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STATUTORY INSTRUMENTS

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**2018 No. 578**

**The Enterprise Act 2002 (Share of  
Supply Test) (Amendment) Order 2018**

**Relevant merger situations**

- 3.—(1) Section 23(1) (relevant merger situations) is amended as follows.
- (2) For subsection (2)(b) substitute—
- “(b) the share of supply test is met.”.
- (3) After subsection (2) insert—
- “(2A) The share of supply test is met if—
- (a) as a result of the enterprises ceasing to be distinct enterprises, one or both of the conditions mentioned in subsections (3) and (4) below prevails or prevails to a greater extent; or
- (b) in the course of the enterprises ceasing to be distinct a person or group of persons has brought a relevant enterprise under the ownership or control of the person or group and one or both of the conditions mentioned in subsections (4A) and (4B) below was satisfied in relation to the relevant enterprise before it ceased to be a distinct enterprise.”.
- (4) After subsection (4) insert—
- “(4A) The condition mentioned in this subsection is that, in relation to the supply of goods of any description—
- (a) at least one-quarter of all goods of that description which were supplied in the United Kingdom, or in a substantial part of the United Kingdom, were supplied by or to the person or persons by whom the enterprise was carried on, and
- (b) that supply was made in connection with activities of the enterprise by virtue of which it was a relevant enterprise.
- (4B) The condition mentioned in this subsection is that, in relation to the supply of services of any description—
- (a) the supply of services of that description in the United Kingdom, or in a substantial part of the United Kingdom, was to the extent of at least one-quarter of all the services of that description, supply by or for the person or persons by whom the enterprise is carried on, and
- (b) that supply was made in connection with activities of the enterprise by virtue of which it was a relevant enterprise.”.
- (5) In subsection (5), for “or (4)” substitute “, (4), (4A) or (4B)”.
- (6) In subsection (6), for “and (4)” substitute “, (4), (4A) and (4B)”.
- (7) After subsection (9) insert—

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(1) Section 23(9) was amended by paragraphs 59 and 68 of Part 2 of Schedule 5 to the Enterprise and Regulatory Reform Act 2013 c. 24.

“(10) Subsections (2) to (4) of section 26 apply for the purposes of this section as they apply for the purposes of that section.”.