
STATUTORY INSTRUMENTS

2000 No. 309

COMPETITION

**The Competition Act 1998 (Determination
of Turnover for Penalties) Order 2000**

Made - - - - 10th February 2000

Coming into force - - 1st March 2000

Whereas the Secretary of State laid the draft of this Order before Parliament on 19th January 2000;
And whereas the said draft as so laid has been approved by resolution of each House of Parliament;
Now therefore the Secretary of State in exercise of the powers conferred on him by sections 36(8)
and 71 of the Competition Act 1998(1) hereby makes the following Order:

Citation and commencement

1.—(1) This Order may be cited as the Competition Act 1998 (Determination of Turnover for Penalties) Order 2000 and shall come into force on 1st March 2000.

Commencement Information

II Art. 1 in force at 1.3.2000, see [art. 1\(1\)](#)

Interpretation

2.—(1) In this Order:

“the Act” means the Competition Act 1998;

“applicable turnover” means the turnover of an undertaking for a business year determined in accordance with the Schedule to this Order; and where a business year does not equal 12 months the applicable turnover shall be the amount which bears the same proportion to the applicable turnover during that business year as 12 months does to that period;

“business year” means a period of more than six months in respect of which an undertaking publishes accounts or, if no such accounts have been published for the period, prepares accounts;

F1 ...

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Competition Act 1998 (Determination of Turnover for Penalties) Order 2000. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

F1 Words in [art. 2\(1\)](#) cease to have effect (1.5.2004) by virtue of [The Competition Act 1998 \(Determination of Turnover for Penalties\) \(Amendment\) Order 2004 \(S.I. 2004/1259\)](#), arts. 1, [2\(2\)](#)

Commencement Information

I2 Art. 2 in force at 1.3.2000, see [art. 1\(1\)](#)

Determination of turnover for the purposes of section 36(8)

[^{F23}3. The turnover of an undertaking for the purposes of section 36(8) is the applicable turnover for the business year preceding the date on which the decision of the [^{F3}CMA] is taken or, if figures are not available for that business year, the one immediately preceding it.]

4. Where in the application of article 3 there is any period in respect of which there is no preceding business year then the applicable turnover shall be the turnover for that period.

F2 Art. 3 substituted (1.5.2004) by [The Competition Act 1998 \(Determination of Turnover for Penalties\) \(Amendment\) Order 2004 \(S.I. 2004/1259\)](#), arts. 1, [2\(3\)](#)

F3 Word in art. 3 substituted (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) \(No. 2\) Order 2014 \(S.I. 2014/549\)](#), art. 1(1), [Sch. 1 para. 2](#) (with art. 3)

Commencement Information

I3 Art. 4 in force at 1.3.2000, see [art. 1\(1\)](#)

SCHEDULE

Article 2

Applicable turnover

Interpretation

1.—(1) In this Schedule:

^{F4}
...

^{F5}“credit institution” means a credit institution for the purposes of Article 4(1)(1) of Regulation (EU) No. 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No. 648/2012;]

^{F6}“financial institution” means a financial institution for the purposes of Article 4(1)(26) of Regulation (EU) No. 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No. 648/2012 or any undertaking located outside the ^{F7}United Kingdom] which does not fall within the definition in that Article but which carries on equivalent activities;]

^{F8}“insurance undertaking” means—

- (a) an insurance undertaking carrying on the business of direct insurance of a class set out in Article 2 of, or Annex 1 to, Directive 2009/138/EC of the European Parliament and Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II);
- (b) a reinsurance undertaking; or
- (c) a third-country reinsurance undertaking;]^{F9}...

^{F10}“reinsurance undertaking” means an undertaking which—

- (a) has its head office in the United Kingdom;
- (b) has permission under Part 4A of the Financial Services and Markets Act 2000 to carry on one or more regulated activities;
- (c) effects or carries out contracts of insurance that are limited to reinsurance contracts; and
- (d) would require authorisation in accordance with Article 14 of Directive 2009/138/EC, if the United Kingdom were a Member State;

“third-country reinsurance undertaking” means an undertaking which, if its head office were in the United Kingdom—

- (a) would require permission under Part 4A of the Financial Services and Markets Act 2000 to carry out regulated activities relating to reinsurance; and
- (b) immediately before IP completion day, would have required authorisation as a reinsurance undertaking in accordance with Article 14 of Directive 2009/138/EC; and]

terms used in this Schedule in respect of the determination of the applicable turnover of credit institutions, financial institutions and insurance undertakings shall (except where the contrary intention appears) have the same meaning as in the relevant Directive.

F4 Words in *Sch. para. 1(1)* cease to have effect (1.5.2004) by virtue of [The Competition Act 1998 \(Determination of Turnover for Penalties\) \(Amendment\) Order 2004 \(S.I. 2004/1259\)](#), arts. 1, **2(4)(a)**

F5 Words in *Sch. para. 1(1)* substituted (1.1.2014) by [The Capital Requirements Regulations 2013 \(S.I. 2013/3115\)](#), reg. 1(2), **Sch. 2 para. 50(a)**

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- F6** Words in Sch. para. 1(1) substituted (1.1.2014) by The Capital Requirements Regulations 2013 (S.I. 2013/3115), reg. 1(2), **Sch. 2 para. 50(b)**
- F7** Words in Sch. para. 1 substituted (31.12.2020) by The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), reg. 1(1), **Sch. 2 para. 2(2)(a)** (with Sch. 4 paras. 7, 13) (as amended by S.I. 2020/1343, regs. 1(1), **35-59**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F8** Words in Sch. para. 1 substituted (31.12.2020) by The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), reg. 1(1), **Sch. 2 para. 2(2)(b)** (with Sch. 4 paras. 7, 13) (as amended by S.I. 2020/1343, regs. 1(1), **35-59**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F9** Word in Sch. para. 1 omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), reg. 1(1), **Sch. 2 para. 2(2)(c)** (with Sch. 4 paras. 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)
- F10** Words in Sch. para. 1 inserted (31.12.2020) by The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), reg. 1(1), **Sch. 2 para. 2(2)(c)** (with Sch. 4 paras. 7, 13) (as amended by S.I. 2020/1343, regs. 1(1), **30, 35-59**); 2020 c. 1, **Sch. 5 para. 1(1)**

Commencement Information

- I4** Sch. para. 1 in force at 1.3.2000, see art. 1(1)

2. The provisions of this Schedule shall be interpreted in accordance with generally accepted accounting principles and practices.

Commencement Information

- I5** Sch. para. 2 in force at 1.3.2000, see art. 1(1)

- F4** Words in Sch. para. 1(1) cease to have effect (1.5.2004) by virtue of The Competition Act 1998 (Determination of Turnover for Penalties) (Amendment) Order 2004 (S.I. 2004/1259), arts. 1, **2(4)(a)**
- F5** Words in Sch. para. 1(1) substituted (1.1.2014) by The Capital Requirements Regulations 2013 (S.I. 2013/3115), reg. 1(2), **Sch. 2 para. 50(a)**
- F6** Words in Sch. para. 1(1) substituted (1.1.2014) by The Capital Requirements Regulations 2013 (S.I. 2013/3115), reg. 1(2), **Sch. 2 para. 50(b)**
- F7** Words in Sch. para. 1 substituted (31.12.2020) by The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), reg. 1(1), **Sch. 2 para. 2(2)(a)** (with Sch. 4 paras. 7, 13) (as amended by S.I. 2020/1343, regs. 1(1), **35-59**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F8** Words in Sch. para. 1 substituted (31.12.2020) by The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), reg. 1(1), **Sch. 2 para. 2(2)(b)** (with Sch. 4 paras. 7, 13) (as amended by S.I. 2020/1343, regs. 1(1), **35-59**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F9** Word in Sch. para. 1 omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), reg. 1(1), **Sch. 2 para. 2(2)(c)** (with Sch. 4 paras. 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)
- F10** Words in Sch. para. 1 inserted (31.12.2020) by The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), reg. 1(1), **Sch. 2 para. 2(2)(c)** (with Sch. 4 paras. 7, 13) (as amended by S.I. 2020/1343, regs. 1(1), **30, 35-59**); 2020 c. 1, **Sch. 5 para. 1(1)**

Commencement Information

- I4** Sch. para. 1 in force at 1.3.2000, see art. 1(1)
- I5** Sch. para. 2 in force at 1.3.2000, see art. 1(1)

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General

3. The applicable turnover of an undertaking, other than a credit institution, financial institution, insurance undertaking, or an association of undertakings, shall be limited to the amounts derived by the undertaking from the sale of products and the provision of services falling within the undertaking's ordinary activities ^{F11}... after deduction of sales rebates, value added tax and other taxes directly related to turnover.

F11 Words in Sch. para. 3 cease to have effect (1.5.2004) by virtue of The Competition Act 1998 (Determination of Turnover for Penalties) (Amendment) Order 2004 (S.I. 2004/1259), arts. 1, **2(4)(b)**

Commencement Information

I6 Sch. para. 3 in force at 1.3.2000, see **art. 1(1)**

4. Where an undertaking consists of two or more undertakings that each prepare accounts then the applicable turnover shall be calculated by adding together the respective applicable turnover of each, save that no account shall be taken of any turnover resulting from the sale of products or the provision of services between them.

Commencement Information

I7 Sch. para. 4 in force at 1.3.2000, see **art. 1(1)**

F11 Words in Sch. para. 3 cease to have effect (1.5.2004) by virtue of The Competition Act 1998 (Determination of Turnover for Penalties) (Amendment) Order 2004 (S.I. 2004/1259), arts. 1, **2(4)(b)**

Commencement Information

I6 Sch. para. 3 in force at 1.3.2000, see **art. 1(1)**

I7 Sch. para. 4 in force at 1.3.2000, see **art. 1(1)**

Credit institutions and financial institutions

5. The applicable turnover of a credit institution or financial institution shall be limited to the sum of the following income [^{F12}items listed] in Council Directive (EEC) 86/635(2) received by ^{F13}... that institution ^{F14}... after deduction of value added tax and other taxes directly related to those items:

- (i) interest income and similar income;
- (ii) income from securities:
 - income from shares and other variable yield securities;
 - income from participating interests;
 - income from shares in affiliated undertakings;
- (iii) commissions receivable;
- (iv) net profit on financial operations;
- (v) other operating income.

F12 Words in Sch. para. 5 substituted (1.5.2004) by The Competition Act 1998 (Determination of Turnover for Penalties) (Amendment) Order 2004 (S.I. 2004/1259), arts. 1, **2(4)(c)(i)**

(2) OJ No. L372, 31.12.86, p.1.

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- F13** Words in Sch. para. 5 cease to have effect (1.5.2004) by virtue of The Competition Act 1998 (Determination of Turnover for Penalties) (Amendment) Order 2004 (S.I. 2004/1259), arts. 1, **2(4)(c)(ii)**
- F14** Words in Sch. para. 5 cease to have effect (1.5.2004) by virtue of The Competition Act 1998 (Determination of Turnover for Penalties) (Amendment) Order 2004 (S.I. 2004/1259), arts. 1, **2(4)(c)(iii)**

Commencement Information

- I8** Sch. para. 5 in force at 1.3.2000, see **art. 1(1)**

Insurance undertakings

6. The applicable turnover of an insurance undertaking shall be limited to the value of gross premiums received ^{F15}... which shall comprise all amounts received and receivable in respect of insurance contracts issued by or on behalf of the undertaking, including outgoing reinsurance premiums, and after deduction of taxes and parafiscal contributions or levies charged by reference to the amounts of individual premiums or the total volume of premiums.

- F15** Words in Sch. para. 6 cease to have effect (1.5.2004) by virtue of The Competition Act 1998 (Determination of Turnover for Penalties) (Amendment) Order 2004 (S.I. 2004/1259), arts. 1, **2(4)(d)**

Commencement Information

- I9** Sch. para. 6 in force at 1.3.2000, see **art. 1(1)**

Turnover of associations of undertakings

7. The turnover of an association of undertakings shall be the aggregate applicable turnover of the undertakings that are members of the association.

Commencement Information

- I10** Sch. para. 7 in force at 1.3.2000, see **art. 1(1)**

Aid granted to undertakings

8. Any aid granted by a public body to an undertaking which relates to one of the undertaking's ordinary activities shall be included in the calculation of turnover if the undertaking is itself the recipient of the aid and if the aid is directly linked to the sale of products or the provision of services by the undertaking and is therefore reflected in the price.

Commencement Information

- I11** Sch. para. 8 in force at 1.3.2000, see **art. 1(1)**

10th February 2000

Kim Howells
Parliamentary Under Secretary of State for
Consumers and Corporate Affairs,
Department of Trade and Industry

EXPLANATORY NOTE

(This note is not part of the Order)

This order specifies how the turnover of the undertaking is to be determined for the purposes of section 36(8) of the Competition Act 1998. Where an undertaking infringes either of the prohibitions contained in the Act the Director General of Fair Trading, or one of the regulators having concurrent powers, may impose on the undertaking a penalty of up to 10 per cent. of its turnover as so defined.

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Changes and effects yet to be applied to :

- Sch. para. 1 word omitted by [S.I. 2019/93 Sch. 2 para. 2\(2\)\(c\)](#)
- Sch. para. 1(1) words inserted by [S.I. 2011/99 Sch. 4 para. 10\(a\)\(ii\)](#)
- Sch. para. 1(1) words inserted by [S.I. 2011/99 Sch. 4 para. 10\(b\)](#)
- Sch. para. 1 words inserted by [S.I. 2019/93 Sch. 2 para. 2\(2\)\(c\)](#)
- Sch. para. 1(1) words omitted by [S.I. 2004/1259 art. 2\(4\)\(a\)](#)
- Sch. para. 3 words omitted by [S.I. 2004/1259 art. 2\(4\)\(b\)](#)
- Sch. para. 5 words omitted by [S.I. 2004/1259 art. 2\(4\)\(c\)\(ii\)](#)
- Sch. para. 5 words omitted by [S.I. 2004/1259 art. 2\(4\)\(c\)\(iii\)](#)
- Sch. para. 6 words omitted by [S.I. 2004/1259 art. 2\(4\)\(d\)](#)
- Sch. para. 1 words substituted by [S.I. 2000/2952 reg. 16\(2\)\(a\)](#)
- Sch. para. 1 words substituted by [S.I. 2000/2952 reg. 16\(2\)\(b\)](#)
- Sch. para. 5 words substituted by [S.I. 2004/1259 art. 2\(4\)\(c\)\(i\)](#)
- Sch. para. 1 words substituted by [S.I. 2004/3379 reg. 14](#)
- Sch. para. 1 words substituted by [S.I. 2006/3221 Sch. 6 para. 5\(a\)](#)
- Sch. para. 1 words substituted by [S.I. 2006/3221 Sch. 6 para. 5\(b\)](#)
- Sch. para. 1(1) words substituted by [S.I. 2011/99 Sch. 4 para. 10\(a\)\(i\)](#)
- Sch. para. 1(1) words substituted by [S.I. 2013/3115 Sch. 2 para. 50\(a\)](#)
- Sch. para. 1(1) words substituted by [S.I. 2013/3115 Sch. 2 para. 50\(b\)](#)
- Sch. para. 1 words substituted by [S.I. 2015/575 Sch. 2 para. 10](#)
- Sch. para. 1 words substituted by [S.I. 2019/93 Sch. 2 para. 2\(2\)\(a\)](#)
- Sch. para. 1 words substituted by [S.I. 2019/93 Sch. 2 para. 2\(2\)\(b\)](#)
- Sch. para. 1 words substituted in earlier amending provision [S.I. 2019/93, Sch. 2 para. 2\(2\)\(c\)](#) by [S.I. 2020/1343 reg. 30](#)
- art. 2(1) words omitted by [S.I. 2004/1259 art. 2\(2\)](#)
- art. 3 substituted by [S.I. 2004/1259 art. 2\(3\)](#)
- art. 3 word substituted by [S.I. 2014/549 Sch. 1 para. 2](#)