

**2012 No. 1878**

**COMPETITION**

**The Enterprise Act 2002 (Merger Fees) (Amendment and Revocation) Order 2012**

<i>Made</i>	- - - -	<i>17th July 2012</i>
<i>Laid before Parliament</i>		<i>18th July 2012</i>
<i>Coming into force</i>	- -	<i>1st October 2012</i>

The Secretary of State, in exercise of the powers conferred 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 and Revocation) Order 2012 and shall come into force on 1st October 2012.

(2) This Order shall not apply to—

- (a) a decision in relation to a possible reference by the OFT under section 22 of the Enterprise Act 2002, or by the Secretary of State under section 45(2) or (3) of that Act, 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 1st October 2012.

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

2.—(1) Article 5 (amount of fees) of the Enterprise Act 2002 (Merger Fees and Determination of Turnover) Order 2003(c) is amended as follows.

(2) In paragraph (1)(a), for “£30,000” substitute “£40,000”.

(3) In paragraph (1)(b), for “£60,000” substitute “£80,000”.

(4) In paragraph (1)(c), for “, £90,000.” substitute “but does not exceed £120 million, £120,000;”.

(5) After paragraph (1)(c) insert—

“(d) where the value of such turnover exceeds £120 million, £160,000.”.

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(a) 2002 c.40; section 121 was amended by paragraph 23 of Schedule 16 and Schedule 19 to the Communications Act 2003 (c.21).  
(b) 1991 c.56; section 32 was substituted by section 70(1) of the Enterprise Act 2002.  
(c) S.I. 2003/1370; relevant amending instruments are S.I. 2004/3204 and S.I. 2009/2396.

- (6) In paragraph (4)(a), for “£30,000” substitute “£40,000”.
- (7) In paragraph (4)(b), for “£60,000” substitute “£80,000”.
- (8) In paragraph (4)(c), for “, £90,000.” substitute “but does not exceed £120 million, £120,000;”.
- (9) After paragraph (4)(c) insert—
- “(d) where the value of such turnover exceeds £120 million, £160,000.”.

### **Revocation**

3. The Enterprise Act 2002 (Merger Fees) (Amendment) Order 2005<sup>(a)</sup> is revoked.

*Norman Lamb*  
Parliamentary Under Secretary of State for Employment Relations, Consumer and Postal Affairs  
17th July 2012

Department for Business, Innovation and Skills

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<sup>(a)</sup> S.I. 2005/3558.

## 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 (SI 2003/1370 as amended by S.I. 2004/3204, S.I. 2005/3558 and S.I. 2009/2396). The Order increases the amount of fees payable in each of the three fee bands and introduces a fourth fee band to apply where the value of the turnover in the United Kingdom of the enterprise which has been taken over or (as the case may be) which it is proposed or contemplated should be taken over exceeds £120 million.

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 (c.40) or a reference is made by the OFT under section 32(b) of the Water Industry Act 1991 (c.56). 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 1st October 2012. Section 27 of the Enterprise Act 2002 governs when two enterprises cease to be distinct.

Article 3 revokes the Enterprise Act 2002 (Merger Fees) (Amendment) Order 2005 (S.I. 2005/3558), which prescribed levels of fees which have been superseded.

An impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector has been published alongside this Order and its Explanatory Memorandum on [www.legislation.gov.uk](http://www.legislation.gov.uk). Copies of the impact assessment are available from the Consumer and Competition Policy Directorate, Department for Business, Innovation and Skills, 1 Victoria Street, London SW1H 0ET.

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