

*These notes refer to the Enterprise Act 2002 (c.40)  
which received Royal Assent on 7 November 2002*

# ENTERPRISE ACT 2002

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 2: the Competition Appeal Tribunal**

#### **The Competition Appeal Tribunal**

#### *Schedule 4: Tribunal: procedure*

63. **Part 1** of this Schedule contains provisions concerning Tribunal decisions, and provides procedures for their enforcement. Paragraph 1 of this Schedule provides the procedure relating to decisions taken by the CAT. It contains similar provisions to those currently in paragraph 4 of Schedule 8 to CA 1998 (repealed by paragraph 8(5) of Schedule 5).
64. **Paragraphs 2-8** provide a procedure for the enforcement of certain decisions of the Tribunal that is distinct from the procedure for the enforcement of decisions of the OFT. At present, directions given by the CAT are enforced in the same way as OFT directions: thus the OFT must apply to the court under section 34 CA 1998 for an order requiring compliance with the CAT's direction. The new provisions provide a more direct means of enforcement, both of directions given by the CAT and awards of damages and costs.
65. The new procedures permit most decisions of the CAT to be enforceable by registration at the High Court in England and Wales, and by corresponding procedures in Scotland and Northern Ireland. By virtue of those procedures, the decision becomes enforceable in the same way as a judgment of the High Court (or, in Scotland, the Court of Session). However, penalties imposed by a decision of the CAT will continue to be enforced as a civil debt due to the OFT, under section 37 CA 1998.
66. **Part 2** of Schedule 4 (paragraphs 2-25) sets out some of the areas that the Rules of the CAT may cover, and is based on the current Part II of Schedule 8 to the CA 98 (repealed by paragraph 8(5) of Schedule 5). New provisions have been added to take into account the CAT's new roles, including appeals on judicial review grounds (for cases under Part 3 and Part 4) and damages claims in competition cases. The CAT rules do not have to cover all of the areas mentioned, and can also cover issues that are not specified.
67. **Part 2** includes provisions for rules to be made in relation to the rejection of proceedings by the CAT in various circumstances (subject to the parties being given the opportunity to be heard). These are, in cases other than damages claims, where the person bringing the proceedings does not have sufficient interest or shows no valid grounds; in the case of damages claims, where the CAT considers that there are no reasonable grounds for the claim or that a person bringing a representative claim is not entitled to do so; and in certain circumstances where the person bringing the proceedings has previously brought vexatious proceedings or made vexatious applications.