

**2005 No. 3558**

**COMPETITION**

**The Enterprise Act 2002 (Merger Fees) (Amendment) Order  
2005**

*Made* - - - - - *30th December 2005*

*Laid before Parliament* *5th January 2006*

*Coming into force* - - - *6th April 2006*

The Secretary of State, in exercise of the powers conferred upon him by sections 121 and 124(2) of the Enterprise Act 2002(a), makes the following Order:

**Citation, coming into force and transitional provision**

1.—(1) This Order may be cited as the Enterprise Act 2002 (Merger Fees) (Amendment) Order 2005 and shall come into force on 6th April 2006.

(2) This Order shall not apply in relation to —

- (a) a decision by the OFT or the Secretary of State in relation to a possible reference under sections 22 or 45(2) or (3) of the Enterprise Act 2002 that it is or may be the case that a relevant merger situation has been created; or
- (b) the making by the OFT of a merger reference to the Commission under section 32(b) of the Water Industry Act 1991(b),

where the decision or reference relates to two or more enterprises ceasing to be distinct enterprises before the 6th April 2006.

**Amendments to the Enterprise Act 2002 (Merger Fees and Determination of Turnover Order) 2003**

2.—(1) The Enterprise Act 2002 (Merger Fees and Determination of Turnover) Order 2003(c) is amended as follows.

- (2) In article 5(1)(a), for “£5,000” substitute “£15,000”.
- (3) In article 5(1)(b), for “£10,000” substitute “£30,000”.
- (4) In article 5(1)(c), for “£15,000” substitute “£45,000”.
- (5) In article 5(4)(a), for “5,000” substitute “£15,000”.
- (6) In article 5(4)(b), for “£10,000” substitute “£30,000”.
- (7) In article 5(4)(c), for “£15,000” substitute “£45,000”.

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(a) 2002 c.40.

(b) 1991 c.56.

(c) S.I. 2003/1370 amended by S.I. 2004/1079 and S.I. 2004/3204.

(8) Article 6(5) is deleted.

*Gerry Sutcliffe*  
Parliamentary Under Secretary of State for  
Employment Relations and Consumer Affairs  
Department of Trade and Industry

30th December 2005

### **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order amends the Enterprise Act 2002 (Merger Fees and Determination of Turnover) Order 2003 (S.I.2003/1370).

The Order increases the amounts of the fees payable in each of the three fee bands while making no change to the structure of the bands. Article 1(2) contains a transitional provision which applies where, in the case of a completed merger, a decision is made relating to a possible reference by the OFT or the Secretary of State under sections 22 or 45(2) or (3) of the Enterprise Act 2002 or a reference is made by the OFT under section 32(b) of the Water Industry Act 1991. In the case of a completed merger, falling within the transitional provision, fees will only be payable at the new higher rate where the decision or reference relates to two or more enterprises which cease to be distinct on or after 6th April 2006. Section 27 of the Enterprise Act 2002 governs when two enterprises cease to be distinct.

The Order also removes the exclusion from paying merger fees that previously applied to certain acquirers who were not UK nationals or bodies corporate where the creation or possible creation of a relevant merger situation resulted from their conduct outside the UK.

A regulatory impact assessment has been prepared. A copy can be obtained from Consumer and Competition Policy Directorate, Bay 415, 1 Victoria Street, London SW1H 0ET, telephone 0207 215 5009. A copy can also be found at <http://www.dti.gov.uk/ccp/consultations.htm>.

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