

**EXPLANATORY MEMORANDUM TO  
THE INDICATION OF PRICES (BEDS) (REVOCATION) ORDER 2012**

**2012 No. 1816**

1. This explanatory memorandum has been prepared by the Department for Business, Innovation and Skills and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

- 2. Purpose of the instrument**

- 2.1 This Order revokes the Indication of Prices (Beds) Order 1978<sup>1</sup> (the 1978 Order), so far as it remains in force. The 1978 Order prohibited persons selling a bed from indicating a price at which another person may sell it.

- 3. Matters of Special Interest to the Joint Committee of Statutory Instruments**

- 3.1 The 1978 Order was made pursuant to powers conferred by section 12 of the Price Commission Act 1977 (as to Articles 1, 2 and 6) and by section 4(1)(c) of the Prices Act 1974 (as to Articles 1, 3, 4 and 5).
- 3.2 Articles 3, 4 and 5 were revoked by SI 1979/364. Articles 2 and 6 lapsed automatically in April 1980 on the repeal (without relevant savings or re-enactment) of section 12 of the Price Commission Act 1977 by section 33(4) of and schedule 2 to the Competition Act 1980.
- 3.3 That leaves article 1 of the 1978 Order. Article 1 was expressed in the preamble to the 1978 Order to have been made under both section 12 of the Price Commission Act 1977 (which has been repealed) and section 4(1)(c) of the Prices Act 1974 (which remains in force). Although we accept that, following the revocation of articles 3,4 and 5, and the lapse of articles 2 and 6, article 1 has no substantive effect, it does appear to remain in force under section 4(1)(c) of the Prices Act 1974, hence the need for this revoking instrument.

- 4. Legislative Context**

- 4.1 Under section 10 of the Price Commission Act 1977, the Secretary of State requested a report from the former Prices Commission on the relationship between recommended retail prices of beds and actual retail prices of beds. The Price Commission advised that there were problems in the operation of

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<sup>1</sup> SI 1978/1716 as amended by SI 1979/364.

resale prices in this market, as a result of which the 1978 Order was made using the powers described in paragraph 3.1 above.

4.2 The substantive provisions of the 1978 Order were revoked or lapsed quite shortly afterwards, in part due to the abolition of the Price Commission and the introduction of general controls over anti-competitive behaviour by the Competition Act 1980. That Act in turn was repealed and replaced by the Competition Act 1998, which prohibited anti-competitive behaviour (including the setting of resale prices across all markets). However, as explained in paragraph 3.3 above, article 1 of the 1978 Order remains in force.

4.3 The 1978 Order was therefore identified as being suitable for revocation under the Red Tape Challenge. The Red Tape Challenge was launched by the Coalition Government in April 2011 with the aim of removing unnecessary burdens on business and reducing the number of redundant regulations on the statute book.

## **5. Territorial Extent and Application**

5.1 This instrument applies to all of the United Kingdom.

## **6. European Convention on Human Rights**

6.1 As this order is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy Background**

- What is being done and why

7.1 The 1978 Order is being revoked since it is redundant. The 1978 Order prohibited persons selling a bed from indicating a price at which another person may sell it. The objectives of the 1978 Order have been superseded by first the Competition Act 1980 and more recently the Competition Act 1998. That legislation prohibits all forms of price fixing, and other practices which may affect free trade. The scope of the 1978 Order is also covered by the Consumer Protection from Unfair Trading Regulations 2008<sup>2</sup>. These prohibit certain misleading commercial practices.

- Consolidation

7.2 None.

## **8. Consultation Outcome**

8.1 The Government consulted on the proposed revocation of the 1978 Order as part of its Retail and Manufacturing Consultation which was open for

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<sup>2</sup> SI 2008/1277

comments for a period of eight weeks. The consultation closed on the 23 May 2012. The Government's response to the consultation was published on 16 July 2012.

8.2 All the respondents in relation to the 1978 Order were in favour of revoking the 1978 Order, agreeing with Government that the objectives of the Order had been made redundant by provisions in the Competition Act 1998 and the Consumer Protection from Unfair Trading Regulations 2008.

## **9. Guidance**

9.1 We do not propose to publish guidance.

## **10. Impact**

10.1 There is no impact on business, charities or voluntary bodies.

10.2 There is no impact on the public sector.

10.3 An Impact Assessment has not been prepared for this instrument.

## **11. Regulating Small Business**

11.1 The legislation applies to small business.

## **12. Monitoring and Review**

12.1 Since this Order revokes a redundant instrument a review is not necessary.

## **13. Contact**

13.1 Nicholas Blaney at the Department for Business, Innovation and Skills (Tel: 020 7215 6622 or email: [nicholas.blaney@bis.gsi.gov.uk](mailto:nicholas.blaney@bis.gsi.gov.uk)) can answer any queries regarding the Order.