
STATUTORY INSTRUMENTS

1997 No. 1740

MONOPOLIES AND MERGERS

The Supply of Beer (Tied Estate) (Amendment) Order 1997

Made - - - - 22nd July 1997

Coming into force - - 22nd August 1997

Whereas the Secretary of State, in accordance with section 91(1) of and Schedule 9 to the Fair Trading Act 1973⁽¹⁾, caused notice of his intention to lay a draft of this Order to be published in the London Gazette, the Edinburgh Gazette and the Belfast Gazette on 7 March 1997 and in the Financial Times, the Independent, and the Licensee and Morning Advertiser on 10 March 1997, stating that it was proposed to lay a draft of this Order before Parliament, indicating the nature of the provisions to be embodied in it, stating that a copy of the draft would be available to be seen at all reasonable times in the offices of the Department of Trade and Industry at 1 Victoria Street (Room 6.J.8) London SW1H 0ET and stating that any person whose interests were likely to be affected by this Order and who was desirous of making representations in respect of it should do so in writing before 21 April 1997;

And whereas the Secretary of State considered the representations duly made to him with respect to the draft of this Order and not withdrawn;

And whereas the Secretary of State laid the draft of this Order before Parliament on 26th June 1997;

And whereas the said draft as so laid has been approved by resolution of each House of Parliament:

Now, therefore, the Secretary of State, being the appropriate Minister within the meaning of section 56 of the said Act, in exercise of the powers conferred by sections 56(2), 90(2), (3) and (4), and 134(2) of, and paragraphs 1 and 2 of Schedule 8 to, the said Act and for the purpose of remedying or preventing the adverse effects specified in the report of the Monopolies and Mergers Commission entitled “The Supply of Beer a report on the supply of beer for retail sale in the United Kingdom”⁽²⁾, hereby makes the following Order:—

1. This Order may be cited as the Supply of Beer (Tied Estate) (Amendment) Order 1997 and shall come into force one month after the day on which it is made.

2. Article 7 of the Supply of Beer (Tied Estate) Order 1989⁽³⁾ is amended—

- (a) by the substitution in paragraph (1) for “paragraph (4)” of “paragraphs (4) and (5)”; and
- (b) by the insertion after paragraph (2) of—

(1) 1973 c. 41; words in paragraph 4, Schedule 9, were repealed by the Companies Act 1989 (c. 40), Schedule 20 paragraph 20, and Schedule 24.

(2) Cm. 651.

(3) S.I.1989/2390.

- “(2A) Subject to article 8 below—
- (a) the parties to any agreement to which this article applies made before 1 April 1998 shall terminate it before that date, so far as it relates to beer of an alcoholic strength exceeding 1.2 per cent, to the extent that the person who is precluded or restricted from making relevant purchases is prevented by the agreement—
 - (i) from purchasing from whomsoever he may choose at least one brand of bottle-conditioned beer, selected by him, or
 - (ii) from selling or offering for sale on any one day at least one brand of bottle-conditioned beer so selected and purchased;
 - (b) it shall be unlawful on and after 1 April 1998 for any person to make or carry out an agreement to which this article applies except to the extent that subparagraph (a) above would not require it to be terminated if made before that date.”;
- (c) in paragraph (3)—
- (i) by the insertion after “consumption;” of “bottle-conditioned beer means beer which undergoes fermentation in the bottle from which it is served for consumption;”;
 - (ii) by the insertion after “selected by him” of “, or from purchasing from whomsoever he may choose or from selling or offering for sale at least one brand of bottle-conditioned beer selected by him”;
- (d) in paragraph (4), by the substitution for “This article” of “Paragraph (2) above”.
- (e) by the insertion after paragraph (4) of—
- “(5) Paragraph (2A) above does not apply to an agreement made before 1 April 1998 if immediately before that date no party to it is any longer a brewer who holds interests in more than two thousand licensed premises or a member of a large brewery group unless subsequently a party to it becomes or, as the case may be, becomes again such a brewer or a member of such a group”.

Nigel Griffiths,
Parliamentary Under Secretary of State for
Competition and Consumer Affairs, Department
of Trade and Industry

22nd July 1997

EXPLANATORY NOTE

This Order amends the Supply of Beer (Tied Estate) Order 1989. Article 7 of that Order provides that brewers and brewery groups owning more than two thousand licensed premises must allow their “tied” premises to sell one brand of draught cask-conditioned beer supplied by someone chosen by the tenant or recipient of the loan.

This Order provides that from 1 April 1998 such brewers and brewery groups must also allow their tied premises to sell one brand of bottle-conditioned beer supplied by someone chosen by the tenant or recipient of the loan.

Copies of the report of the Monopolies and Mergers Commission on the Supply of Beer (Cm.651) may be obtained from The Stationery Office.