

*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 5: the Competition Commission**

##### ***Section 185: The Commission***

396. This section gives effect to Schedule 11, which amends the constitution and powers of the CC.

##### ***Section 186: Annual report of Commission***

397. This section requires the Competition Commission to produce an annual report at the end of each financial year covering its activities.

##### ***Schedule 11: The Competition Commission***

398. This Schedule makes various amendments to the constitution and powers of the CC. It amends Schedule 7 of CA98, which sets out the existing constitutional arrangements, in particular to add a new type of member to serve solely on the Council of the CC. The Schedule also updates the arrangements for appointing newspaper panel members so that, for example, it is the CC Chairman rather than the Secretary of State who will have responsibility for selecting individuals from the panel to serve on special newspaper merger reference groups. The Schedule also lists the effect on certain key types of decision (e.g. a decision that a merger is expected to result in a substantial lessening of competition) where the decision is not that of at least two-thirds of the members of the group.

##### ***Section 187 & Schedule 12: Commission rules of procedure***

399. This section gives the CC Chairman a new duty to make and publish rules of procedure to regulate the conduct of CC investigations under Parts 3 and 4 and the other enactments listed in paragraph 19(a)(9) of Schedule 7 to CA 1998 (as inserted by *subsection (3)*). Provision is made for the Chairman to consult with members of the CC and such other persons as he or she considers appropriate before making such rules (*subsection (4)*). The Chairman retains the existing FTA 1973 power to issue guidance to reporting groups on the conduct of references (*subsection (6)*). This may be useful for areas of procedure where some flexibility and discretion for panels is desirable.
400. *Schedule 12* contains a non-exhaustive list of the matters that may be covered by the CC Chairman's rules of procedure.