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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order makes transitional, consequential and supplemental provisions in connection with the commencement on 1st March 2000 of the majority of the provisions of the Competition Act 1998 not previously commenced by the Competition Act 1998 (Commencement No. 5) Order 2000 (S.I.2000/00).

Article 2 provides that the Director General of Fair Trading may in certain circumstances terminate the transitional period in respect of an agreement which is excluded from the Chapter I prohibition by virtue of any provisions of the Competition Act 1998 (Land and Vertical Agreements Exclusion) Order 2000.

Article 3 makes a transitional provision in respect of sections 44 and 45 of the Patents Act 1977 with the effect that section 44 shall continue to apply in respect of any agreement made before the starting date and section 45 shall continue to apply where an application is made or notice given under that section before the starting date; sections 44 and 45 of the Patents Act being repealed by section 70 of the Competition Act 1998.

Article 4 makes a transitional provision for gateways for the disclosure of information for the purposes of functions or continuing proceedings under the Restrictive Trade Practices Act 1976 or the Resale Prices Act 1976, notwithstanding the repeal of provisions in other Acts which allowed the disclosure of such information. In the Order, disclosure gateways are repealed by articles 9(5), 13, 20, 25, 26(3), 32 and 35.

Articles 5, 22 and 27 make consequential amendments by repealing the references to the Competition Act 1980 from the following Acts: the Agricultural Marketing Act 1958, the Copyright, Designs and Patents Act 1988 and the New Roads and Street Works Act 1991; the relevant sections of the Competition Act 1980 being repealed by section 17 of the Competition Act 1998.

Article 6 makes a consequential amendment to the Cereals Marketing Act 1965 which removes from the Home Grown Cereals Authority its exclusion from the Restrictive Trade Practices Act 1976 and brings the authority within the scope of the Chapter I prohibition in the Competition Act 1998; the 1976 Act being repealed by section 1(b) of the 1998 Act.

Article 7 makes a consequential amendment to the Agriculture Act 1967 which removes the Secretary of State's power to direct that agreements entered into by the Meat and Livestock Commission in connection with a development scheme should not be subject to the terms of the Restrictive Trade Practices Act 1976; the 1976 Act being repealed by section 1(b) of the Competition Act 1998.

Article 8 makes a consequential amendment to the Agriculture (Miscellaneous Provisions) Act 1968 which removes from the agricultural marketing boards their exclusion from the Restrictive Trade Practices Act 1976 and brings the boards within the scope of the Chapter I prohibition; the 1976 Act being repealed by section 1(b) of the Competition Act 1998.

Article 9 makes a consequential amendment to the Fair Trading Act 1973 allowing for a dissenting report of the Commission to be given; Schedule 3 to the 1973 Act being repealed by section 74 of the Competition Act 1998. It further makes consequential amendments by repealing the references to sections 4, 9 or 10 of the Competition Act 1980 and the Restrictive Trade Practices Act 1976 from the 1973 Act; those sections and the 1976 Act being repealed by sections 17 and 1(b) of the Competition Act 1998 respectively. It further makes consequential amendments to the 1973 Act with the effect that information cannot be disclosed for the purposes of functions or proceedings under the

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Restrictive Trade Practices Acts 1956 or 1968. Disclosure can additionally be made for the purposes of proceedings under the Competition Act 1998.

Article 10 makes a consequential repeal of the Participation Agreements Act 1978, which excluded from the provisions of the Restrictive Trade Practices Act 1976 agreements between the British Government and British National Oil Corporation for certain activities related to petroleum; the 1976 Act being repealed by section 1(b) of the Competition Act 1998.

Articles 11, 14 to 16, 18 to 20, 23 to 25, 26(3), 27, 35, 37, 39, 40, 42 and 44 make consequential amendments by repealing or revoking references to the Restrictive Trade Practices Act 1976 in the following Acts or Orders: the Competition Act 1980, the Transport Act 1985, the Housing Act 1985, the Housing Associations Act 1985, the Gas Act 1986 (the provision being preserved for a transitional period), the Insolvency Act 1986 (save for the definition of insolvency), the Financial Services Act 1986, the Electricity Act 1989 (the provision being preserved for a transitional period), the Companies Act 1989, the Courts and Legal Services Act 1990, the Broadcasting Act 1990, the New Roads and Street Works Act 1991, the Greater London Authority Act 1999, the Housing (Northern Ireland) Order 1981, the Companies (No. 2) (Northern Ireland) Order 1990, the Roads (Northern Ireland) Order 1993, the Gas (Northern Ireland) Order 1996 (the provision being preserved for a transitional period) and the Housing (Scotland) Act 1987; the 1976 Act being repealed by section 1(b) of the Competition Act 1998.

Article 12 makes a consequential amendment to remove the exclusion from the Restrictive Trade Practices Act 1976 applied under the Merchant Shipping (Liner Conferences) Act 1982; the 1976 Act being repealed by section 1(b) of the Competition Act 1998. An agreement under that section of the 1982 Act is not unenforceable by virtue of any rule of law about unreasonable restraint of trade.

Article 13 makes consequential amendments by repealing the entries for the Restrictive Trade Practices Act 1976 and the Monopolies and Mergers Commission in the Insurance Companies Act 1982; the 1976 Act being repealed by section 1(b) and the Monopolies and Mergers Commission having been dissolved and its functions transferred to the Competition Commission by section 45 of the Competition Act 1998. It further amends the 1982 Act to allow information that is confidential under that Act to be disclosed for the purposes of facilitating the functions of specified persons under the 1998 Act.

Articles 17, 32 and 41 make consequential amendments by repealing the entries for the Restrictive Trade Practices Act 1976 and the Resale Prices Act 1976 from the following pieces of legislation: the Airports Act 1986, the EC Competition Law (Articles 88 and 89) Enforcement Regulations 1996 and the Airports (Northern Ireland) Order 1994; the 1976 Acts being repealed by sections 1(b) and (c) of the Competition Act 1998.

Article 21 makes a consequential amendment by repealing entries to the Restrictive Trade Practices Act 1976 in the Channel Tunnel Act 1987; the 1976 Act being repealed by section 1(b) of the Competition Act 1998 and the Orders referred to in section 33(5) of the 1987 Act ceasing to have effect pursuant to paragraph 9(1)(a) of Schedule 13 to the 1998 Act.

Articles 24, 30 and 38 make consequential amendments by repealing or revoking the entry to and removing the exclusion of relevant agreements from the Competition Act 1980 in the Companies Act 1989, the Uncertificated Securities Regulations 1995 and the Companies (Northern Ireland) Order 1990; the relevant provisions of the 1980 Act being repealed by section 17 of the Competition Act 1998.

Article 26(2) makes a consequential amendment by repealing the entry for the Restrictive Trade Practices Act 1976 from the Broadcasting Act 1990 with the effect that the exclusion applicable to networking agreements is removed; the 1976 Act being repealed by section 1(b) of the Competition Act 1998.

Articles 28 and 43 make consequential amendments by repealing the entry for the Restrictive Trade Practices Act 1976 from the Environment Act 1995 and the Producer Responsibility Obligations (Northern Ireland) Order 1998 with the effect that the possibility to modify or exclude the application

of the 1976 Act to the described agreements is removed; the 1976 Act being repealed by section 1(b) of the Competition Act 1998.

Articles 29 and 34 make consequential amendments to the Gas Act 1995 and the Petroleum Act 1998 respectively by repealing references to section 62 of the Gas Act 1986, the provisions being saved for a transitional period. Section 62 of the 1986 Act excludes certain agreements from the Restrictive Trade Practices Act 1976 and is repealed by Article 18(2) of this Order; the 1976 Act being repealed by section 1(b) of the Competition Act 1998.

Article 30 makes a consequential amendment by revoking the entry for the Restrictive Trade Practices Act 1976 from the Uncertificated Securities Regulations 1995 with the effect that the exclusion of agreements between Operators from the application of the 1976 Act is removed; the 1976 Act being repealed by section 1(b) of the Competition Act 1998.

Article 31 makes a consequential amendment by repealing the entry for the Restrictive Trade Practices Act 1976 from the Channel Tunnel Rail Link Act 1996 with the effect that the exclusion of development agreements from the application of the 1976 Act is removed; the 1976 Act being repealed by section 1(b) of the Competition Act 1998.

Article 33 makes a consequential amendment by repealing the entry for the Restrictive Trade Practices Act 1976 from the Plant Varieties Act 1997 with the effect that the exclusion of the grants and assignments of licences of breeders' rights specified in the 1997 Act from the 1976 Act is removed; the 1976 Act being repealed by section 1(b) of the Competition Act 1998.

Article 36 makes a consequential amendment in the Livestock Marketing Commission Act (Northern Ireland) 1967 which removes the power of the Department of Agriculture and Rural Development in Northern Ireland to direct that agreements entered into by the Commission in connection with a development scheme should not be subject to the provisions of the Restrictive Trade Practices Act 1976; the 1976 Act being repealed by section 1(b) of the Competition Act 1998.