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STATUTORY INSTRUMENTS

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**2014 No. 891**

**The Enterprise Act 2002 (Protection of Legitimate Interests) (Amendment) Order 2014**

**Amendments to the Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003**

17.—(1) Schedule 2 is amended as follows.

(2) Omit paragraph 1.

(3) In the italic heading before paragraph 1, omit “undertakings and”.

(4) In paragraph 2—

(a) after sub-paragraph (2) insert—

“(2A) Sub-paragraph (2B) applies where—

(a) a European intervention notice is in force; and

(b) the Secretary of State has reasonable grounds for suspecting that pre-emptive action has or may have been taken.

(2B) The Secretary of State may by order, for the purpose of restoring the position to what it would have been had the pre-emptive action not been taken or otherwise for the purpose of mitigating its effects—

(a) do anything mentioned in sub-paragraph (2)(b) to (d);

(b) impose such other obligations, prohibitions or restrictions as the Secretary of State considers appropriate for that purpose.

(2C) A person may, with the consent of the Secretary of State, take action or action of a particular description where the action would otherwise constitute a contravention of an order under this paragraph.”;

(b) in sub-paragraph (4), omit “1 or”;

(c) in sub-paragraph (6), after “unless” insert—

“—

(a) the Secretary of State has reasonable grounds for suspecting that it is or may be the case that two or more enterprises have ceased to be distinct or that arrangements are in progress or in contemplation which, if carried into effect, will result in two or more enterprises ceasing to be distinct; or

(b)”;  
and

(d) after sub-paragraph (7) insert—

“(8) In this paragraph “pre-emptive action” means action which might prejudice the reference or possible reference concerned under article 5 or impede the taking of any action under this Order which may be justified by the Secretary of State’s decisions on the reference.”

(5) In paragraph 3—

- (a) in sub-paragraph (1), for “Commission” substitute “CMA”; and
  - (b) in sub-paragraph (3), for “OFT” substitute “CMA”.
- (6) In paragraph 4(2), for “OFT” substitute “CMA”.
- (7) In paragraph 5(1)(b) and (6), for “OFT” (in each place where it occurs) substitute “CMA”.
- (8) In paragraph 7—
- (a) for sub-paragraph (1)(b) substitute—
    - “(b) no orders under paragraph 2 are in force in relation to the European relevant merger situation concerned.”; and
  - (b) in sub-paragraph (8)(a) and (b), for “Commission” (in each place where it occurs) substitute “CMA”.
- (9) In paragraph 8—
- (a) for sub-paragraph (1)(b) substitute—
    - “(b) no orders under paragraph 2 are in force in relation to the European relevant merger situation concerned.”;
  - (b) in sub-paragraph (7)(a) and (b), for “Commission” (in each place where it occurs) substitute “CMA”; and
  - (c) in sub-paragraph (10)(b), for “OFT” substitute “CMA”.
- (10) In paragraph 10(1)(b) and (6), for “OFT” (in each place where it occurs) substitute “CMA”.
- (11) In paragraph 11(5), for “OFT” substitute “CMA”.