

1989 No. 122

MONOPOLIES AND MERGERS

**The Monopolies and Mergers Commission (Performance
of Functions) Order 1989**

Made - - - - - *30th January 1989*

Coming into force *31st January 1989*

Whereas a draft of this Order has been approved by a resolution of each House of Parliament pursuant to section 31 of the Competition Act 1980 (a);

And whereas it appears to the Secretary of State that the modifications made by this Order are appropriate for improving the performance by the Monopolies and Mergers Commission of their functions;

Now therefore the Secretary of State, in exercise of the powers conferred on him by section 24(b) of the said Act of 1980, hereby makes the following Order:

1. This Order may be cited as the Monopolies and Mergers Commission (Performance of Functions) Order 1989 and shall come into force on the day after the day on which it is made.

2.—(1) Paragraph 10 in Part II of Schedule 3 to the Fair Trading Act 1973 (c) shall be modified to the extent specified in paragraphs (2) and (3) below.

(2) For the word “five” wherever it occurs in sub-paragraph (1) of paragraph 10 there shall be substituted the word “three”.

(3) After sub-paragraph (1) of paragraph 10, there shall be inserted the following sub-paragraph:—

“(1A) Where no direction has been made under sub-paragraph (1) hereof with respect to the investigation on a merger reference the chairman of the Commission may perform the functions of the Commission under section 75(5) of this Act in relation to that reference and anything done by or in relation to the chairman in, or in connection with, the performance of those functions shall have the same effect as if it had been done by or in relation to the Commission.”

30th January 1989

Francis Maude
Parliamentary Under-Secretary of State
Department of Trade and Industry

(a) 1980 c.21.

(b) Section 24 was applied by section 44(3) of the Airports Act 1986 (c.31) and section 24(7) of the Gas Act 1986 (c.44).

(c) 1973 c.41; paragraph 10 in Part II was amended by S.I. 1982/1889; Part II was applied by section 7(6) of the Competition Act 1980, section 44(3) of the Airports Act 1986 and section 24(7) of the Gas Act 1986.

EXPLANATORY NOTE

(This note is not part of the Order)

Part II of Schedule 3 to the Fair Trading Act 1973 sets out the manner in which the Monopolies and Mergers Commission perform their functions. Power is given to the Secretary of State under the Competition Act 1980 to make such modifications to Part II as appear to him to be appropriate for improving the performance by the Commission of their functions.

Part II permits the chairman of the Commission to issue a direction enabling the Commission to perform their functions in relation to any investigation through a group of members of the Commission. This Order reduces from 5 to 3 the minimum number of members of the Commission who may constitute a group for the purpose of performing the functions of the Commission under the Fair Trading Act 1973, the Competition Act 1980, the Airports Act 1986 and the Gas Act 1986. For the purpose of the performance of the Commission's functions under the Telecommunications Act 1984, however, the minimum number who may constitute a group remains 5.

The Order also allows the chairman of the Commission to perform the functions of the Commission under section 75(5) of the Fair Trading Act 1973 in circumstances where he has not yet made a direction that the Commission should act through a group. Section 75(5) provides for the Commission to seek the Secretary of State's consent to the laying aside of a merger reference made under section 75 where it appears to them that the proposal which is the subject of the reference has been abandoned.

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