
EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes transitional, consequential and supplemental provisions in connection with the dissolution of the Monopolies and Mergers Commission (“the MMC”) and the transfer of its functions to the Competition Commission (“the Commission”) which is effected by the coming into force of section 45 of the Competition Act 1998.

Article 3 provides for the continuing effect in respect of the Commission of things done by or against the MMC including references of matters to the MMC and legal proceedings.

Article 4 transfers to the Commission the property, rights, liabilities and obligations of the MMC. It also transfers to the Commission the liability of the Secretary of State to pay the pensions of former Chairmen and Deputy Chairmen of the MMC; to pay the remuneration, allowances or gratuities of members of the MMC who are to become members of the Commission; and to pay the pensions of the Chairman and deputy chairmen of the MMC who are to become Chairman and deputy chairmen of the Commission.

Article 5 provides that the repeal of the provisions of the Fair Trading Act 1973 under which determinations have been made as to the remuneration, pensions, allowances, gratuities or sums by way of compensation in respect of members of the MMC is not to affect the continuing application of those provisions so far as determinations made before the MMC is dissolved are concerned.

Article 6 provides that each deputy chairman of the MMC is to hold office as a deputy chairman of the Commission for the remainder of his terms of office and on the terms on which he was appointed.

Article 7 provides for the continuity of employment of staff of the MMC transferring to the Commission and for the transfer of rights, powers, liabilities and duties of the MMC to the Commission in respect of their contracts of employment.

Article 8 makes transitory amendments to sections 5 and 7 of the Competition Act 1980 in respect of references that may be made to the Commission under section 5 of that Act (or which may be in progress when the MMC is dissolved). Sections 5 and 7 of the Competition Act 1980 are repealed by the Competition Act 1998.

Part II of the Order makes amendments to a number of Acts and secondary legislation so as to substitute for references to MMC (or the Monopolies Commission the name by which it was previously known) references to the Commission. The United Kingdom Acts and Orders concerned are: the Agricultural Marketing Act 1958, the Airports Act 1986, the Broadcasting Act 1990, the Coal Industry Act 1994, the Companies Act 1989, the Consumer Protection Act 1987, the Copyright and Rights in Databases Regulations 1997, the Copyright, Designs and Patents Act 1988, the Courts and Legal Services Act 1990, the EC Competition Law (Articles 88 and 89) Enforcement Regulations 1996, the Economic Regulation of Airports (Expenses of the Monopolies and Mergers Commission) Regulations 1997, the Electricity Act 1989, the Fair Trading Act 1973, the Financial Services Act 1986, the Financial Services (Disclosure of Information) (Designated Authorities) (No. 6) Order 1989, the Gas Act 1986, the Patents Act 1977, the Public Records Act 1958, the Public Supply Contracts Regulations 1995, the Railways Act 1993, the Registered Designs Act 1949, the Restrictive Trade Practices (Information Agreements) Order 1969, the Superannuation Act 1972, the Telecommunications Act 1984, the Uncertificated Securities Regulations 1995, the Water Act 1989, the Water Consolidation (Consequential Provisions) Act 1991, the Water Industry Act 1991, and the Water Resources Act 1991. The Northern Ireland Orders concerned are: the Agricultural Marketing

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(Northern Ireland) Order 1982, the Airports (Northern Ireland) Order 1994, the Electricity (Northern Ireland) Order 1992, and the Gas (Northern Ireland) Order 1996.

Article 15 makes a consequential amendment by omitting the entry for the Monopolies and Mergers Commission in the House of Commons Disqualification Act 1975 (bodies of which all members are disqualified); the Commission being inserted by paragraph 28 of Schedule 7 to the Competition Act 1998.

Article 16 makes a consequential amendment by omitting the entry for the Monopolies and Mergers Commission in the Northern Ireland Assembly Disqualification Act 1975 (bodies of which all members are disqualified); the Commission being inserted by paragraph 29 of Schedule 7 to the Competition Act 1998.

Article 18 amends the Telecommunications Act 1984 to allow information that is confidential under that Act to be disclosed for the purpose of facilitating the functions of the Commission under specified Acts.

Article 19 amends the Airports Act 1986 to allow information that is confidential under that Act to be disclosed for the purposes of facilitating the functions of specified persons under the Competition Act 1998.

Article 20 amends the Gas Act to allow information that is confidential under that Act to be disclosed for the purpose of facilitating the functions of the Commission under specified Acts.

Article 28 amends the Courts and Legal Services Act 1990 to allow information that is confidential under that Act to be disclosed for the purposes of facilitating the functions of the Director General of Fair Trading under the Competition Act 1998 and of the Commission under that Act.

Article 29 amends the Broadcasting Act 1990 to allow information that is confidential under that Act to be disclosed for the purposes of facilitating the functions of specified persons under the Competition Act 1998 and for the purposes of any civil proceedings under the 1998 Act. It also replaces references to “Commission” (meaning the Independent Television Commission) in Schedule 4 with “ITC”.

Article 37 amends the EC Competition Law (Articles 88 and 89) Enforcement Regulations 1996 in respect of references of matters to the MMC under the Regulations to provide for the references to be made to the Competition Commission and for provisions of the Competition Act 1998 to apply in place of provisions of the Fair Trading Act 1973 that are being repealed.

Article 43 amends the Airports (Northern Ireland) Order 1994 to allow information that is confidential under that Order to be disclosed for the purposes of facilitating the functions of specified persons under the Competition Act 1998.

Article 45 revokes the Monopolies and Mergers Commission (Performance of Functions) Order 1989 and the Monopolies and Mergers Commission (Membership of Groups for Newspaper Merger References) Order 1982 each of which becomes spent on the repeal of Schedule 3 to the Fair Trading Act 1973.