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STATUTORY INSTRUMENTS

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**1998 No. 3166 (C.77)**

**COMPETITION**

**The Competition Act 1998 (Commencement No. 2) Order 1998**

*Made - - - - 16th December 1998*

*Coming into force - - 11th January 1999*

The Secretary of State in exercise of the powers conferred on him by section 76 of the Competition Act 1998<sup>(1)</sup> hereby makes the following Order:

**Citation**

1.—(1) This Order may be cited as the Competition Act 1998 (Commencement No. 2) Order 1998.

(2) In this Order references to sections and Schedules are references to sections of and Schedules to the Competition Act 1998 (“the Act”).

**Provisions of the Act commenced by this Order**

2. 11th January 1999 is the appointed day for the coming into force of the provisions of the Act listed in the first column of the Schedule to this Order for the purposes set out in the second column.

16th December 1998

*Kim Howells*  
Parliamentary Under Secretary of State for  
Competition and Consumer Affairs,  
Department of Trade and Industry

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## SCHEDULE

Article 2

PROVISIONS OF THE COMPETITION ACT 1998  
COMING INTO FORCE ON 11TH JANUARY 1999

PROVISIONS OF THE ACT	PURPOSE
Section 3(1)(a), (c) and (d) and (2) to (6) (Chapter I prohibition: excluded agreements)	For all purposes
Section 3(1)(b) (excluded agreements)	In so far as it relates to paragraph 6 of Schedule 2 (amendment to the Environment Act 1995(2))
Section 12(3) (regulations in respect of notification etc.)	For all purposes
Section 19 (Chapter II prohibition: excluded cases)	For all purposes
Section 38(1) to (7) (guidance as to penalties)	For all purposes
Section 50 (vertical agreements and land agreements)	For all purposes
Section 53 (Director's fees)	For all purposes
Section 54(3) (minor and consequential amendments)	In so far as relating to the provisions in Schedule 10 brought into force by this Order
Section 54(4) to (7) (regulators)	For all purposes
Section 55(6) (disclosure of information)	For all purposes
Section 57 (defamation)	For all purposes
Section 59 (interpretation)	In so far as not already in force
Section 60 (governing principles)	For all purposes
Section 69(3) (monopoly reports)	For all purposes
Section 74 (minor and consequential amendments, transitional provisions and savings, and repeals)	In so far as it relates to the provisions in Schedules 12, 13 and 14 brought into force by this Order
Schedule 1 (exclusions: mergers and concentrations)	For all purposes
In Schedule 2 paragraph 6 (amendment to the Environment Act 1995)	For all purposes
Schedule 3 (general exclusions)	For all purposes
Schedule 4 (professional rules)	For all purposes
In Schedule 10 paragraphs 9(7)(b)(4), 10(6) (b)(5), 11(b), 12(7)(b)(6), 13(10)(b)(7),	For all purposes

(2) 1995 c. 25.

(3) Repeals amendments made to s. 83 Fair Trading Act 1973 (c. 41) by s. 22 of the Competition Act 1980 (c. 21).

(4) Amends s. 101(3) Telecommunications Act 1984 (c. 12) which was amended by para. 13(2) of Sch. 12 to the Railways Act 1993 (c. 43).

(5) Amends s. 42(3) Gas Act 1986 (c. 44) which was amended by para. 24(2) of Sch. 12 to the Railways Act 1993.

PROVISIONS OF THE ACT	PURPOSE
14(b)(8), 15(9)(b), 17(7)(b)(9), 18(6)(b) (amendments to enactments and orders to enable information to be disclosed for the purposes of the Act)	
In Schedule 12 paragraphs 1(14)(10), 3(b)(11), 4(9)(12), 10(b)(13), 18(b), (amendments to enactments to enable information to be disclosed for the purposes of the Act)	For all purposes
In Schedule 12 paragraph 4(11) (consequential amendment)	For all purposes
In Schedule 13 paragraphs 10(5), and 19(3) (transitional provisions)	For all purposes
In Schedule 13 paragraphs 11 and 12(1) (transitional provisions)	For the purpose of prescribing modifications to the Restrictive Trade Practices Act 1976(14)
In Schedule 14 the entries relating to section 83 of the Fair Trading Act 1973 and to section 22 of the Competition Act 1980 (consequential amendments)	For all purposes

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order brings into force on 11th January 1999 certain provisions of the Competition Act 1998. Article 2 brings into force provisions in sections 3 and 19 which provide powers to add to, amend or remove exclusions from the Chapter I and II prohibitions in Schedules 1 and 3, and also brings into force those Schedules. It brings into force Schedule 4 which provides for designation of professional rules and their exclusion from the Chapter I prohibition. It brings into force amendments to section 94 of the Environment Act 1995 to confer powers to make provision for the application of the

- (6) Amends s. 57(3) Electricity Act 1989 (c. 29) which was amended by art. 2(2)(a) of The Electricity Act 1989 (Disclosure of Information) (Director General of Electricity Supply for Northern Ireland) Order 1995 (S.I. 1995/2356).
- (7) Amends Part II of Sch. 15 to the Water Industry Act 1991 (c. 56) which was amended by para. 30(b) of Sch. 12 to the Railways Act 1993.
- (8) Amends Part II of Sch. 24 to the Water Resources Act 1991 (c. 57) which was amended by para. 43(2)(b) of Sch. 9 to the Coal Industry Act 1994 (c. 21).
- (9) Amends art. 61(3) The Electricity (Northern Ireland) Order 1992 (S.I. 1992/231 (N.I. 1)) which was amended by Sch. 6 to The Gas (Northern Ireland) Order 1996 (S.I. 1996/275 (N.I. 2)).
- (10) Amends s. 133(2)(a) Fair Trading Act 1973 (c. 41) which was amended by para. 14(b) of Sch. 9 to the Coal Industry Act 1994.
- (11) Amends s. 10(3)(a) Estate Agents Act 1979 (c. 38) which was amended by para. 21(a) of Sch. 9 to the Coal Industry Act 1994.
- (12) Amends s. 19(3) Competition Act 1980 which was amended by art. 29(3) of The EC Competition Law (Articles 88 and 89) Enforcement Regulations 1996 (S.I. 1996/2199).
- (13) Amends s. 38(3) Consumer Protection Act 1987 (c. 43) which was amended by para. 26(2) of Sch. 12 to the Railways Act 1993.
- (14) 1976 c. 34.

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Competition Act 1998 to producer responsibility schemes. It also brings into force section 50 which confers power to exclude vertical agreements and land agreements from the Chapter I prohibition.

Article 2 brings into force the power in section 12(3) to make regulations for the application of sections 13 to 16 and Schedule 5 (which provide for notification of agreements for guidance and decisions, and for the effect of such guidance and decisions) in respect of agreements in respect of which an exclusion is withdrawn (or withdrawal is being considered). It brings into force section 53 which gives the Director power to charge fees for functions to be specified in rules made under section 51. It brings into force powers in section 54 to make regulations in respect of the exercise of concurrent functions by regulators. It brings into force the requirement in section 38 for the Director to publish guidance as to penalties that may be payable for breach of the prohibitions. It also brings into force section 57 which provides immunity for the purposes of defamation for the Director's advice, guidance, decisions etc.; and sections 59 and 60 which provide for the interpretation of words and expressions in Part I of the Act and the principles to be applied in the interpretation of Part I.

Article 2 brings into force the power in section 55 to specify additional persons and functions to whom, and for the purposes of which, information held subject to the Act's requirements as to confidentiality may be disclosed. It also brings into force amendments to enactments under which the disclosure of information is restricted to enable such information to be disclosed for the purposes of the Act. The enactments amended are: the Coal Industry Act 1994, the Competition Act 1980, the Consumer Protection Act 1987, the Electricity Act 1989, The Electricity (Northern Ireland) Order 1992, the Estate Agents Act 1979, the Fair Trading Act 1973, the Gas Act 1986, The Gas (Northern Ireland) Order 1996, the Railways Act 1993, the Telecommunications Act 1984, the Water Act 1989, the Water Industry Act 1991, and the Water Resources Act 1991.

Article 2 brings into force the repeal of section 83(1A) of the Fair Trading Act 1973 which requires a copy of an MMC report naming a person as monopolist to be transmitted to him 24 hours before the report is laid before Parliament and published.

Article 2 brings into force: the power to modify the application of sections 23 and 27 of the Restrictive Trade Practices Act 1976 (the RTPA) in respect of the maintenance of the register of agreements (registered under that Act) after the date when the prohibitions in the Competition Act 1998 come into force; and powers to modify the RTPA in respect of applications made under sections 3 and 26 of that Act which continue after that date. It also brings into force the powers to apply with modifications sections 13 to 16 and Schedule 5 of the Competition Act 1998 (providing for notification of agreements for guidance and decisions, and for the effect of such guidance and decisions) in respect of agreements which enjoy a transitional exclusion from the Chapter I prohibition.

#### **NOTE AS TO EARLIER COMMENCEMENT ORDERS**

*(This note is not part of the Order)*

The following provisions of the Competition Act 1998 were brought into force on 26th November 1998 by S.I. No. [1998/2750](#):

- s. 51
- s. 52
- s. 54(2) (partially)
- s. 59 (partially)
- Schedule 9
- In Schedule 10 paras 2 to 8 (partially).

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