

*These notes refer to the Enterprise Act 2002 (c.40)
which received Royal Assent on 7 November 2002*

ENTERPRISE ACT 2002

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3: Mergers

Summary and Background

Chapter 5: Supplementary

Miscellaneous

Section 128: Supply of services and market for services etc.

291. This section follows the definition of ‘supply of services’ in section 137(3) of the FTA 1973, with two modifications. The first modification is the inclusion of new *subsection (4)*, which provides that the supply of services includes making arrangements for a person to receive computer software or data such as information, music or photographs. This is intended to cover electronic supply. Such persons are not receiving anything in physical form and so might not otherwise be receiving ‘goods’. This provision ensures that such consumers will be considered to be receiving a service. The second change is the omission from the definition of ‘supply of services’ of provisions corresponding to sections 137(3)(c), (d), (e) and (g) of the FTA 1973, which relate to the making of arrangements to permit the use of land in certain specified circumstances. The Secretary of State is however given a power by order to extend the definition of the supply of services involving arrangements permitting the use of land as in section 137(3A) of the FTA 1973. It is intended that this order-making power will be used to reinstate those provisions relating to the use of land in section 137(3) that are relevant to this Part before this Part of the Act comes into force.