stat. 1275; Pub. L. 116-159, div. D, title III, § 4303(b)(2), Oct. 1, 2020, 134 Stat. 742.)

Editorial Notes

REFERENCES IN TEXT

Sections 7a to 7a-3 of this title, referred to in text, was in the original “this subtitle”, meaning subtitle A

(§§211–216) of title II of Pub. L. 108–237, June 22, 2004, 118 Stat. 666, which enacted this section and sections 7a-1 to 7a-3 of this title, amended sections 1, 2, and 3 of this title, and enacted provisions formerly set out in a note under section 1 of this title. For complete classification of subtitle A to the Code, see Tables.

CODIFICATION

Section was formerly set out in a note under section 1 of this title, prior to transfer to this section upon repeal of sunset provision.

AMENDMENTS

2020—Pars. (6), (7). Pub. L. 116–159 redesignated par. (7) as (6) and struck out former par. (6). Prior to amendment, text of par. (6) read as follows: “The term ‘marker’ means an assurance given by the Antitrust Division to a candidate for corporate leniency that no other company will be considered for leniency, for some finite period of time, while the candidate is given an opportunity to perfect its leniency application.”

2010—Pars. (6), (7). Pub. L. 111–190 added par. (6) and redesignated former par. (6) as (7).

Statutory Notes and Related Subsidiaries

FINDINGS; PURPOSE OF 2020 AMENDMENT

Pub. L. 116–159, div. D, title III, § 4302, Oct. 1, 2020, 134 Stat. 742, provided that:

“(a) FINDINGS.—Congress finds the following:

“(1) Conspiracies among competitors to fix prices, rig bids, and allocate markets are categorically and irredeemably anticompetitive and contravene the competition policy of the United States.

“(2) Cooperation incentives are important to the efforts of the Antitrust Division of the Department of Justice to prosecute and deter the offenses described in paragraph (1).

“(b) PURPOSE.—The purpose of this Act [probably means title III of div. D (§4301 et seq.) of Pub. L. 116–159, see Tables for classification], and the amendments made by this Act, is to strengthen public and private antitrust enforcement by providing incentives for antitrust violators to cooperate fully with government prosecutors and private litigants through the repeal of the sunset provision of the Antitrust Criminal Penalty Enhancement and Reform Act of 2004 [section 211 of Pub. L. 108–237] ([former] 15 U.S.C. 1 note).”

TECHNICAL AND CONFORMING AMENDMENTS

Pub. L. 116–159, div. D, title III, § 4303(b)(1), Oct. 1, 2020, 134 Stat. 742, provided that:

“(1) REVIVAL AND RESTORATION.—

“(A) IN GENERAL.—Sections 212, 213, and 214 of the Antitrust Criminal Penalty Enhancement and Reform Act of 2004 [title II of Pub. L. 108–237] ([former] 15 U.S.C. 1 note [now 15 U.S.C. 7a, 7a-1, 7a-2, respectively]) as in effect on June 21, 2020, and as amended by the laws described in subparagraph (B), are revived and restored.

“(B) LAWS.—The laws described in this subparagraph are:

“(i) Antitrust Criminal Penalty Enhancement and Reform Act of 2004 Extension Act (Public Law 111–30; 123 Stat. 1775) [amending former section 211 of Pub. L. 108–237].

“(ii) The Act entitled ‘An Act to amend the Antitrust Criminal Penalty Enhancement and Reform Act of 2004 to extend the operation of such Act, and for other purposes’, approved June 9, 2010 (Public Law 111–90 [sic, probably should be ‘111–190’]; 124 Stat. 1275) [amending this section, sections 7a-1 and 7a-2 of this title, and former section 211 of Pub. L. 108–237].”

APPLICABILITY OF 2020 AMENDMENT

Pub. L. 116–159, div. D, title III, § 4303(c), Oct. 1, 2020, 134 Stat. 742, provided that:

“(1) MARKERS AND AGREEMENTS BEFORE SUNSET.—Notwithstanding the repeal under subsection (a) [repealing section 211 of Pub. L. 108–237], section 211(b) of the Antitrust Criminal Penalty Enhancement and Reform Act of 2004 [Pub. L. 108–237] ([former] 15 U.S.C. 1 note), as in effect on the day before the date of enactment of this Act [Oct. 1, 2020], shall continue to apply to any person who received a marker or entered into an antitrust leniency agreement on or before June 22, 2020.

“(2) MARKERS AND AGREEMENTS AFTER SUNSET.—The repeal under subsection (a) shall apply to any person who received a marker or entered into an antitrust leniency agreement on or after June 23, 2020.”

§ 7a-1. Limitation on recovery

(a) In general

Subject to subsection (d), in any civil action alleging a violation of section 1 or 3 of this title, or alleging a violation of any similar State law, based on conduct covered by a currently effective antitrust leniency agreement, the amount of damages recovered by or on behalf of a claimant from an antitrust leniency applicant who satisfies the requirements of subsection (b), together with the amounts so recovered from cooperating individuals who satisfy such requirements, shall not exceed that portion of the actual damages sustained by such claimant which is attributable to the commerce done by the applicant in the goods or services affected by the violation.

(b) Requirements

Subject to subsection (c), an antitrust leniency applicant or cooperating individual satisfies the requirements of this subsection with respect to a civil action described in subsection (a) if the court in which the civil action is brought determines, after considering any appropriate pleadings from the claimant, that the applicant or cooperating individual, as the case may be, has provided satisfactory cooperation to the claimant with respect to the civil action, which cooperation shall include—

(1) providing a full account to the claimant of all facts known to the applicant or cooperating individual, as the case may be, that are potentially relevant to the civil action;

(2) furnishing all documents or other items potentially relevant to the civil action that are in the possession, custody, or control of the applicant or cooperating individual, as the case may be, wherever they are located; and

(3)(A) in the case of a cooperating individual—

(i) making himself or herself available for such interviews, depositions, or testimony in connection with the civil action as the claimant may reasonably require; and

(ii) responding completely and truthfully, without making any attempt either falsely to protect or falsely to implicate any person or entity, and without intentionally withholding any potentially relevant information, to all questions asked by the claimant in interviews, depositions, trials, or any other court proceedings in connection with the civil action; or

(B) in the case of an antitrust leniency applicant, using its best efforts to secure and facilitate from cooperating individuals covered by the agreement the cooperation described in clauses (i) and (ii) and subparagraph (A).