

Status: Point in time view as at 20/06/2003.

Changes to legislation: There are currently no known outstanding effects for the Enterprise Act 2002 (repealed), Part 1. (See end of Document for details)

SCHEDULES

SCHEDULE 9

CERTAIN AMENDMENTS OF SECTORAL ENACTMENTS

PART 1

POWER OF ENFORCEMENT ORDERS TO AMEND LICENCE CONDITIONS ETC.

Textual Amendments applied to the whole legislation

- F1** Act: for the words "solicitor of the Supreme Court of Northern Ireland" wherever they occur there is substituted (prosp.) the words "solicitor of the Court of Judicature of Northern Ireland" by virtue of [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 59, 148(1), [Sch. 11 para. 5](#) [Editorial Note: this amendment will be carried through into the text of the Act at the same time as any other effects on the Act for the year in which the relevant commencement order (or first such order) is made]

Telecommunications Act 1984 (c. 12)

- 1 (1) Section 95 of the Telecommunications Act 1984 (modification of licence conditions by order) shall be amended as follows.
- (2) For subsections (1) and (2) there shall be substituted—
- “(1) Where the Office of Fair Trading, the Commission or (as the case may be) the Secretary of State (in this section “the relevant authority”) makes a relevant order, the order may also provide for the revocation or modification of licences granted under section 7 above to such extent as may appear to the relevant authority to be requisite or expedient for the purpose of giving effect to, or taking account of, any provision made by the order.
- (2) In subsection (1) above, “relevant order” means—
- (a) an order under section 75, 83 or 84 of, or paragraph 5, 10 or 11 of Schedule 7 to, the Enterprise Act 2002 where—
- (i) one or more than one of the enterprises which have, or may have, ceased to be distinct enterprises was engaged in the carrying on of a commercial activity connected with telecommunications; or
- (ii) one or more than one of the enterprises which will or may cease to be distinct enterprises is engaged in the carrying on of a commercial activity connected with telecommunications; or
- (b) an order under section 160 or 161 of that Act where the feature, or combination of features, of the market in the United Kingdom for goods or services which prevents, restricts or

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distorts competition relates to commercial activities connected with telecommunications.”

(3) For subsection (3) there shall be substituted—

“(3) Expressions used in subsection (2) above and in Part 3 or (as the case may be) Part 4 of the Enterprise Act 2002 have the same meanings in that subsection as in that Part.”

Airports Act 1986 (c. 31)

2 (1) Section 54 of the Airports Act 1986 (modification of certain conditions in force under Part 4 of that Act) shall be amended as follows.

(2) For subsection (1) there shall be substituted—

“(1) Where the Office of Fair Trading, the Competition Commission or (as the case may be) the Secretary of State (in this section “the relevant authority”) makes a relevant order, the order may also provide for the revocation or modification of any relevant conditions to such extent as may appear to the relevant authority to be requisite or expedient for the purpose of giving effect to, or taking account of, any provision made by the order.

(1A) In subsection (1) “relevant order” means—

- (a) an order under section 75, 83 or 84 of, or paragraph 5, 10 or 11 of Schedule 7 to, the Enterprise Act 2002 where—
 - (i) one or more than one of the enterprises which have, or may have, ceased to be distinct enterprises was carried on by an airport operator; or
 - (ii) one or more than one of the enterprises which will or may cease to be distinct enterprises is carried on by an airport operator; or
- (b) an order under section 160 or 161 of that Act where the feature, or combination of features, of the market in the United Kingdom for goods or services which prevents, restricts or distorts competition relates to the carrying on of any operational activities relating to one or more than one airport.”

(3) Subsection (3) shall cease to have effect.

(4) For subsection (4) there shall be substituted—

“(4) Expressions used in subsection (1A) and in Part 3 or (as the case may be) Part 4 of the Enterprise Act 2002 have the same meanings in that subsection as in that Part.”

3 In paragraph 13 of Schedule 1 to that Act—

- (a) for “section 54(3)(b)” there shall be substituted “ section 54(1A) ”;
- (b) for “the reference” there shall be substituted “ references ”; and
- (c) for “a reference” there shall be substituted “ references ”.

Gas Act 1986 (c. 44)

4 (1) Section 27 of the Gas Act 1986 (modification of licence conditions by order) shall be amended as follows.

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(2) For subsection (1) there shall be substituted—

“(1) Where the Office of Fair Trading, the Competition Commission or (as the case may be) the Secretary of State (in this section “the relevant authority”) makes a relevant order, the order may also provide for the modification of—

- (a) the conditions of a particular licence; or
- (b) the standard conditions of licences under section 7 above, licences under subsection (1) of section 7A above or licences under subsection (2) of that section,

to such extent as may appear to the relevant authority to be requisite or expedient for the purpose of giving effect to, or taking account of, any provision made by the order.

(1ZA) In subsection (1) above “relevant order” means—

- (a) an order under section 75, 83 or 84 of, or paragraph 5, 10 or 11 of Schedule 7 to, the Enterprise Act 2002 where—
 - (i) one or more than one of the enterprises which have, or may have, ceased to be distinct enterprises was engaged in the carrying on of activities authorised or regulated by a licence; or
 - (ii) one or more than one of the enterprises which will or may cease to be distinct enterprises is engaged in the carrying on of activities authorised or regulated by a licence; or
- (b) an order under section 160 or 161 of that Act where the feature, or combination of features, of the market in the United Kingdom for goods or services which prevents, restricts or distorts competition relates to—
 - (i) activities authorised or regulated by a licence; or
 - (ii) the storage of gas on terms which have been determined by the holder of a licence under section 7 above, or could have been determined by the holder if he had thought fit or had been required to determine them by or under a condition of the licence.”

(3) In subsection (2)—

- (a) for the words “Secretary of State” there shall be substituted “ relevant authority ”;
- (b) for the words “section, he” there shall be substituted “ section, the relevant authority ”; and
- (c) for the words “as he considers” there shall be substituted “ as the relevant authority considers ”.

(4) Subsections (3) and (4) shall cease to have effect.

(5) In subsection (5)—

- (a) for the words “Secretary of State” there shall be substituted “ relevant authority ”; and
- (b) for the words “he”, in both places where they appear, there shall be substituted “ the relevant authority ”.

(6) For subsection (6) there shall be substituted—

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“(6) Expressions used in subsection (1ZA) above and in Part 3 or (as the case may be) Part 4 of the Enterprise Act 2002 have the same meanings in that subsection as in that Part.”

Electricity Act 1989 (c. 29)

5 (1) Section 15 of the Electricity Act 1989 (modification of licence conditions by order) shall be amended as follows.

(2) For subsections (1) and (2) there shall be substituted—

“(1) Where the Office of Fair Trading, the Competition Commission or (as the case may be) the Secretary of State (in this section “the relevant authority”) makes a relevant order, the order may also provide for the modification of the conditions of a particular licence, or the standard conditions of licences of any type mentioned in section 6(1), to such extent as may appear to the relevant authority to be requisite or expedient for the purpose of giving effect to, or taking account of, any provision made by the order.

(2) In subsection (1) above “relevant order” means—

(a) an order under section 75, 83 or 84 of, or paragraph 5, 10 or 11 of Schedule 7 to, the Enterprise Act 2002 where—

(i) one or more than one of the enterprises which have, or may have, ceased to be distinct enterprises was engaged in the carrying on of activities authorised or regulated by a licence; or

(ii) one or more than one of the enterprises which will or may cease to be distinct enterprises is engaged in the carrying on of activities authorised or regulated by a licence; or

(b) an order under section 160 or 161 of that Act where the feature, or combination of features, of the market in the United Kingdom for goods or services which prevents, restricts or distorts competition relates to the generation, transmission, distribution or supply of electricity.”

(3) For subsection (2B) there shall be substituted—

“(2B) Where the relevant authority modifies under subsection (1) the standard conditions of licences of any type, the relevant authority—

(a) shall also make (as nearly as may be) the same modifications of those conditions for the purposes of their incorporation in licences of that type granted after that time; and

(b) may, after consultation with the Authority, make such incidental or consequential modifications as the relevant authority considers necessary or expedient of any conditions of any licence of that type granted before that time.”

(4) In subsection (2C)—

(a) for the words “Secretary of State” there shall be substituted “relevant authority”; and

(b) for the words “he”, in both places where they appear, there shall be substituted “the relevant authority”.

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(5) For subsection (3) there shall be substituted—

“(3) Expressions used in subsection (2) above and in Part 3 or (as the case may be) Part 4 of the Enterprise Act 2002 have the same meanings in that subsection as in that Part.”

Broadcasting Act 1990 (c. 42)

6 For section 193 of the Broadcasting Act 1990 (modification of networking arrangements in consequence of reports under competition legislation) there shall be substituted—

“193 Modification of networking arrangements in consequence of competition legislation

(1) Where the Office of Fair Trading, the Competition Commission or (as the case may be) the Secretary of State (in this section “the relevant authority”) makes a relevant order, the order may also provide for the modification of any networking arrangements to such extent as may appear to the relevant authority to be requisite or expedient for the purpose of giving effect to, or taking account of, any provision made by the order.

(2) In subsection (1) “relevant order” means—

- (a) an order under section 75, 83 or 84 of, or paragraph 5, 10 or 11 of Schedule 7 to, the Enterprise Act 2002 where—
 - (i) one or more than one of the enterprises which have, or may have, ceased to be distinct enterprises was engaged in the provision of programmes for broadcasting in regional Channel 3 services; or
 - (ii) one or more than one of the enterprises which will or may cease to be distinct enterprises is engaged in the provision of such programmes; or
- (b) an order under section 160 or 161 of that Act where the feature, or combination of features, of the market in the United Kingdom for goods or services which prevents, restricts or distorts competition relates to the provision of programmes for broadcasting in regional Channel 3 services.

(3) Expressions used in subsection (2) and in Part 3 or (as the case may be) Part 4 of the Enterprise Act 2002 have the same meanings in that subsection as in that Part.

(4) In this section —

“networking arrangements” means any such arrangements as are mentioned in section 39(1) above; and

“regional Channel 3 service” has the meaning given by section 14(6) above.”

Water Industry Act 1991 (c. 56)

7 (1) Section 17 of the Water Industry Act 1991 (modification of conditions of appointment by order) shall be amended as follows.

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(2) For subsections (1) and (2) there shall be substituted—

“(1) Where the OFT, the Competition Commission or (as the case may be) the Secretary of State (in this section “the relevant authority”) makes a relevant order, the order may, subject to subsection (3), also provide for the modification of the conditions of a company’s appointment under this Chapter to such extent as may appear to the relevant authority to be requisite or expedient for the purpose of giving effect to, or taking account of, any provision made by the order.

(2) In subsection (1) above “relevant order” means—

- (a) an order under section 75, 83 or 84 of, or paragraph 5, 10 or 11 of Schedule 7 to, the 2002 Act where—
 - (i) one or more than one of the enterprises which have, or may have, ceased to be distinct enterprises was carried on by a relevant undertaker; or
 - (ii) one or more than one of the enterprises which will or may cease to be distinct enterprises is carried on by a relevant undertaker; or
- (b) an order under section 160 or 161 of the 2002 Act where the feature, or combination of features, of the market in the United Kingdom for goods or services which prevents, restricts or distorts competition is—
 - (i) the structure or an aspect of the structure of a market for the supply of goods or services by a relevant undertaker; or
 - (ii) the conduct of a relevant undertaker or of customers of a relevant undertaker.”

(3) For subsection (4) there shall be substituted—

“(4) Expressions used in subsection (2) above and in Part 3 or (as the case may be) Part 4 of the 2002 Act have the same meanings in that subsection as in that Part.”

Commencement Information

- II** Sch. 9 para. 7 not in force at Royal Assent see s. 279; Sch. 9 para. 7 in force at 20.6.2003 subject to art. 3(1) of the commencing S.I. by S.I. 2003/1397, art. 2(1), Sch.; Sch. 9 para. 7 in force for water purposes at 29.12.2004 by S.I. 2004/3233, art. 2, Sch.

8 In section 36(1) of that Act (interpretation of Part 2 of that Act)—

- (a) the definition of “the 1973 Act”, and the word “and” at the end of the definition, shall cease to have effect; and
- (b) at the end of the subsection there shall be inserted—

““the 2002 Act” means the Enterprise Act 2002;”.

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Commencement Information

- 12** Sch. 9 para. 8 wholly in force at 29.12.2004; Sch. 9 para. 8 not in force at Royal Assent see s. 279; Sch. 9 para. 8(b) in force at 20.6.2003 by S.I. 2003/1397, art. 2(1), Sch., Sch. 9 para. 8(a) in force at 29.12.2004 by S.I. 2004/3233, art. 2, Sch.

Electricity (Northern Ireland) Order 1992 (S.I. 1992/231 (N.I. 1))

- 9 For article 18 of the Electricity (Northern Ireland) Order 1992 (modification of licence conditions by order) there shall be substituted—

Modification by order under other statutory provisions

“18 (1) Where the Office of Fair Trading, the Competition Commission or (as the case may be) the Secretary of State (in this Article “the relevant authority”) makes a relevant order, the order may also provide for the modification of the conditions of a licence to such extent as may appear to the relevant authority to be requisite or expedient for the purpose of giving effect to, or taking account of, any provision made by the order.

(2) In paragraph (1) “relevant order” means—

- (a) an order under section 75, 83 or 84 of, or paragraph 5, 10 or 11 of Schedule 7 to, the Enterprise Act 2002 where—
- (i) one or more than one of the enterprises which have, or may have, ceased to be distinct enterprises was engaged in the carrying on of activities authorised or regulated by a licence; or
 - (ii) one or more than one of the enterprises which will or may cease to be distinct enterprises is engaged in the carrying on of activities authorised or regulated by a licence; or
- (b) an order under section 160 or 161 of that Act where the feature, or combination of features, of the market in the United Kingdom for goods or services which prevents, restricts or distorts competition relates to the generation, transmission or supply of electricity.

(3) In paragraph (2) expressions which are also used in Part 3 or, as the case may be, Part 4 of the Enterprise Act 2002 have the same meanings as in that Part of that Act.”

Railways Act 1993 (c. 43)

- 10 (1) Section 16 of the Railways Act 1993 (modification of licence conditions by order) shall be amended as follows.

(2) For subsections (1) and (2) there shall be substituted—

“(1) Where the OFT, the Competition Commission or (as the case may be) the Secretary of State (in this section “the relevant authority”) makes a relevant order, the order may also provide for the modification of the conditions of a licence to such extent as may appear to the relevant authority to be requisite or expedient for the purpose of giving effect to, or taking account of, any provision made by the order.

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- (2) In subsection (1) above “relevant order” means—
- (a) an order under section 75, 83 or 84 of, or paragraph 5, 10 or 11 of Schedule 7 to, the Enterprise Act 2002 where—
 - (i) one or more than one of the enterprises which have, or may have, ceased to be distinct enterprises was engaged in the supply of services relating to railways; or
 - (ii) one or more than one of the enterprises which will or may cease to be distinct enterprises is engaged in the supply of services relating to railways; or
 - (b) an order under section 160 or 161 of that Act where the feature, or combination of features, of the market in the United Kingdom for goods or services which prevents, restricts or distorts competition relates to the supply of services relating to railways.”
- (3) In subsection (3) for the words “Secretary of State” there shall be substituted “relevant authority”.
- (4) For subsection (5) there shall be substituted—
- “(5) Expressions used in subsection (2) above and in Part 3 or (as the case may be) Part 4 of the Enterprise Act 2002 have the same meanings in that subsection as in that Part; and in subsection (2) above “services relating to railways” has the same meaning as in section 67(2A) of this Act.”

Airports (Northern Ireland) Order 1994 (S.I. 1994/426 (N.I. 1))

- 11 (1) Article 45 of the Airports (Northern Ireland) Order 1994 (modification of certain conditions in force under Part 4 of that Order) shall be amended as follows.
- (2) For paragraph (1) there shall be substituted—
- “(1) Where the Office of Fair Trading, the Competition Commission or (as the case may be) the Secretary of State (in this Article “the relevant authority”) makes a relevant order, the order may also provide for the revocation or modification of any relevant conditions to such extent as may appear to the relevant authority to be requisite or expedient for the purpose of giving effect to, or taking account of, any provision made by the order.
- (1A) In paragraph (1) “relevant order” means—
- (a) an order under section 75, 83 or 84 of, or paragraph 5, 10 or 11 of Schedule 7 to, the Enterprise Act 2002 where—
 - (i) one or more than one of the enterprises which have, or may have, ceased to be distinct enterprises was carried on by an airport operator; or
 - (ii) one or more than one of the enterprises which will or may cease to be distinct enterprises is carried on by an airport operator; or
 - (b) an order under section 160 or 161 of that Act where the feature, or combination of features, of the market in the United Kingdom for goods or services which prevents, restricts or distorts competition relates to the carrying on of any operational activities relating to one or more than one airport.”

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(3) Paragraph (3) shall cease to have effect.

(4) For paragraph (4) there shall be substituted—

“(4) Expressions used in paragraph (1A) and in Part 3 or (as the case may be) Part 4 of the Enterprise Act 2002 have the same meanings in that paragraph as in that Part.”

12 In paragraph 13 of Schedule 6 to that Order—

- (a) for “Article 45(3)(b)” there shall be substituted “ Article 45(1A) ”;
- (b) for “the reference” there shall be substituted “ references ”; and
- (c) for “a reference” there shall be substituted “ references ”.

Gas (Northern Ireland) Order 1996 (S.I. 1996/275 (N.I. 2))

13 (1) Article 18 of the Gas (Northern Ireland) Order 1996 (modification of licence conditions by order) shall be amended as follows.

(2) For paragraph (1) there shall be substituted—

“(1) Where the Office of Fair Trading, the Competition Commission or (as the case may be) the Secretary of State (in this Article “the relevant authority”) makes a relevant order, the order may also provide for the modification of—

- (a) the conditions of a particular licence; or
- (b) the standard conditions of licences under sub-paragraph (a), (b) or (c) of Article 8(1),

to such extent as may appear to the relevant authority to be requisite or expedient for the purpose of giving effect to, or taking account of, any provision made by the order.

(1A) In paragraph (1) “relevant order” means—

- (a) an order under section 75, 83 or 84 of, or paragraph 5, 10 or 11 of Schedule 7 to, the Enterprise Act 2002 where—
 - (i) one or more than one of the enterprises which have, or may have, ceased to be distinct enterprises was engaged in the carrying on of activities authorised or regulated by a licence; or
 - (ii) one or more than one of the enterprises which will or may cease to be distinct enterprises is engaged in the carrying on of activities authorised or regulated by a licence; or
- (b) an order under section 160 or 161 of that Act where the feature, or combination of features, of the market in the United Kingdom for goods or services which prevents, restricts or distorts competition relates to activities authorised or regulated by a licence.”

(3) In paragraph (2)—

- (a) for the words “Secretary of State modifies under paragraph (1)(ii)” there shall be substituted “ relevant authority modifies under paragraph (1)(b) ”; and
- (b) for the word “he”, in both places where it appears, there shall be substituted “ the relevant authority ”.

(4) Paragraph (3) shall cease to have effect.

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- (5) In paragraph (4)—
- (a) for the words “Secretary of State” there shall be substituted “ relevant authority ”; and
 - (b) for the word “he”, in both places where it appears, there shall be substituted “ the relevant authority ”.
- (6) For paragraph (5) there shall be substituted—
- “(5) Expressions used in paragraph (1A) above and in Part 3 or (as the case may be) Part 4 of the Enterprise Act 2002 have the same meanings in that paragraph as in that Part.”

Postal Services Act 2000 (c. 26)

- 14 (1) Section 21 of the Postal Services Act 2000 (modification of licence conditions by order) shall be amended as follows.
- (2) For subsections (1) to (4) there shall be substituted—
- “(1) Where the Office of Fair Trading, the Competition Commission or (as the case may be) the Secretary of State (in this section “the relevant authority”) makes a relevant order, the order may also provide for the modification of the conditions of a licence to such extent as may appear to the relevant authority to be requisite or expedient for the purpose of giving effect to, or taking account of, any provision made by the order.
- (2) In subsection (1) above “relevant order” means—
- (a) an order under section 75, 83 or 84 of, or paragraph 5, 10 or 11 of Schedule 7 to, the Enterprise Act 2002 where—
 - (i) one or more than one of the enterprises which have, or may have, ceased to be distinct enterprises was engaged in the provision of postal services; or
 - (ii) one or more than one of the enterprises which will or may cease to be distinct enterprises is engaged in the provision of postal services; or
 - (b) an order under section 160 or 161 of that Act where the feature, or combination of features, of the market in the United Kingdom for goods or services which prevents, restricts or distorts competition relates to the provision of postal services.”
- (3) In subsection (5) for the words “Secretary of State” there shall be substituted “ relevant authority ”.
- (4) For subsection (6) there shall be substituted—
- “(6) Expressions used in subsection (2) above and in Part 3 or (as the case may be) Part 4 of the Enterprise Act 2002 have the same meanings in that subsection as in that Part.”

Transport Act 2000 (c. 38)

- 15 (1) Section 19 of the Transport Act 2000 (modification of licence conditions by order) shall be amended as follows.

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(2) For subsections (1) to (4) there shall be substituted—

“(1) Where the Office of Fair Trading, the Competition Commission or (as the case may be) the Secretary of State (in this section “the relevant authority”) makes a relevant order, the order may also provide for the modification of the conditions of a licence to such extent as may appear to the relevant authority to be requisite or expedient for the purpose of giving effect to, or taking account of, any provision made by the order.

(2) In subsection (1) above “relevant order” means—

- (a) an order under section 75, 83 or 84 of, or paragraph 5, 10 or 11 of Schedule 7 to, the 2002 Act where—
 - (i) one or more than one of the enterprises which have, or may have, ceased to be distinct enterprises was engaged in the provision of air traffic services; or
 - (ii) one or more than one of the enterprises which will or may cease to be distinct enterprises is engaged in the provision of air traffic services; or
- (b) an order under section 160 or 161 of that Act where the feature, or combination of features, of the market in the United Kingdom for goods or services which prevents, restricts or distorts competition relates to the provision of air traffic services.”

(3) In subsection (5) for the words “Secretary of State” there shall be substituted “relevant authority”.

(4) For subsection (6) there shall be substituted—

“(6) Expressions used in subsection (2) above and in Part 3 or (as the case may be) Part 4 of the 2002 Act have the same meanings in that subsection as in that Part.”

(5) In subsection (7) for the words “1973 Act is the Fair Trading Act 1973” there shall be substituted “2002 Act is the Enterprise Act 2002”.

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