

1999 No. 506

COMPETITION

**The Competition Act 1998 (Competition Commission)
Transitional, Consequential and Supplemental Provisions
Order 1999**

Made - - - - 25th February 1999

Laid before Parliament 3rd March 1999

Coming into force 1st April 1999

The Secretary of State in exercise of the powers conferred on him by sections 45, 71 and 75 of the Competition Act 1998(a) hereby makes the following Order:

Citation and commencement

1. This Order may be cited as the Competition Act 1998 (Competition Commission) Transitional, Consequential and Supplemental Provisions Order 1999 and shall come into force on 1st April 1999.

PART I

Interpretation

2. In Part I of this Order:

- (a) the “MMC” means the Monopolies and Mergers Commission;
- (b) the “Commission” means the Competition Commission; and
- (c) the “commencement date” means the date on which the MMC is dissolved and its functions are transferred to the Competition Commission by virtue of section 45(3) of the Competition Act 1998 coming into force.

General

3.—(1) Anything having any continuing effect done by or in relation to the MMC before the commencement date, including (without prejudice to the generality of the foregoing) anything done by or in relation to the MMC in respect of a reference made to the MMC, is deemed from the commencement date to have been done by or in relation to the Commission and is not to be invalidated by the repeal of the provision under which or by relation to which it was done.

(2) Any proceedings by, against or in respect of the MMC which are in existence immediately prior to the commencement date are from that date to continue as proceedings by, against or in respect of the Commission.

(a) 1998 c. 41.

Transfer of assets, rights, obligations and liabilities

4.—(1) All property, rights, obligations and liabilities of the MMC immediately prior to the commencement date are on that date transferred to the Commission.

(2) The liability of the Secretary of State for the payment of pensions of former Chairmen and deputy chairmen of the MMC is transferred to the Commission on the commencement date.

(3) On the commencement date the liability of the Secretary of State for the payment of the following are transferred to the Commission:

- (a) remuneration, allowances, or gratuities to persons who immediately before the commencement date were members of the MMC and who from that date become members of the Commission; and
- (b) pensions of the persons who immediately before the commencement date were Chairman and deputy chairmen of the MMC and who from that date become Chairman and deputy chairmen of the Commission.

Members of the MMC and the Commission

5. Subject to article 4(2) and (3), the repeal by the Competition Act 1998 of section 135(1) of, and paragraphs 6, 8 and 9 of Schedule 3 to, the Fair Trading Act 1973(a) is not to affect the continuing application of those provisions in respect of any pension, allowance, gratuity or sum by way of compensation in respect of which a determination has been made prior to the commencement date.

Deputy chairmen

6. Subject to article 4(3) each person who immediately prior to the commencement date is a deputy chairman of the MMC is to hold office as a deputy chairman of the Commission for the remainder of the term for which he was appointed as a deputy chairman of the MMC and on the terms on which he was so appointed.

Transfer of employees

7.—(1) A contract of employment between the MMC and a person who is employed by the MMC immediately before the commencement date is to have effect from the commencement date as if originally made between him and the Commission.

(2) All rights, powers, duties and liabilities of the MMC under or in connection with a contract to which paragraph (1) applies are transferred to the Commission on the commencement date.

(3) Anything done before the commencement date by or in relation to the MMC in respect of such a contract, or in respect of a person employed under such a contract, is to be deemed from that date to have been done by or in relation to the Commission.

(4) Paragraphs (1) to (3) are without prejudice to the right of an employee to terminate his contract of employment if his working conditions are changed substantially to his detriment; but such a change is not to be taken to have occurred by reason only of the application of this article.

(5) Articles 3(1) and 4(1) do not apply where the preceding provisions of this article apply.

Transitory provisions in respect of the Competition Act 1980

8. Prior to the repeals made by section 74(3) of and Schedule 14 to the Competition Act 1998, sections 5 and 7 of the Competition Act 1980(b) are to have effect subject to the substitution in section 5(1) (competition references) of “Competition Commission” for “Monopolies and Mergers Commission” and the substitution for section 7(6) (supplementary provisions as to competition references) of the following provisions—

“(6) The provisions mentioned in subsection (6A) are to apply in relation to competition references as if—

- (a) the functions of the Commission in relation to those references were functions under the Fair Trading Act 1973;

(a) 1973 c. 41.

(b) 1980 c. 21.

- (b) the expression “merger reference” included a competition reference; and
 - (c) in paragraph 20(2)(a) of Schedule 7 to the Competition Act 1998, the reference to section 56 of the Fair Trading Act 1973 were a reference to sections 9 and 10 below.
- (6A) The provisions are–
- (a) sections 70 (time limit for report on merger), 84 (public interest) and 85 (attendance of witnesses and production of documents) of the Fair Trading Act 1973; and
 - (b) Part II of Schedule 7 to the Competition Act 1998 (performance of the Commission’s general functions).”

PART II

Consequential amendments

Registered Designs Act 1949

9. In the Registered Designs Act 1949(**a**) in section 11A(1) and (7) (powers exercisable for protection of the public interest) for “Monopolies and Mergers Commission” substitute “Competition Commission”.

Agricultural Marketing Act 1958

10. In the Agricultural Marketing Act 1958(**b**) in sections 19A(1) and (2) (powers exercisable following MMC report) and 47(2)(aa) (restrictions on disclosure of information) for “Monopolies and Mergers Commission” in each place where it occurs substitute “Competition Commission”.

Public Records Act 1958

11. In the Public Records Act 1958(**c**) in the list headed Part II at the end of paragraph 3 of Schedule 1 repeal the entry “Monopolies Commission” and insert in the appropriate place “Competition Commission”.

Restrictive Trade Practices (Information Agreements) Order 1969

12. In Part II of the Schedule to the Restrictive Trade Practices (Information Agreements) Order 1969(**d**) for “Monopolies Commission” in the 6th entry substitute “Competition Commission”.

Superannuation Act 1972

13. In the Superannuation Act 1972(**e**) in Schedule 1 in the list of other bodies (employment in respect of which the Minister for the Civil Service may make superannuation schemes) repeal the entry “Monopolies Commission” and insert in the appropriate place “Competition Commission”.

Fair Trading Act 1973

14. In the Fair Trading Act 1973 in section 137(2) (interpretation) in the definition of “the Commission” for “Monopolies and Mergers” substitute “Competition”.

House of Commons Disqualification Act 1975

15. In the House of Commons Disqualification Act 1975(**f**) in Part II of Schedule 1 (bodies of which all members are disqualified) repeal the entry for the Monopolies and Mergers Commission.

(a) 1949 c. 88. Section 11A was inserted by section 270 of the Copyright, Designs and Patents Act 1988 (c. 48).

(b) 1958 c. 47. Section 19A was inserted by section 127 of the Fair Trading Act 1973 and section 47(2)(aa) was inserted by Schedule 12 to that Act and amended by section 19(4)(a) of the Competition Act 1980 (c. 21).

(c) 1958 c. 51.

(d) S.I. 1969/1842.

(e) 1972 c. 11.

(f) 1975 c. 24. The Competition Commission is inserted in Part II of Schedule 1 by paragraph 28 of Schedule 7 to the Competition Act 1998.

Northern Ireland Assembly Disqualification Act 1975

16. In the Northern Ireland Assembly Disqualification Act 1975(**a**) in Part II of Schedule 1 (bodies of which all members are disqualified) repeal the entry for the Monopolies and Mergers Commission.

Patents Act 1977

17. In the Patents Act 1977(**b**) in sections 51(1) (powers exercisable in consequence of report of MMC) and 53(2) (statements in reports to be prima facie evidence) for “Monopolies and Mergers Commission” in each place where it occurs substitute “Competition Commission”.

Telecommunications Act 1984

18. In the Telecommunications Act 1984(**c**)–

- (a) in section 13(1) (licence modification references to the Commission) and in the definition of “the Commission” in section 106(1) (interpretation) for “Monopolies and Mergers Commission” in each place where it occurs substitute “Competition Commission”; and
- (b) in section 101(2)(b)(**d**) after “Director General of Fair Trading” insert “, the Commission”.

Airports Act 1986

19. In the Airports Act 1986(**e**)–

- (a) in section 36(1) (interpretation of Part IV, etc.) in the definition of “the Commission”, for “Monopolies and Mergers” substitute “Competition”;
- (b) in section 74(3) (restriction on disclosure of information) after sub-paragraph (o) insert “(p) the Competition Act 1998.”; and
- (c) in section 74(6) for “Monopolies and Mergers” substitute “Competition”.

Gas Act 1986

20. In the Gas Act 1986(**f**)–

- (a) in section 24(1) (modification references to Monopolies Commission) for “Monopolies and Mergers Commission (in this Part referred to as “the Monopolies Commission”)” substitute “Competition Commission”;
- (b) in sections 24(1A), (2), (3), (4A), (5) and (6), 25(1), (2), (3) and (4) (reports on modification references), 26(1) (modification following report), 36A(6) and (8) (competition functions of the Director), 39(1)(b) (annual and other reports) and

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- (a) 1975 c. 25. The Competition Commission is inserted in Part II of Schedule 1 by paragraph 29 of Schedule 7 to the Competition Act 1998.
 - (b) 1977 c. 37. A new section 51 was substituted by paragraph 14 of Schedule 5 to the Copyright Designs and Patents Act 1988 (c. 48) paragraph 15 of which amended section 53(2).
 - (c) 1984 c. 12.
 - (d) Section 101(2)(b) has been amended by paragraph 68(2) of Schedule 25 to the Water Act 1989 (c. 15), paragraph 29(3) of Schedule 16 to the Electricity Act 1989 (c. 29), paragraph 29(a) of Schedule 12 to the Electricity (Northern Ireland) Order 1992 (S.I. 1992/231 (N.I. 1)), Schedule 6 to the Gas (Northern Ireland) Order (S.I. 1996/275 (N.I. 2)), and paragraph 13(1) of Schedule 12 to the Railways Act 1993 (c. 43).
 - (e) 1986 c. 31. Sub-paragraph (o) was inserted by Regulation 29(4) of the EC Competition Law (Articles 88 and 89) Enforcement Regulations 1996 (S.I. 1996/2199).
 - (f) 1986 c. 44. Schedule 3 to the Gas Act 1995 (c. 45) amended the Gas Act 1986; paragraph 22 substituted a new subsection 24(1), amended subsections (3) and (6) and inserted subsections (1A) and (4A); paragraph 23 amended section 25(1) and (2); paragraph 24 amended section 26(1); paragraph 43 inserted section 36A; and paragraph 54 amended section 48(1). Section 42(2)(b) has been amended by paragraph 77 of Schedule 25 to the Water Act 1989, paragraph 34(a) of the Electricity Act 1989, paragraph 24 of Schedule 12 to the Railways Act 1993 (c. 43) and regulation 7(6)(h)(i) of the Control of Misleading Advertisements Regulations 1988 (S.I. 1988/915). Section 42(4)(a) has been amended by paragraph 8 of Schedule 1 to the Competition and Services (Utilities) Act 1992 (c. 43).

- 42(2)(a) and (4)(a) (restrictions on disclosure of information) for “Monopolies Commission” in each place where it occurs substitute “Competition Commission”;
- (c) in section 42(2)(b) after “the Director General of Fair Trading,” insert “the Competition Commission,”;
- (d) in section 48(1) (interpretation of Part I and savings) repeal the entry for “the Monopolies Commission”; and
- (e) in paragraph 15(2) of Schedule 7 (annual and other reports) for “Monopolies and Mergers Commission” substitute “Competition Commission”.

Financial Services Act 1986

21. In the Financial Services Act 1986(a), in sections 124(3) (consequential exemptions from competition law) and 180(7)(a) (exceptions from restrictions on disclosure) for “the Monopolies and Mergers Commission” in each place where it occurs substitute “the Competition Commission”.

Consumer Protection Act 1987

22. In the Consumer Protection Act 1987(b), in section 38(6) (restrictions on disclosure of information) in the definition of “relevant person”, in paragraph (b) for “Monopolies and Mergers Commission” substitute “Competition Commission”.

Copyright, Designs and Patents Act 1988

23. In the Copyright, Designs and Patents Act 1988(c) in sections 98(1) (undertaking to take licence of right), 144(1) (powers exercisable in consequence of report of Monopolies and Mergers Commission) and 238(1) (powers exercisable for protection of the public interest) and paragraph 17(1) of Schedule 2A (powers exercisable following MMC report), for “Monopolies and Mergers Commission” in each place where it occurs substitute “Competition Commission”.

Electricity Act 1989

24. In the Electricity Act 1989(d)–

- (a) in section 12(1) for “Monopolies and Mergers Commission (in this Part referred to as “the Monopolies Commission”)” substitute “Competition Commission”;
- (b) for “Monopolies Commission” substitute “Competition Commission” in each place where it occurs in sections 12(2), (3), (5), (6) and (7) (modification references to the Monopolies Commission), 13(1), (2), (3) and (4) (reports on modification references), 14(1) (modification following a report), 43(5) (competition functions of the Director), 50(1)(a)(ii) and (6) (annual and other reports) and 57(2)(a), (2)(b)(iii) and (5)(a) (general restrictions on disclosure of information); and
- (c) in section 64(1) (interpretation) repeal the entry for “the Monopolies Commission”.

Water Act 1989

25. In the Water Act 1989(e) for “Monopolies Commission” substitute “Competition Commission” in each place where it occurs in section 174(2)(a), (2)(d)(iii) and (4)(a) (general restrictions on disclosure of information).

(a) 1986 c. 60.

(b) 1987 c. 43. Section 38(6)(b) has been amended by paragraph 36 of Schedule 16 to the Electricity Act 1989, paragraph 31(b) of Schedule 12 to the Electricity (Northern Ireland) Order 1994 (S.I. 1992/231 (N.I. 1)), Schedule 6 to the Gas (Northern Ireland) Order 1996 (S.I. 1996/275 (N.I. 2)) and paragraph 26(3) of Schedule 12 to the Railways Act 1993 (c. 43).

(c) 1988 c. 48. Schedule 2A was inserted by regulation 22(2) of the Copyright and Related Rights Regulations 1996 (S.I. 1996/2967).

(d) 1989 c. 29. Section 12 is amended by paragraph 12(2) of Schedule 10 to the Competition Act 1998 which substitutes new subsections for (8) and (9) and inserts new subsections (8A) and (9A).

(e) 1989 c. 15. Section 174(2)(a) and (b) have been amended by paragraph 50(2)(a) of Schedule 1 to the Water Consolidation (Consequential Provisions) Act 1991 (c. 60) and by paragraph 3(2) of Schedule 2 to the Environment Act 1995 (Consequential Amendments) Regulations 1996 (S.I. 1996/593); section 174(4)(a) has been amended by paragraph 50(2)(d) of Schedule 1 to the Water Consolidation (Consequential Provisions) Act 1991 and paragraph 3(4) of Schedule 2 to the Environment Act 1995 (Consequential Amendments) Regulations 1996.

Companies Act 1989

26. In the Companies Act 1989(a) in paragraph 8(3) of Schedule 14 (consequential exemption from competition law) for “Monopolies and Mergers Commission” substitute “Competition Commission”.

Financial Services (Disclosure of Information) (Designated Authorities) (No. 6) Order 1989

27. In article 2(b) of the Financial Services (Disclosure of Information) (Designated Authorities) (No. 6) Order 1989(b) for “Monopolies and Mergers Commission” substitute “Competition Commission”.

Courts and Legal Services Act 1990

28. In the Courts and Legal Services Act 1990(c) in section 50(2) (exceptions from restrictions on disclosure)–

- (a) after sub-paragraph (viii) of paragraph (m) insert–
“(ix) the Competition Act 1998;” and
- (b) in paragraph (n) for “Monopolies and Mergers Commission” substitute “Competition Commission”, and for “and the Competition Act 1980” substitute “, the Competition Act 1980 and the Competition Act 1998”.

Broadcasting Act 1990

29. In the Broadcasting Act 1990(d)–

- (a) in sections 2(3) (regulation by Independent Television Commission of provision of television services) and 85(4) (licensing functions of Radio Authority) for “Monopolies and Mergers Commission” in each place where it occurs substitute “Competition Commission”;
- (b) in section 197 (restriction on disclosure of information) in subsection (2)(a)(ii) for “Monopolies and Mergers Commission” substitute “Competition Commission” and after “the Competition Act 1980” insert “, the Competition Act 1998” and in subsection (2)(c) after “the Restrictive Trade Practices Act 1976” insert “, the Competition Act 1998”;
- (c) in Schedule 4(e) (references with respect to networking arrangements):
 - (i) in paragraph 2(3) for “Monopolies and Mergers Commission (“the MMC”)” substitute “Competition Commission”;
 - (ii) in paragraphs 3(2), 4(1) and (3) to (6), 5, 6(1), 8(4) and 9(1) for “MMC” in each place where it occurs substitute “Competition Commission”;
 - (iii) in paragraphs 1(6), 2(2), 3(1)(a) and (b) and (3), 4(1), 5(4)(b), 6(1)(a) and (b), and 7(3) for “Commission” in each place where it occurs substitute “ITC”; and
 - (iv) in paragraph 10 repeal the entry for “the MMC” and after the entry for “the Director” insert:
“ “the ITC” means the Independent Television Commission.”.

Water Industry Act 1991

30. In the Water Industry Act 1991(f)–

- (a) in section 12(2)(b) (determinations under conditions of appointment) for “Monopolies and Mergers Commission (in this Act referred to as “the Monopolies Commission”)” substitute “Competition Commission”;

(a) 1989 c. 40.

(b) S.I. 1989/2009.

(c) 1990 c. 41.

(d) 1990 c. 42.

(e) Schedule 4 is amended by paragraph 14(3) of Schedule 12 to the Competition Act 1998 which substitutes a new sub-paragraph (7) and inserts a new sub-paragraph (7A) in paragraph 4.

(f) 1991 c. 56. Section 14 is amended by paragraph 13(3) of Schedule 10 to the Competition Act 1998 which substitutes new subsections for (7) and (8) and inserts new subsections (7A) and (8A); section 206(3)(a) was amended by paragraph 121(2) of Schedule 22 to the Environment Act 1995 (c. 25) and section 206(4)(a) was amended by paragraph 27 of Schedule 1 to the Competition and Services (Utilities) Act 1992 (c. 43) and paragraph 121(3) of Schedule 22 to the Environment Act 1995.

- (b) in sections 12(3) to (5), 14(1) to (3), (5) and (6) (modification references to the Monopolies Commission), 15(1) to (4) (reports on modification references), 16(1) (modification following report), 31(7) (functions of the Director with respect to competition), 32(1) (duty to refer merger of water or sewerage undertakings), 34(2)(a), (3) and (4) (references with respect to water enterprise mergers), 193(1)(b) (reports by the Director), 195(2)(b) (the Director's register) and 206(3)(a) and (4)(a) (restrictions on disclosure of information) and Part I of Schedule 15 (persons in respect of whose functions disclosure may be made) for "Monopolies Commission" in each place where it occurs substitute "Competition Commission"; and
- (c) in section 219(1) (interpretation) repeal the entry for "the Monopolies Commission".

Water Resources Act 1991

31. In the Water Resources Act 1991(**a**)–

- (a) in section 204(2)(a) and (3)(a)(iv) (restriction on disclosure of information) for "Monopolies Commission" in each place where it occurs substitute "Competition Commission"; and
- (b) in Part I of Schedule 24 (persons in respect of whose functions disclosure may be made) for the entry "The Monopolies and Mergers Commission" substitute "The Competition Commission".

Water Consolidation (Consequential Provisions) Act 1991

32. In the Water Consolidation (Consequential Provisions) Act 1991(**b**) in paragraph 24(2) of Schedule 1 (modification of Director General of Fair Trading's duty to report under the Fair Trading Act 1973) for "Monopolies and Mergers Commission" substitute "Competition Commission".

Railways Act 1993

33. In the Railways Act 1993(**c**)–

- (a) in section 13(1) (modification references to the Monopolies Commission for "Monopolies and Mergers Commission (in this Act referred to as the "Monopolies Commission)") substitute "Competition Commission";
- (b) in sections 13(2), (3), (5) to (7), 14(1) to (4) (reports on modification references), 15(1) (modification following report), 67(5) to (7) and (9) (respective functions of the Regulator and the Director General of Fair Trading, and functions of the Monopolies Commission), 74(1)(b) and (7) (annual and other reports of the Regulator) and 145(2) (a), (2)(b)(iii) and (5)(a) (general restrictions on disclosure of information) for "Monopolies Commission" in each place where it occurs substitute "Competition Commission"; and
- (c) in section 151(1) (interpretation) repeal the entry for "the Monopolies Commission".

Coal Industry Act 1994

34. In the Coal Industry Act 1994(**d**) in section 59(3)(e)(iv) (information to be kept confidential by the Authority) for "Monopolies Commission" substitute "Competition Commission".

Public Supply Contracts Regulations 1995

35. In the Public Supply Contracts Regulations 1995(**e**) in Schedule 1 (GATT contracting authorities) in the entries under the heading "Department of Trade and Industry" for "Monopolies and Mergers Commission" substitute "Competition Commission".

Uncertificated Securities Regulations 1995

36. In the Uncertificated Securities Regulations 1995(**f**) in paragraph 5(3) of Schedule 2 (exemptions from the Fair Trading Act 1973) for "Monopolies and Mergers Commission" substitute "Competition Commission".

(a) 1991 c. 57. Section 207(2)(a) has been amended by paragraph 173 of Schedule 22 to the Environment Act 1995 (c. 25).
 (b) 1991 c. 60.
 (c) 1993 c. 43.
 (d) 1994 c. 21.
 (e) S.I. 1995/201.
 (f) S.I. 1995/3272.

EC Competition Law (Articles 88 and 89) Enforcement Regulations 1996

37. In the EC Competition Law (Articles 88 and 89) Enforcement Regulations 1996**(a)** (regulations for the procedure for, nature of and enforcement of decisions concerning competition between undertakings)–

- (a) in regulation 2(1) repeal the entry for the MMC and insert in the appropriate place:
 - “ “the CC” means the Competition Commission”;
- (b) in regulations 4(4), and (5), 5(3) and (4), 9(2), 10 to 13, 14(1), 15 to 18, 19(1)(a) and (2), 20(6)(b) and (7) to (9), 21(2)(a), (3)(a), (4)(a) and (5), 25, 28(2)(a) and (4)(a) and 30 for “MMC” in each place where it occurs substitute “CC”;
- (c) in regulation 16–
 - (i) in the introductory words repeal “81 (procedures in carrying out investigations),” and for “Part II of Schedule 3 (performance of functions of the MMC)” substitute “Part II of Schedule 7 to the Competition Act 1998 (performance of the CC’s general functions)”;
 - (ii) repeal paragraph (f); and
 - (iii) for paragraph (g) substitute “(g) paragraph 20 of Schedule 7 were omitted”; and
- (d) in regulation 28(2)(a) after “Part IV of the Airports (Northern Ireland) Order 1994”, insert “Competition Act 1998,”.

Economic Regulation of Airports (Expenses of the Monopolies and Mergers Commission) Regulations 1997

38. In the Economic Regulation of Airports (Expenses of the Monopolies and Mergers Commission) Regulations 1997**(b)**–

- (a) in regulation 2 (interpretation) insert after the definition of “annual turnover”:
 - “ “Commission” means the Competition Commission”;
- (b) in the Schedule in the heading to the form of statement to be prepared pursuant to regulation 4(1), for “Monopolies and Mergers Commission” substitute “Competition Commission”.

Copyright and Rights in Databases Regulations 1997

39. In the Copyright and Rights in Databases Regulations 1997**(c)** in paragraph 15(1) of Schedule 2 (action following report by Monopolies and Mergers Commission) for “Monopolies and Mergers Commission” substitute “Competition Commission”.

Consequential amendments: Northern Ireland

Agricultural Marketing (Northern Ireland) Order 1982

40. In the Agricultural Marketing (Northern Ireland) Order 1982**(d)** in article 42 (powers exercisable following MMC report) for “Monopolies and Mergers Commission” substitute “Competition Commission”.

Companies (NI) Order 1990

41. In the Companies (NI) Order 1990**(e)**–

- (a) in paragraph 8(3) of Schedule 14 (consequential exemptions from competition law) for “Monopolies and Mergers Commission” substitute “Competition Commission”.

(a) S.I. 1996/2199.

(b) S.I. 1997/403.

(c) S.I. 1997/3032.

(d) S.I. 1982/1080 (N.I. 2).

(e) S.I. 1990/593 (N.I. 5).

Electricity (Northern Ireland) Order 1992

- 42.** In the Electricity (Northern Ireland) Order 1992(**a**)–
- (a) in article 3 (interpretation) repeal the entry for the Monopolies Commission; and
 - (b) in articles 15(1) to (3), and (5) to (7)(**b**) (modification references to the Monopolies Commission), 16(1) to (4) (reports on modification references), 17(1) (modification following report), 46(2)(b), (3), (5), (6) (functions with respect to competition), 53(1)(a)(ii) and (6) (annual and other reports) and 61(2)(a), (b)(iv) and (5)(a) (general restrictions on disclosure of information) for “Monopolies Commission” in each place in which it occurs substitute “Competition Commission”.

Airports (Northern Ireland) Order 1994

- 43.** In the Airports (Northern Ireland) Order 1994(**c**)–
- (a) in article 27(1) (interpretation) in the entry for “the Commission” for “Monopolies and Mergers Commission” substitute “Competition Commission”; and
 - (b) in article 49(3) after sub-paragraph (r) (restrictions on disclosure of information) insert:
“**(s)** the Competition Act 1998.”.

Gas (Northern Ireland) Order 1996

44. In the Gas (Northern Ireland) Order 1996(**d**) for “Monopolies Commission” substitute “Competition Commission” in each place in which it occurs in articles 15(1) to (4) and (6) to (8) (modification references to the Monopolies Commission), 16(1) to (4) (reports on modification references), 17(1) (modification following report), 23(2)(b), (3) and (5) to (7) (functions with respect to competition) and 44(3)(a), (b)(iv) and (6)(a) (general restrictions on disclosure of information).

Revocations

- 45.** The following instruments are hereby revoked–
- (a) The Monopolies and Mergers Commission (Performance of Functions) Order 1989(**e**); and
 - (b) The Monopolies and Mergers Commission (Membership of Groups for Newspaper Merger References) Order 1982(**f**).

Kim Howells

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

25th February 1999

- (a) S.I. 1992/231 (N.I. 1). Article 46(6) is amended by paragraph 7(2) of Schedule 2 and paragraph 3(c) of Schedule 4 to the Deregulation and Contracting Out Act 1994 (c. 40).
- (b) Paragraph 17(2) of Schedule 10 to the Competition Act 1998 amends article 15 by substituting for paragraphs (8) and (9) new paragraphs (8) to (9A).
- (c) S.I. 1994/426 (N.I. 1). Article 49(3)(r) was inserted by regulation 29(5) of the EC Competition Law (Articles 88 and 89) Enforcement Regulations 1996 (S.I. 1996/2199).
- (d) S.I. 1996/225 (N.I. 2). Article 15 is amended by paragraph 18(2) of Schedule 10 to the Competition Act 1998 which substitutes for paragraph (9) new paragraphs (9) and (9A).
- (e) S.I. 1989/122.
- (f) S.I. 1982/1889.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes transitional, consequential and supplemental provisions in connection with the dissolution of the Monopolies and Mergers Commission (“the MMC”) and the transfer of its functions to the Competition Commission (“the Commission”) which is effected by the coming into force of section 45 of the Competition Act 1998.

Article 3 provides for the continuing effect in respect of the Commission of things done by to or against the MMC including references of matters to the MMC and legal proceedings.

Article 4 transfers to the Commission the property, rights, liabilities and obligations of the MMC. It also transfers to the Commission the liability of the Secretary of State to pay the pensions of former Chairmen and Deputy Chairmen of the MMC; to pay the remuneration, allowances or gratuities of members of the MMC who are to become members of the Commission; and to pay the pensions of the Chairman and deputy chairmen of the MMC who are to become Chairman and deputy chairmen of the Commission.

Article 5 provides that the repeal of the provisions of the Fair Trading Act 1973 under which determinations have been made as to the remuneration, pensions, allowances, gratuities or sums by way of compensation in respect of members of the MMC is not to affect the continuing application of those provisions so far as determinations made before the MMC is dissolved are concerned.

Article 6 provides that each deputy chairman of the MMC is to hold office as a deputy chairman of the Commission for the remainder of his terms of office and on the terms on which he was appointed.

Article 7 provides for the continuity of employment of staff of the MMC transferring to the Commission and for the transfer of rights, powers, liabilities and duties of the MMC to the Commission in respect of their contracts of employment.

Article 8 makes transitory amendments to sections 5 and 7 of the Competition Act 1980 in respect of references that may be made to the Commission under section 5 of that Act (or which may be in progress when the MMC is dissolved). Sections 5 and 7 of the Competition Act 1980 are repealed by the Competition Act 1998.

Part II of the Order makes amendments to a number of Acts and secondary legislation so as to substitute for references to MMC (or the Monopolies Commission the name by which it was previously known) references to the Commission. The United Kingdom Acts and Orders concerned are: the Agricultural Marketing Act 1958, the Airports Act 1986, the Broadcasting Act 1990, the Coal Industry Act 1994, the Companies Act 1989, the Consumer Protection Act 1987, the Copyright and Rights in Databases Regulations 1997, the Copyright, Designs and Patents Act 1988, the Courts and Legal Services Act 1990, the EC Competition Law (Articles 88 and 89) Enforcement Regulations 1996, the Economic Regulation of Airports (Expenses of the Monopolies and Mergers Commission) Regulations 1997, the Electricity Act 1989, the Fair Trading Act 1973, the Financial Services Act 1986, the Financial Services (Disclosure of Information) (Designated Authorities) (No. 6) Order 1989, the Gas Act 1986, the Patents Act 1977, the Public Records Act 1958, the Public Supply Contracts Regulations 1995, the Railways Act 1993, the Registered Designs Act 1949, the Restrictive Trade Practices (Information Agreements) Order 1969, the Superannuation Act 1972, the Telecommunications Act 1984, the Uncertificated Securities Regulations 1995, the Water Act 1989, the Water Consolidation (Consequential Provisions) Act 1991, the Water Industry Act 1991, and the Water Resources Act 1991. The Northern Ireland Orders concerned are: the Agricultural Marketing (Northern Ireland) Order 1982, the Airports (Northern Ireland) Order 1994, the Electricity (Northern Ireland) Order 1992, and the Gas (Northern Ireland) Order 1996.

Article 15 makes a consequential amendment by omitting the entry for the Monopolies and Mergers Commission in the House of Commons Disqualification Act 1975 (bodies of which all members are disqualified); the Commission being inserted by paragraph 28 of Schedule 7 to the Competition Act 1998.

Article 16 makes a consequential amendment by omitting the entry for the Monopolies and Mergers Commission in the Northern Ireland Assembly Disqualification Act 1975 (bodies of which all members are disqualified); the Commission being inserted by paragraph 29 of Schedule 7 to the Competition Act 1998.

Article 18 amends the Telecommunications Act 1984 to allow information that is confidential under that Act to be disclosed for the purpose of facilitating the functions of the Commission under specified Acts.

Article 19 amends the Airports Act 1986 to allow information that is confidential under that Act to be disclosed for the purposes of facilitating the functions of specified persons under the Competition Act 1998.

Article 20 amends the Gas Act to allow information that is confidential under that Act to be disclosed for the purpose of facilitating the functions of the Commission under specified Acts.

Article 28 amends the Courts and Legal Services Act 1990 to allow information that is confidential under that Act to be disclosed for the purposes of facilitating the functions of the Director General of Fair Trading under the Competition Act 1998 and of the Commission under that Act.

Article 29 amends the Broadcasting Act 1990 to allow information that is confidential under that Act to be disclosed for the purposes of facilitating the functions of specified persons under the Competition Act 1998 and for the purposes of any civil proceedings under the 1998 Act. It also replaces references to “Commission” (meaning the Independent Television Commission) in Schedule 4 with “ITC”.

Article 37 amends the EC Competition Law (Articles 88 and 89) Enforcement Regulations 1996 in respect of references of matters to the MMC under the Regulations to provide for the references to be made to the Competition Commission and for provisions of the Competition Act 1998 to apply in place of provisions of the Fair Trading Act 1973 that are being repealed.

Article 43 amends the Airports (Northern Ireland) Order 1994 to allow information that is confidential under that Order to be disclosed for the purposes of facilitating the functions of specified persons under the Competition Act 1998.

Article 45 revokes the Monopolies and Mergers Commission (Performance of Functions) Order 1989 and the Monopolies and Mergers Commission (Membership of Groups for Newspaper Merger References) Order 1982 each of which becomes spent on the repeal of Schedule 3 to the Fair Trading Act 1973.

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