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STATUTORY INSTRUMENTS

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**2000 No. 344 (C. 9)**

**COMPETITION**

**The Competition Act 1998 (Commencement No. 5) Order 2000**

*Made - - - - - 11th February 2000*

*Coming into force - - - - - 1st March 2000*

The Secretary of State in exercise of the powers conferred on him by section 76 of the Competition Act 1998<sup>(1)</sup> hereby makes the following Order:

**Citation**

1. This Order may be cited as the Competition Act 1998 (Commencement No. 5) Order 2000.

**Provisions of the Act commenced by this Order**

2. 1st March 2000 is the appointed day for the coming into force of the provisions of the Competition Act 1998 listed in the first column of the Schedule to this Order for the purposes set out in the second column.

11th February 2000

*Stephen Byers,*  
Secretary of State for Trade and Industry

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## SCHEDULE

Article 2

PROVISIONS OF THE COMPETITION ACT 1998  
COMING INTO FORCE ON 1ST MARCH 2000

<i>Provisions of the Act</i>	<i>Purpose</i>
Section 1(b) to (d) (enactments repealed)	For all purposes
Section 2 (the Chapter I prohibition)	For all purposes
Section 3(1)(b)	For all remaining purposes
Section 4 (individual exemptions)	For all purposes
Section 5 (cancellation etc. of individual exemptions)	For all purposes
Section 6 (block exemptions)	For all purposes
Section 7 (block exemptions: opposition)	For all purposes
Section 8 (block exemption: procedure)	For all purposes
Section 9 (exemption criteria)	For all purposes
Section 10 (parallel exemptions)	For all purposes
Section 11 (exemption for certain agreements)	For all purposes
Section 12(1) and (2) (requests for Director to examine agreements)	For all purposes
Section 13 (notification for guidance)	For all purposes
Section 14 (notification for a decision)	For all purposes
Section 15 (effect of guidance)	For all purposes
Section 16 (effect of decisions)	For all purposes
Section 17 (enactments replaced)	For all purposes
Section 18 (Chapter II prohibition)	For all purposes
Section 20 (requests for Director to consider conduct)	For all purposes
Section 21 (notification for guidance)	For all purposes
Section 22 (notification for a decision)	For all purposes
Section 23 (effect of guidance)	For all purposes
Section 24 (effect of a decision)	For all purposes
Sections 25, 26, 27, 28, 29, 30 and 31 (powers of investigation and decisions following investigations)	For all purposes
Sections 32, 33, 34, 35, 36 and 37 (enforcement)	For all purposes
Section 38(8) to (10) (level of penalties)	For all purposes
Sections 39 and 40 (limited immunity)	For all purposes

<i>Provisions of the Act</i>	<i>Purpose</i>
Section 41 (agreements notified to Commission)	For all purposes
Sections 42 to 44 (offences)	For all purposes
Section 46, 47, 49(1), (2) and (4) (appeals)	For all purposes
Section 54(1) (regulators)	For all purposes
Section 54(2) and (3)	For all remaining purposes
Section 55(1) to (5), (7) and (8) and 56 (confidentiality of information)	For all purposes
Section 58 (findings of fact by Director)	For all purposes
Sections 61 to 65 (investigations in relation to Articles 81 and 82 EC(2))	For all purposes
Section 70 (contracts as to patented products)	For all purposes
Section 72 (offences by bodies corporate)	For all purposes
Section 73 (Crown application)	For all purposes
Section 74 (amendments, transitional provisions, savings and repeals)	In so far as it relates to the provisions in Schedule 10 brought into force by this Order
Schedule 2 (exclusions: competition scrutiny under other statutes) paragraphs 1 to 5	For all purposes
Schedule 5 (procedure for notification under Chapter I) paragraphs 1 to 6	For all purposes
Schedule 6 (procedure for notification under Chapter II) paragraphs 1 to 6	For all purposes
Schedule 8 (appeals) paragraphs 2 to 4	For all purposes
Schedule 10 (regulators) paragraphs 9(3), (4), (6), (7)(a) and (8), 10(3) to (5), (6)(a) and (7), 11(a), 12(3) to (5), (7)(a) and (8), 13(2), (4) to (7), (9) and (10)(a), 14(a), 15(3) to (8), (9)(a) and (10), 16, 17(3) to (5), (7)(a), (8) and (9), 18(3) to (5), (6)(a) and (7)	For all purposes
Schedule 10 paragraphs 2 to 8	For all remaining purposes
Schedule 11 (interpretation of section 55)	For all purposes
Schedule 12 (minor and consequential amendments) paragraphs 1(3)(c), (4), (5), (6), (7), (8), 2, 3(a), 4(2), (4) to (8), (10), (13) to (15), 5, 6(b), 7(3) to (5), 8, 9, 10(a), 11, 12, 13, 14(2), 16, 17, 18(a), 19, 20(3) to (6) and 21	For all purposes
Schedule 13 (transitional provisions and savings) paragraphs 8 to 10, 12(2), 13 to 18,	For all purposes

(2) Articles 85 and 86 of the Treaty establishing the European Community were renumbered 81 and 82 as a result of the Treaty signed at Amsterdam on 2nd October 1997 amending the Treaty on European Union, the Treaties establishing the European Communities and certain related Acts.

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<i>Provisions of the Act</i>	<i>Purpose</i>
19(1) and (2), 20 to 34 and 36 to 39 and 42 to 46	
Schedule 13 paragraph 12(1)	For all remaining purposes
In Part I of Schedule 14 (repeals) the entries relating to section 78(3) of the Fair Trading Act 1973 <b>(3)</b> , the Restrictive Trade Practices Act 1976 <b>(4)</b> , the Resale Prices Act 1976 <b>(5)</b> , the Energy Act 1976 <b>(6)</b> , the Restrictive Trade Practices Act 1977 <b>(7)</b> , the Patents Act 1977 <b>(8)</b> , the Estate Agents Act 1979 <b>(9)</b> , sections 2 to 10, 11(8), 13(1), 15, 16(3), 17, 19(3), 19(5)(a), 25 to 30, 31 and 33(3) and (4) of the Competition Act 1980 <b>(10)</b> , the Telecommunications Act 1984 <b>(11)</b> , the Airports Act 1986 <b>(12)</b> , the Gas Act 1986 <b>(13)</b> , the Financial Services Act 1986 <b>(14)</b> , the Consumer Protection Act 1987 <b>(15)</b> , the Channel Tunnel Act 1987 <b>(16)</b> , the Road Traffic (Consequential Provisions) Act 1988 <b>(17)</b> , the Water Act 1989 <b>(18)</b> , the Electricity Act 1989 <b>(19)</b> , the Companies Act 1989 <b>(20)</b> , the Broadcasting Act 1990 <b>(21)</b> , the Water Industry Act 1991 <b>(22)</b> , the Water Resources Act 1991 <b>(23)</b> , the Osteopaths Act 1993 <b>(24)</b> , the Railways Act 1993 <b>(25)</b> , the Chiropractors Act 1994 <b>(26)</b> , the Coal Industry Act 1994 <b>(27)</b> , the Deregulation and Contracting Out Act 1994 <b>(28)</b> , and the Broadcasting Act 1996 <b>(29)</b> and in Part II the entries relating to the Magistrates' Courts (Northern Ireland)	For all purposes

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- (3) 1973 c. 41.
  - (4) 1976 c. 34.
  - (5) 1976 c. 53.
  - (6) 1976 c. 76.
  - (7) 1977 c. 19.
  - (8) 1977 c. 37.
  - (9) 1979 c. 38.
  - (10) 1980 c. 21.
  - (11) 1984 c. 12.
  - (12) 1986 c. 31.
  - (13) 1986 c. 44.
  - (14) 1986 c. 60.
  - (15) 1987 c. 43.
  - (16) 1987 c. 53.
  - (17) 1988 c. 54.
  - (18) 1989 c. 15.
  - (19) 1989 c. 29.
  - (20) 1989 c. 40.
  - (21) 1990 c. 42.
  - (22) 1991 c. 56.
  - (23) 1991 c. 57.
  - (24) 1993 c. 21.
  - (25) 1993 c. 43.
  - (26) 1994 c. 17.
  - (27) 1994 c. 21.
  - (28) 1994 c. 40.
  - (29) 1996 c. 55.

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<i>Provisions of the Act</i>	<i>Purpose</i>
Order 1981(30), the entry relating to the Competition Act 1980 in Schedule 8 of the Agricultural Marketing (Northern Ireland) Order 1982(31), the Companies Consolidation (Consequential Provisions) (Northern Ireland) Order 1986(32), the Electricity (Northern Ireland) Order 1992(33), the Airports (Northern Ireland) Order 1994(34), and the Gas (Northern Ireland) Order 1996(35)	

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## EXPLANATORY NOTE

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

This Order brings into force on 1st March 2000 certain provisions of the Competition Act 1998.

The Order brings into force section 1(b) to (d) which repeal the Restrictive Trade Practices Act 1976, the Resale Prices Act 1976 and the Restrictive Trade Practices Act 1977 and section 17 which repeals sections 2 to 10 of the Competition Act 1980 which provides for the control of anti-competitive practices.

The Order brings into force the Chapter I prohibition on anti-competitive agreements (section 2) and the Chapter II prohibition on abuse of a dominant position (section 18). It brings into force section 3 and Schedule 2 (so far as not already in force) which make provision in respect of exclusions from the prohibitions and sections 4 to 11 which make provision in respect of exemptions from the Chapter I prohibition. It brings into force sections 12 (so far as not already in force), 13 to 16 and 20 to 24 and Schedules 5 and 6 (except paragraph 7 in each Schedule) which enable guidance and decisions about the application of the prohibitions to be obtained from the Director General of Fair Trading (“the Director”) and provide for the procedure to be followed and the effect of guidance and decisions.

The Order brings into force sections 25 to 31 which make provision in respect of investigations by the Director of suspected breaches of the prohibitions, and sections 32 to 35 which provide powers for him to direct undertakings to terminate infringements (and to impose interim measures). The Order brings into force section 36 which empowers the Director to impose penalties for infringing the prohibitions, section 37 which provides for the recovery of penalties by the Director, and (so far as not already in force) section 38 which requires the Director to publish guidance as to the appropriate amount of any penalty. The Order brings into force sections 39 and 40 which enable the Secretary of State by regulations to confer limited immunity on small agreements and conduct of minor significance, and section 41 which provides for provisional immunity where an agreement has been notified to the European Commission.

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(30) S.I. 1981/1675 (N.I. 26).

(31) S.I. 1982/1080 (N.I. 12).

(32) S.I. 1986/1035 (N.I. 9).

(33) S.I. 1992/231 (N.I. 1).

(34) S.I. 1994/426 (N.I. 1).

(35) S.I. 1996/275 (N.I. 2).

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The Order brings into force sections 42 to 44 which make offences of the failure to comply with the investigation powers, and of the provision to the Director of false information.

The Order brings into force sections 46, 47, 49 (so far as not already in force) and Schedule 8 (so far as not already in force) which provide for appeals from decisions of the Director.

The Order brings into force section 54 and Schedule 10 (so far as not already in force) which provide for concurrent exercise by the regulators of functions under Part I of the Act and for minor and consequential amendments to the regulatory Acts and Orders.

The Order brings into force section 55 (so far as not already in force), 56 and Schedule 11 which provide for confidentiality of information obtained under Part I of the Act.

The Order brings into force section 58 which provides for findings of fact by the Director to be admissible in civil proceedings.

The Order brings into force sections 61 to 65 which provide powers for the Director General of Fair Trading to assist the European Commission in conducting investigations into suspected breaches of EC Competition law, for the Director to conduct investigations on their behalf, and offences in connection with obstruction of such investigations.

The Order brings into force section 70 which repeals sections 44 and 45 of the Patents Act 1977.

The Order brings into force section 72, which provides for offences committed by bodies corporate, section 73 which provides for Crown application and section 74 and (so far as not already in force), Schedules 12, 13 and 14 which contain consequential amendments, transitional provisions and savings, and repeals (with the exception of the repeal of the Restrictive Practices Courts Act 1976).

#### **NOTE AS TO EARLIER COMMENCEMENT ORDERS**

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

The following provisions of the Competition Act 1998 have been brought into force by commencement orders made before the date of this Order:

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
s. 3(1)(a), (c) and (d) and (2) to (6)	11.1.1999	1998/3166
s. 3(1)(b) (partially)	11.1.1999	1998/3166
s. 12(3)	11.1.1999	1998/3166
s. 19	11.1.1999	1998/3166
s. 38(1) to (7)	11.1.1999	1998/3166
s. 45	1.4.1999	1999/505
s. 48	1.4.1999	1999/505
s. 49(3)	1.4.1999	1999/505
s. 50	11.1.1999	1998/3166
s. 51	26.11.1998	1998/2750
s. 52	26.11.1998	1998/2750
s. 53	11.1.1999	1998/3166
s. 54(2) (partially)	26.11.1998	1998/2750

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
s. 54(3) (partially)	11.1.1999	1998/3166
	1.4.1999	1999/505
s. 54(4) to (7)	11.1.1999	1998/3166
s. 55(6)	11.1.1999	1998/3166
s. 57	11.1.1999	1998/3166
s. 59 (partially)	26.11.1998	1998/2750
s. 59 (for all other purposes)	11.1.1999	1998/3166
s. 60	11.1.1999	1998/3166
s. 66	1.4.1999	1999/505
s. 67	1.4.1999	1999/505
s. 68	1.4.1999	1999/505
s. 69	11.1.1999	1998/3166
s. 74 (partially)	11.1.1999	1998/3166
	1.4.1999	1999/505
Sch. 1	11.1.1999	1998/3166
In Sch. 2 Para 6	11.1.1999	1998/3166
Sch. 3	11.1.1999	1998/3166
Sch. 4	11.1.1999	1998/3166
Sch. 7	1.4.1999	1999/505
In Sch. 8 para 1 and Part II	1.4.1999	1999/505
Sch. 9	26.11.1998	1998/2750
In Sch. 10 paras 2 to 8 (partially)	26.11.1998	1998/2750
In Sch. 10 paras 9(7)(b), 10(6)(b), 11(b), 12(7)(b), 13(10)(b), 14(b), 15(9)(b), 17(7)(b), 18(6)(b)	11.1.1999	1998/3166
In Sch. 10 paras 1, 9(1), (2) and (5), 10(1) and (2), 12(1), (2) and (6), 13(1), (3) and (8), 15(1) and (2), 17(1), (2) and (6) and 18(1) and (2)	1.4.1999	1999/505
In Sch. 12 paras 1(1), (2), (9) to (13) and (15), 4(1), (3) and (12), 6(a), 7(1) and (2), 14(1) and (3), 15 and 20(1) and (2)		1999/505
In Sch. 12 paras 1(14), 3(b), 4(9) and (11), 10(b) and 18(b)	11.1.1999	1998/3166

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<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
In Sch. 12 paras 1(3)(a), (b) and (d)	10.11.1999	1999/2859
In Sch. 13 paras 10(5) and 19(3)	11.1.1999	1998/3166
In Sch. 13 paras 11 and 12(1) (partially)	11.1.1999	1998/3166
In Sch. 13 paras 40 and 41	10.11.1999	1999/2859
In Sch. 14 in Part I the entries relating to ss. 4, 45, 81, 135 of, and Sch. 3 to, the Fair Trading Act 1973 and in Part II the entry relating to para 16(2) of Sch. 8 to the Agricultural Marketing (Northern Ireland) Order 1982	1.4.1999	1999/505
In Sch. 14 in Part I the entries relating to s. 83 of the Fair Trading Act 1973 and to s. 22 of the Competition Act 1980	11.1.1999	1998/3166
In Sch. 14 in Part I the entries relating to ss. 10(2) and 54(5) of, and paras 3(1) and (2) of Sch. 8 to, the Fair Trading Act 1973	10.11.1999	1999/2859