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STATUTORY INSTRUMENTS

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**1999 No. 506**

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

**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(1) 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(2) 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;
- (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

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(1) 1973 c. 41.

(2) 1980 c. 21.

- (b) Part II of Schedule 7 to the Competition Act 1998 (performance of the Commission’s general functions).”