
EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force on 20th June 2003 certain provisions of the Enterprise Act 2002 (“the Act”). In particular it commences the following provisions:—

- (a) The remaining provisions of Part 1 not previously commenced: sections 5 to 7, which provide for the Office of Fair Trading (“OFT”) to perform various functions, and section 11, which allows for the making of super-complaints to the OFT;
- (b) Section 16, which permits the making of regulations enabling the transfers of certain proceedings concerning the infringement of competition law prohibitions between the courts and the Competition Appeal Tribunal;
- (c) All the provisions of Part 3 relating to mergers, other than those relating to mergers between water enterprises;
- (d) Part 4, which provides for the making of market investigation references to the Competition Commission and the conduct of such references;
- (e) The provisions of Part 5 not previously commenced. These in particular enable the Chairman of the Competition Commission to make rules of procedure in relation to the conduct of various reference groups of the Competition Commission;
- (f) Part 6, which creates a cartel offence, and makes provision in relation to its investigation and prosecution;
- (g) The provisions of Part 7 not previously commenced. Section 203 amends the provisions of the Competition Act 1998 authorising the granting of warrants giving powers of entry for the purposes of investigations into breaches of competition law. Section 204 amends the Company Directors Disqualification Act 1986 to permit the disqualification of directors involved in breaches of competition law. Section 205 permits specified consumer bodies to make super-complaints to various sectoral regulators. Section 206 permits modifications to the enforcement powers exercisable following merger and market investigations that are specified in Schedule 8. Section 208 repeals the powers to make references to the Competition Commission in Part 6 of the Fair Trading Act 1973. Section 209 gives the Secretary of State the power to modify the Competition Act 1998 and other legislation in connection with the making of regulations or directives giving effect to the principles set out in Articles 81 and 82 of the EC Treaty;
- (h) Part 8, which provides for the enforcement of certain consumer legislation;
- (i) Part 9, which places restrictions on the disclosure of information which comes to a public authority in connection with the exercise of functions under or by virtue of the Act and provision made under it, or such other legislation as is or may be specified;
- (j) Various miscellaneous provisions in Part 11 and in the Schedules to the Act related to the above provisions, including various transitional and consequential provisions, and certain repeals.

The Order makes transitory provision to enable the continued application of the existing law relating to mergers of water and sewerage undertakings until the commencement of the provisions of the Act (in particular, section 70 and Schedule 6) which relate to water mergers. It also contains transitional provisions relating to certain mergers and various savings.