



# Enterprise Act 2002

## CHAPTER 40

### ENTERPRISE ACT 2002

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*Status: Point in time view as at 20/06/2003.*

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2 *Terms of appointment, remuneration, pensions etc.*  
3 (1) An appointment of a person to hold office as...  
4 (1) The OFT shall pay to the chairman and other...  
5 *Staff*  
6 The OFT may, with the approval of the Minister for...  
7 *Membership of committees or sub-committees of OFT*  
8 *Proceedings etc.*  
9 The validity of anything done by the OFT is not...  
10 (1) The application of the seal of the OFT shall...  
11 A document purporting to be duly executed under the seal...

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- 12 *Performance of functions*
- 13 *Supplementary powers*
- 14 *Parliamentary Commissioner Act 1967 (c. 13)*
- 15 *House of Commons Disqualification Act 1975 (c. 24)*
- 16 *Northern Ireland Assembly Disqualification Act 1975 (c. 25)*

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- 1 *Appointment, etc. of President and chairmen*
- 2 (1) The members appointed as President or as chairmen shall...
- 3 If the President is absent or otherwise unable to act...
- 4 *Appointment, etc. of ordinary members*
- 5 *Remuneration etc. for members*
- 6 *Compensation for loss of office*
- 7 *Staff, accommodation and property*
- 8 *Miscellaneous*
- 9 In this Schedule “chairman” and “ordinary member” mean respectively  
a...
- 10 In Part 2 of Schedule 1 to the House of...
- 11 In Part 2 of Schedule 1 to the Northern Ireland...

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- 1 *Membership of the Service*
  - 2 *Chairman of Service*
  - 3 *Appointed members*
  - 4 *Allowances, etc. for members*
  - 5 If, where any person ceases to hold office as an...
  - 6 *Staff*
  - 7 *Procedure*
  - 8 (1) The application of the seal of the Service shall...
  - 9 A document purporting to be duly executed under the seal...
  - 10 *The Service’s powers*
  - 11 *Accounts*
  - 12 (1) The Service shall— (a) prepare a statement of accounts...
- ##### Part 2 — TRANSFERS OF PROPERTY ETC. BETWEEN THE COMMISSION AND THE SERVICE
- 13 (1) The Secretary of State may make one or more...
  - 14 (1) On the day appointed by a scheme under paragraph...
  - 15 The transfer by paragraph 14(1) of the rights and liabilities...
  - 16 (1) Anything done by or in relation to the transferor...
- ##### Part 3 — MISCELLANEOUS
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  - 18 In Part 2 of Schedule 1 to the Northern Ireland...

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- 2 *Enforcement of decisions in Great Britain*
- 3 If a decision of the Tribunal awards damages, costs or...
- 4 Subject to rules of court or any practice direction, a...
- 5 *Enforcement of decisions in Northern Ireland*
- 6 *Miscellaneous*
- 7 An award of costs or expenses against a specified body...

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8 In this Part of this Schedule any reference to damages...

Part 2 — TRIBUNAL RULES

9 *General*

10 Tribunal rules may make different provision for different kinds of...

11 *Institution of proceedings*

12 Tribunal rules may provide for the Tribunal to reject any...

13 Tribunal rules may provide for the Tribunal—

14 Tribunal rules may provide for the Tribunal to reject any...

15 Tribunal rules must ensure that no proceedings are rejected without...

16 *Pre-hearing reviews and preliminary matters*

17 *Conduct of the hearing*

18 *Quorum*

19 *Interest*

20 *Fees*

21 *Withdrawal of proceedings*

22 *Interim orders*

23 *Miscellaneous*

24 Tribunal rules may make provision— (a) for a person who...

25 Tribunal rules may make provision for the Tribunal to transfer...

26 Tribunal rules may make provision in connection with the transfer...

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1 Part 1 of the 1998 Act is amended as follows...

2 In section 46 (appealable decisions)— (a) in subsections (1) and...

3 Section 48 (appeal tribunals) shall cease to have effect.

4 For section 49 there is substituted— Further appeals (1) An appeal lies to the appropriate court—

5 In section 58(1) (findings of fact by director)—

6 In section 59(1) (interpretation of Part 1)—

7 (1) Schedule 7 (the Competition Commission) is amended as follows....

8 (1) Schedule 8 (appeals) is amended as follows.

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3 *Undertakings in lieu of reference under section 45 or 62*

4 (1) The relevant authority shall not make a reference under...

5 (1) Sub-paragraph (2) applies where the Secretary of State considers...

6 (1) Sub-paragraph (2) applies where— (a) the Secretary of State...

7 *Statutory restrictions following reference under section 45 or 62*

8 (1) Sub-paragraph (2) applies where— (a) a reference has been...

9 *Final undertakings and orders*

10 (1) Sub-paragraph (2) applies where the Secretary of State considers...

11 (1) The Secretary of State may, in accordance with section...

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2 *General restrictions on conduct*

3 (1) An order may prohibit the withholding from any person...

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- 4 An order may prohibit requiring as a condition of the...
- 5 An order may prohibit— (a) discrimination between persons in the...
- 6 An order may prohibit— (a) giving, or agreeing to give...
- 7 An order may prohibit— (a) charging, for goods or services...
- 8 (1) An order may regulate the prices to be charged...
- 9 An order may prohibit the exercise of any right to...
- 10 *General obligations to be performed*
- 11 An order may require any activities to be carried on...
- 12 *Acquisitions and divisions*
- 13 (1) An order may provide for— (a) the division of...
- 14 The references in paragraph 13 to the division of a...
- 15 *Supply and publication of information*
- 16 An order may prohibit any person from notifying (whether by...
- 17 (1) An order may require a person supplying goods or...
- 18 An order made by virtue of paragraph 15 or 17...
- 19 An order may— (a) require any person to supply information...
- 20 *National security*
- 20A *Newspaper mergers*
- 21 *Supplementary*
- 22 (1) An order which may prohibit the doing of anything...
- 23 *Interpretation*
- 24 In this Schedule “the relevant authority” means—

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- 1 *Telecommunications Act 1984 (c. 12)*
- 2 *Airports Act 1986 (c. 31)*
- 3 In paragraph 13 of Schedule 1 to that Act—
- 4 *Gas Act 1986 (c. 44)*
- 5 *Electricity Act 1989 (c. 29)*
- 6 *Broadcasting Act 1990 (c. 42)*
- 7 *Water Industry Act 1991 (c. 56)*
- 8 In section 36(1) of that Act (interpretation of Part 2...
- 9 *Electricity (Northern Ireland) Order 1992 (S.I. 1992/231 (N.I. 1))*
- 10 *Railways Act 1993 (c. 43)*
- 11 *Airports (Northern Ireland) Order 1994 (S.I. 1994/426 (N.I. 1))*
- 12 In paragraph 13 of Schedule 6 to that Order—
- 13 *Gas (Northern Ireland) Order 1996 (S.I. 1996/275 (N.I. 2))*
- 14 *Postal Services Act 2000 (c. 26)*
- 15 *Transport Act 2000 (c. 38)*

##### Part 2 — APPLICATION OF PART 4 OF THIS ACT TO SECTORAL REGULATORS

- 16 *Telecommunications Act 1984 (c. 12)*
- 17 *Gas Act 1986 (c. 44)*
- 18 *Electricity Act 1989 (c. 29)*
- 19 *Water Industry Act 1991 (c. 56)*
- 20 *Electricity (Northern Ireland) Order 1992 (S.I. 1992/231 (N.I. 1))*
- 21 *Railways Act 1993 (c. 43)*
- 22 *Gas (Northern Ireland) Order 1996 (S.I. 1996/275 (N.I. 2))*
- 23 *Transport Act 2000 (c. 38)*
- 24 (1) Section 86 of that Act (functions exercisable by the...
- 25 In section 87 of that Act (CAA’s 1973 Act functions)...

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26 In section 89 of that Act (carrying out functions) for...

#### SCHEDULE 10 — PROCEDURAL REQUIREMENTS FOR CERTAIN ENFORCEMENT UNDERTAKINGS AND ORDERS

- 1 *Requirements for accepting undertakings and making orders*
- 2 (1) Before accepting an undertaking to which this paragraph applies...
- 3 (1) If, after giving notice under paragraph 2(1) or (4),...
- 4 As soon as practicable after accepting an undertaking to which...
- 5 (1) The requirements of paragraph 2(4) (and those of paragraph...
- 6 *Termination of undertakings and orders*
- 7 (1) Before releasing an undertaking to which this paragraph applies...
- 8 As soon as practicable after releasing the undertaking or making...
- 9 *Power to dispense with the requirements of the Schedule*

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- 1 Schedule 7 to the 1998 Act is amended as follows....
- 2 In paragraph 1 (interpretation), after the definition of “newspaper merger...
- 3 In paragraph 2 (appointment of members)— (a) in sub-paragraph (1) (c),...
- 4 In paragraph 5 (the Council)— (a) in sub-paragraph (1), the...
- 5 In paragraph 6 (terms of appointment)— (a) in sub-paragraph (2),...
- 6 Paragraph 7(4) (approval of Treasury) shall cease to have effect....
- 7 Before paragraph 8 there is inserted— The Commission may publish advice and information in relation to...
- 8 In paragraph 9 (staff)— (a) sub-paragraph (2), and in sub-paragraph...
- 9 Paragraph 10 (procedure) shall cease to have effect.
- 10 (1) Paragraph 15 (discharge of certain functions by groups) is...
- 11 (1) Paragraph 20 (requirement for two-thirds majority on reports) is...
- 12 In paragraph 22 (panel of persons to act in newspaper...

#### SCHEDULE 12 — COMPETITION COMMISSION: CERTAIN PROCEDURAL RULES

#### SCHEDULE 13 — LISTED DIRECTIVES

##### Part 1 — DIRECTIVES

- 1 Council Directive 84/450/EEC of 10 September 1984 relating to the...
- 2 Council Directive 85/577/EEC of 20 December 1985 to protect the...
- 3 Council Directive 87/102/EEC of 22 December 1986 for the approximation...
- 4 Council Directive 90/314/EEC of 13 June 1990 on package travel,...
- 5 Council Directive 93/13/EEC of 5 April 1993 on unfair terms...
- 6 Directive 94/47/EC of the European Parliament and of the Council...
- 7 Directive 97/7/EC of the European Parliament and of the Council...
- 7A Directive 97/55/EC of the European Parliament and of the Council...
- 7B Directive 98/6/EC of the European Parliament and of the Council...
- 8 Directive 1999/44/EC of the European Parliament and of the Council...
- 9 Directive 2000/31/EC of the European Parliament and of the Council...
- 9A Directive 2002/65/EC of the European Parliament and of the Council...
- 9B Regulation (EC) No. 261/2004 of the European Parliament and of...

##### Part 2 — PROVISIONS OF DIRECTIVES

- 10 Articles 10 to 21 of Council Directive 89/552/EEC of 3...
- 11 Articles 86 to 100 of the Directive 2001/83/EC of the...

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## SCHEDULE 14 — SPECIFIED FUNCTIONS

Parts 1, 2, 3, 4, 5, 6, 7, 8 and...

## SCHEDULE 15 — Enactments conferring functions

Gun Barrel Proof Act 1868 (cap 113). Gun Barrel Proof...

## SCHEDULE 16 — Schedule B1 to Insolvency Act 1986

## SCHEDULE 17 — ADMINISTRATION: MINOR AND CONSEQUENTIAL AMENDMENTS

- 1 *General*
- 2 *Magistrates' Courts Act 1980 (c. 43)*
- 3 *Companies Act 1985 (c. 6)*
- 4 In section 225 (alteration of accounting reference date)—
- 5 In section 425(1) (power of company to compromise) for “an...
- 6 In section 427A(3) (mergers and divisions of public companies) for...
- 7 In section 652B(3) (duty when applying to strike off defunct...
- 8 In section 652C(4) (director's duty following application to strike off...
- 9 *Insolvency Act 1986 (c. 45)*
- 10 In section 1 (proposal for company voluntary arrangement)—
- 11 In section 5(3) (approval of company voluntary arrangement)—
- 12 In section 6(2)(c) (challenge of decision in relation to company...
- 13 In section 51 (power to appoint receiver: Scotland) after subsection...
- 14 At the end of section 100 (creditors' voluntary winding up...
- 15 At the end of section 127 (winding-up: avoidance of property...
- 16 After section 129(1) (commencement of winding up) insert—
- 17 In section 140 (appointment by court of liquidator following administration...
- 18 In section 212 (misfeasance of officers)— (a) in subsection (1)(b)...
- 19 Section 230(1) (administrator to be qualified insolvency practitioner) shall cease...
- 20 In section 231(1) and (2) (appointment to office of two...
- 21 In section 232 (validity of office-holder's act) omit the word...
- 22 In section 233 (utility supplies)— (a) for subsection (1)(a) substitute —...
- 23 For section 234(1)(a) (getting in the company's property) substitute—
- 24 For section 235(4)(a) (co-operation with office-holder) substitute—
- 25 For section 238(1)(a) (transactions at an undervalue: England and Wales)...
- 26 (1) Section 240 (relevant time for sections 238 and 239)...
- 27 (1) Section 241 (order under section 238 or 239) shall...
- 28 (1) Section 242 (gratuitous alienations: Scotland) shall be amended as...
- 29 (1) Section 243 (unfair preferences: Scotland) shall be amended as...
- 30 In section 244(2) (extortionate credit transaction) for “the day on...
- 31 (1) Section 245 (avoidance of floating charge) shall be amended...
- 32 For section 246(1)(a) (unenforceability of lien on records) substitute—
- 33 (1) Section 247 (meaning of “insolvency” and “go into liquidation”)...
- 34 (1) Section 387 (preferential debts: “the relevant date”) shall be...
- 35 In section 422 (power to apply first Group of Parts...
- 36 In section 424(1)(a) (application for order in relation to transaction...
- 37 (1) Schedule A1 (moratorium where directors propose voluntary arrangement) shall...
- 38 (1) Schedule 8 (scope of insolvency rules) shall be amended...
- 39 (1) Schedule 10 (punishment of offences) shall be amended as...



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- 40 *Company Directors Disqualification Act 1986 (c. 46)*
- 41 In section 6 (duty of court to disqualify unfit director...
- 42 In section 7(3) (duty of office-holder to report to Secretary...
- 43 *Companies Act 1989 (c. 40)*
- 44 In section 158 (modification of insolvency law)—
- 45 In section 161(4) (disapplication of enactments to default proceedings)  
for...
- 46 After section 167(1) (application by exchange or clearing house about...
- 47 (1) Section 175 (financial markets: administration) shall be amended  
as...
- 48 *Coal Industry Act 1994 (c. 21)*
- 49 *Employment Rights Act 1996 (c. 18)*
- 50 *Housing Act 1996 (c. 52)*
- 51 At the end of section 40 (initial notice to be...
- 52 At the end of section 41 (further notice to be...
- 53 *Financial Services and Markets Act 2000 (c. 8)*
- 54 (1) Section 215 (provision of Financial Services Compensation Scheme  
in...
- 55 For section 359 (administration order) substitute— Administration  
order (1) The Authority may make an administration application under  
Schedule...
- 56 For section 361 (administrator to report to Authority) substitute—  
Administrator's...
- 57 In section 362 (Financial Services Authority's right to participate in...
- 58 After section 362 insert— Administrator appointed by company or  
directors...
- 59 In section 427A(3) (mergers and divisions of public companies) for...

#### SCHEDULE 18 — SCHEDULE 2A TO INSOLVENCY ACT 1986

#### SCHEDULE 19 — DURATION OF BANKRUPTCY: TRANSITIONAL PROVISIONS

- 1 *Introduction*
- 2 In this Schedule— “commencement” means the date appointed under  
section...
- 3 *Neither old law nor new law to apply*
- 4 *General rule for discharge from pre-commencement bankruptcy*
- 5 *Second-time bankruptcy*
- 6 *Criminal bankruptcy*
- 7 *Income payments order*
- 8 *Bankruptcy restrictions order or undertaking*

#### SCHEDULE 20 — SCHEDULE 4A TO INSOLVENCY ACT 1986

#### SCHEDULE 21 — EFFECT OF BANKRUPTCY RESTRICTIONS ORDER AND UNDERTAKING

- 1 *Disqualification for acting as receiver or manager*
- 2 *Bankruptcy offences after discharge*
- 3 At the end of section 360 of that Act (obtaining...
- 4 *Disqualification for acting as insolvency practitioner*
- 5 *Prohibition against involvement in company*

#### SCHEDULE 22 — INDIVIDUAL VOLUNTARY ARRANGEMENT

- 1 *Annulment of bankruptcy on making of voluntary arrangement*

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- 2 *Fast-track for making voluntary arrangement*
- 3 *Role of official receiver*

#### SCHEDULE 23 — INDIVIDUAL INSOLVENCY: MINOR AND CONSEQUENTIAL AMENDMENTS

- 1 The Insolvency Act 1986 (c. 45) shall be amended as...
- 2 Section 275 (bankruptcy: summary administration) shall cease to have effect...
- 3 In section 280(1) (bankruptcy: discharge by order of court)—
- 4 In section 282 (annulment of bankruptcy)— (a) in subsection (4)...
- 5 For section 291(4) (co-operation with official receiver) substitute—
- 6 In section 292(1)(a) (trustee in bankruptcy: power to appoint) omit...
- 7 In section 293(1) (trustee in bankruptcy: meeting to appoint) omit...
- 8 In section 294(1) (power of creditors to requisition meeting) omit...
- 9 In section 297 (trustee: special cases)— (a) omit subsections (2)...
- 10 Omit section 298(3) (removal of trustee: summary administration).
- 11 In section 300 (trustee: vacancy)— (a) omit subsection (5), and...
- 12 In section 354(3) (concealment of property) after “the official receiver”...
- 13 At the end of section 355 (concealment and falsification of...
- 14 In the following provisions of section 399 (appointment of official...
- 15 In section 429(2)(b) (disability imposed on revoking administration order under...
- 16 (1) Schedule 9 (scope of insolvency rules) shall be amended...
- 17 In Schedule 10 (punishment of offences)— (a) in the entry...

#### SCHEDULE 24 — TRANSITIONAL AND TRANSITORY PROVISIONS AND SAVINGS

- 1 *Operation of references to OFT before commencement of section 2(3)*
- 2 *Pensions etc. of former Directors*
- 3 *First financial year of the OFT*
- 4 *First annual plan of the OFT*
- 5 *Last annual report of the Director General of Fair Trading*
- 6 *Effect of transfers under section 2*
- 7 *First President and Registrar of the Competition Appeal Tribunal*
- 8 The person who is Registrar of Appeal Tribunals (under paragraph...
- 9 Any person who is a member of the Competition Commission...
- 10 Any member of the Competition Commission appeal panel who is,...
- 11 Nothing in paragraph 7, 8, 9 or 10 applies to...
- 12 *Tribunal rules*
- 13 *Merger references*
- 14 *Monopoly references*
- 15 *Enforcement undertakings and orders*
- 16 (1) Sub-paragraph (2) applies to any undertaking—
- 17 (1) Any order made by a Minister of the Crown...
- 18 (1) Section 94(1) to (6) shall apply in relation to...
- 19 *Paragraphs 13 to 18: supplementary provision*
- 20 *Designation orders under Schedule 4 to the 1998 Act*
- 21 *Proceedings under Part 3 of the 1973 Act*
- 22 *Supplementary*

#### SCHEDULE 25 — MINOR AND CONSEQUENTIAL AMENDMENTS

- 1 *Registered Designs Act 1949 (c. 88)*
- 2 *Agricultural Marketing Act 1958 (c. 47)*

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- 3 *Public Records Act 1958 (c. 51)*
- 4 *Superannuation Act 1972 (c. 11)*
- 5 *Fair Trading Act 1973 (c. 41)*
- 6 *Consumer Credit Act 1974 (c. 39)*
- 7 *Restrictive Practices Court Act 1976 (c. 33)*
- 8 *Patents Act 1977 (c. 37)*
- 9 *Estate Agents Act 1979 (c. 38)*
- 10 *Competition Act 1980 (c. 21)*
- 11 *Civil Aviation Act 1982 (c. 16)*
- 12 *Agricultural Marketing (Northern Ireland) Order 1982 (S.I. 1982/1080 (N.I. 12))*
- 13 *Telecommunications Act 1984 (c. 12)*
- 14 *Airports Act 1986 (c. 31)*
- 15 *Gas Act 1986 (c. 44)*
- 16 *Consumer Protection Act 1987 (c. 43)*
- 17 *Consumer Protection (Northern Ireland) Order 1987 (S.I. 1987/2049 (N.I. 20))*
- 18 *Copyright, Designs and Patents Act 1988 (c. 48)*
- 19 *Water Act 1989 (c. 15)*
- 20 *Electricity Act 1989 (c. 29)*
- 21 *Companies Act 1989 (c. 40)*
- 22 *Companies (Northern Ireland) Order 1989 (S.I. 1990/593 (N.I. 5))*
- 23 *Courts and Legal Services Act 1990 (c. 41)*
- 24 *Broadcasting Act 1990 (c. 42)*
- 25 *Water Industry Act 1991 (c. 56)*
- 26 *Water Resources Act 1991 (c. 57)*
- 27 *Tribunals and Inquiries Act 1992 (c. 53)*
- 28 *Electricity (Northern Ireland) Order 1992 (S.I. 1992/231 (N.I. 1))*
- 29 *Osteopaths Act 1993 (c. 21)*
- 30 *Railways Act 1993 (c. 43)*
- 31 *Chiropractors Act 1994 (c. 17)*
- 32 *Coal Industry Act 1994 (c. 21)*
- 33 *Airports (Northern Ireland) Order 1994 (S.I. 1994/426 (N.I. 1))*
- 34 *Broadcasting Act 1996 (c. 55)*
- 35 *Channel Tunnel Rail Link Act 1996 (c. 61)*
- 36 *Gas (Northern Ireland) Order 1996 (S.I. 1996/275 (N.I. 2))*
- 37 *Data Protection Act 1998 (c. 29)*
- 38 *Competition Act 1998 (c. 41)*
- 39 *Greater London Authority Act 1999 (c. 29)*
- 40 *Financial Services and Markets Act 2000 (c. 8)*
- 41 *Terrorism Act 2000 (c. 11)*
- 42 *Postal Services Act 2000 (c. 26)*
- 43 *Utilities Act 2000 (c. 27)*
- 44 *Transport Act 2000 (c. 38)*

## SCHEDULE 26 — Repeals and revocations

**Status:**

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**Changes to legislation:**

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