
EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes consequential amendments in connection with the commencement of the provisions of the Enterprise Act 2002 (EA 2002).

Article 2 gives effect to the amendments, repeals and revocations contained in the Schedule to this Order.

Article 3(1) makes savings in relation to certain provisions for the purposes of water merger references by the Secretary of State under the Water Industry Act 1991 (WIA 1991) where the relevant Fair Trading Act 1973 (FTA 1973) and related provisions will continue to apply until the amendments to the WIA 1991, made by the EA 2002, come into force.

Article 3(2) makes a saving in relation to the revocation of provisions in the Competition Act 1998 (Director's rules) Order 2000 to be consistent with the saving in Article 5 of the Enterprise Act 2002 (Commencement No.3, Transitional and Transitory Provisions and Savings) Order 2003 (S.I.2003/1397 (c. 60)) concerning the amendments made by section 17 of the EA 2002 to the provisions concerning third party appeals in section 47 of the Competition Act 1998. The savings ensure that any application to the Office of Fair Trading or appeal to the Competition Appeal Tribunal in relation to a decision made before 20th June 2003 may be proceeded with in accordance with the old law and old Director's rules notwithstanding the commencement of section 17.

In relation to the Schedule, paragraph 1 adds the Competition Appeal Tribunal to Schedule 4 of the Parliamentary Commissioner Act 1967 making it a relevant tribunal for the purposes of section 5(7) of that Act.

Paragraph 2 amends the Solicitors (Scotland) Act 1980. Under section 64C(1) the Office of Fair Trading (OFT) can issue a notice requiring the production of documents for the purpose of investigating a matter under section 64A of that Act. Section 64C(3) of that Act applies section 85(5) to (8) of the FTA 1973 (contempt of court provisions) to enforce such notices. The amendments repeal the cross-reference to section 85 FTA 1973 and reproduce these provisions with some modifications. Similar amendments were made in Schedule 14 to the Companies Act 1989, section 46 of the Courts and Legal Services Act 1990 and Schedule 4 to the Broadcasting Act 1990 by virtue of Schedule 25 to the EA 2002. Similar amendments are made in this Order by virtue of paragraph 12 of the Schedule to this Order in relation to the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990, paragraph 15 in relation to the Companies (Northern Ireland) Order 1990, paragraph 17 in relation to the EEC Merger Control (Distinct Market Investigations) Regulations 1990 and in paragraph 43 in relation to the Uncertificated Securities Regulations 2001.

Paragraphs 3, 4, 8, 19, 20, 22, 25, 28 and 44 revoke or repeal provisions that refer to FTA 1973 provisions which have been repealed by the EA 2002.

Paragraph 5 repeals certain definitions in section 36(1) of the Airports Act 1986 which are no longer required following amendments made by the EA 2002.

Paragraph 6 makes consequential amendments to section 33 of the Channel Tunnel Act 1987 following the repeal of section 6 FTA 1973 by the EA 2002.

Paragraphs 7 and 11 update the Companies (Disclosure of Information) (Designated Authorities) Order 1988 and Financial Services (Disclosure of Information) (Designated Authorities) (No 6) Order 1989 by adding references to the EA 2002.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Paragraph 9 consequentially amends section 100 of the Electricity Act 1989 so that electricity will be treated as goods for the purposes of the EA 2002.

Paragraph 10 amends paragraph 4A of Schedule 14 to the Companies Act 1989 so as to include Scottish partnerships in the contempt of court provisions in that paragraph.

Paragraph 13 rectifies a numbering error in section 50(2)(m) of the Courts and Legal Services Act 1990.

Paragraph 14 repeals section 197(5) of the Broadcasting Act 1990 which refers to information disclosure provisions which have been repealed by the EA 2002 and amends paragraph 8A of Schedule 4 so as to include Scottish partnerships in the contempt provisions of that paragraph.

Paragraph 16 revokes regulations 1 and 3 of the EEC Merger Control (Consequential Provisions) Regulations, which are no longer required because the provisions of the EA 2002 are adequate.

Paragraph 18 amends sections 10 and 33 of the New Roads and Street Works Act 1991 so that a person authorised to charge a toll shall be deemed to supply a service for the purposes of the EA 2002.

Paragraph 21 repeals section 66(5) of the Railways Act 1993 which refers to a provision of the FTA 1973 that has been repealed by the EA 2002. It also consequentially amends section 67(7) to make it consistent with amendments made by the EA 2002.

Paragraphs 23, 26, 27, 29, 30, 33, 34 and 42 revoke references to the FTA 1973 which are in the restrictions on disclosure of information provisions of the legislation referred to in those paragraphs.

Paragraph 24 consequentially amends the Channel Tunnel Rail Link Act 1996 to make it consistent with amendments made by the EA 2002.

Paragraph 31 amends paragraph 15 of Schedule 2 to the Copyright and Rights in Databases Regulations 1997 so as to refer to the enforcement powers in the EA 2002 and the Enterprise Act 2002 (Protection of Legitimate) Interests Order 2003. These amendments are similar to those amendments made by the EA 2002 to section 144 of the Copyright, Designs and Patents Act 1988 in relation to licences granted by the owner of copyright, but they are in relation to database right.

Paragraphs 32 and 39 repeal/revoke provisions that are no longer relevant because of the EA 2002.

Paragraph 35 updates Part 2 of Schedule 1 to the Telecommunications (Licence Modification) (Standard Schedules) Regulations 1999 so there is reference to the EA 2002.

Paragraph 36 amends the Water Appointment (Competition Commission) Regulations 1999 which set out the procedures in relation to Competition Commission references under section 12 of the WIA 1991 for the determination of matters arising under an instrument of appointment of a water or sewerage undertaker. The amendments bring the procedure for section 12 WIA 1991 references in line with the procedures for section 14 WIA 1991 references, which were amended by the EA 2002.

Paragraph 37 amends the Transport Act 2000 so that there is a reference to the EA 2002.

Paragraph 38 consequentially amends the Competition Act 1998 (Director's rules) Order 2000 to take account of the amendments made to the third party appeals provisions in the Competition Act 1998.

Paragraph 40 consequentially amends the Utilities Act 2002 (Supply of Information) Regulations 2000 as the monopoly references referred to in regulation 5 have been repealed and replaced with Part 4 of the EA 2002.

Paragraph 41 amends the EC Competition Law (Articles 84 and 85) Enforcement Regulations 2001 to make them consistent with the Competition Act 1998 as amended by the EA 2002.