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## EXPLANATORY NOTE

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

Section 25 of and Schedule 4 to the Enterprise and Regulatory Reform Act 2013 (“the Act”) provide for the creation of the Competition and Markets Authority (“CMA”). Section 26 of and Schedules 5 and 6 to the Act provide for the abolition of the Office of Fair Trading (“OFT”) and the Competition Commission (“the Commission”) and for the transfer of functions from the OFT and the Commission to the CMA.

Part 4 of the Act makes various changes to the competition functions which the CMA will assume. In particular, the Act amends Part 3 (mergers) and Part 4 (markets studies and market investigations) of the Enterprise Act 2002 (“the 2002 Act”).

This Order makes consequential amendments to secondary legislation in connection with the commencement of Parts 3 and 4 of the Act on 1st April 2014. A further Order under section 99 of the Act is being made to make equivalent amendments to primary legislation.

Article 1 provides for citation, commencement, interpretation and extent. Article 1(3) provides that the amendments and revocations in the Order have the same extent as the provision amended or repealed.

Article 2 gives effect to Schedule 1. Schedule 1 makes consequential amendments in connection with the abolition of the OFT and the Commission and the transfer of functions to the CMA by substituting the CMA for the OFT and the Commission in secondary legislation. It also makes amendments consequential on the amendments to competition law made under Part 4 of the Act.

In particular, Schedule 1 makes consequential amendments to the Water Mergers (Modification of Enactments) Regulations 2004 (S.I. 2004/3202) (“the 2004 Regulations”) in connection with the amendments made by the Act to the general regime for the regulation of mergers under Part 3 of the 2002 Act. Whilst Part 3 of the 2002 Act contains the main statutory scheme for the regulation of mergers, sections 32 to 35 of, and Schedule 4ZA to, the Water Industry Act 1991 (“the 1991 Act”) provide a separate scheme for the regulation of mergers between water or sewerage undertakers (“water mergers”) in England and Wales. Schedule 4ZA provides that Part 3 of the 2002 Act and related provisions in that Act apply to water mergers subject to prescribed modifications. The 2004 Regulations provide for relevant modifications. This Order amends the 2004 Regulations so that the modifications they make to Part 3 of 2002 Act as it applies to water mergers take account of the amendments to the general merger regime made by the Act.

Schedule 1 also makes consequential amendments in connection with the transfer to the CMA of the Commission’s role in hearing appeals in connection with regulatory matters in the postal services sector.

Article 3 and Schedule 2 make transitional and saving provision in connection with the transfer of functions from the OFT and the Commission to the CMA and the amendments to competition law made by the Act. Transitional provision and savings are also made, in relation to amendments made by the Act to the provisions of Part 3 of the 2002 Act applied by the 2004 Regulations in connection with water mergers, by the Enterprise and Regulatory Reform Act 2013 (Commencement No. 6, Transitional Provisions and Savings) Order 2014 (S.I. 2014/416 (C.17)). That Order also includes saving provisions relevant to the revocations of provisions of the Enterprise Act 2002 (Merger Pre-notification) Regulations 2003 (S.I. 2003/1369).

The impact assessment completed for Parts 3 and 4 of the Enterprise and Regulatory Reform Bill, introduced to Parliament on 23rd May 2012, contains an assessment of the effect that the reforms to

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the competition regime will have on the costs of business and the public and voluntary sector and can be found at the website: <https://www.gov.uk/government/publications/strengthening-competition-and-creating-a-single-market-authority>.