EXPLANATORY MEMORANDUM TO THE

ENTERPRISE ACT 2002 (JUDICIAL PENSIONS AND RETIREMENT ACT 1993) ORDER 2005

2005 No. 53

1. This explanatory memorandum has been prepared by the Department of Trade and Industry and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 This Order makes it clear that the office of President of the Competition Appeal Tribunal (CAT), is a judicial office for judicial pensions purposes.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Background

4.1 The persons to whom Part 1 of the Judicial Pensions and Retirement Act 1993 (the 1993 Act) applies are entitled to a judicial pension under that Act. The Act applies to persons appointed to the offices listed in Schedule 1 to the Act.

4.2 The CAT was created by section 12 of the Enterprise Act 2002. The Enterprise Act provided for the CAT to take over the appeal functions previously exercised by the Competition Commission Appeals Tribunals (CCATs), which were part of the Competition Commission (CC) under the Competition Act 1998. Paragraph 7 of Schedule 24 to the Enterprise Act 2002 provided that on the commencement of section 12, the existing President of the CCATs would become the President of the CAT as if duly appointed under section 12, on the same terms. Section 12 was commenced on 1st April 2003. Its holder on and since that date has been Sir Christopher Bellamy Q.C.

4.3 The office of the President of the CCATs was listed in Schedule 1 to the Judicial Pensions and Retirement Act 1993, which conferred judicial pension entitlement on its holder, by virtue of an amendment to that Act made by the Judicial Pensions (Qualifying Judicial Offices) (President of the Competition Commission Appeal Tribunals) Order 1999. Article 2(1) of this order provides that the holder of the successor office, the President of the CAT, is similarly entitled to such a pension. Article 2(2) of the order makes express provision to

remove any doubt that the current holder of the office is entitled to such a pension in relation to his service in the post in the period since 1st April 2003.

5. Extent

5.1 This instrument applies to all of the United Kingdom .

6. European Convention on Human Rights

The Parliamentary Under Secretary of State for Employment Relations, Competition and Consumers has made the following statement regarding Human Rights:

In my view the provisions of the Enterprise Act 2002 (Judicial Pensions and Retirement Act 1993) (Consequential Amendment) Order 2005 are compatible with the Convention rights.

7. Policy background

7.1 No policy aspects are involved in this Order: it is entirely concerned with legal certainty

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument ait has no impact on business, charities, voluntary bodies or the public sector.

9. Contact

Glenn Fisher at the Department of Trade and Industry Tel: 0207 215 6777 or e-mail: glenn.fisher@dti.gsi.gov.uk can answer any queries regarding the instrument.

DEPARTMENT OF TRADE AND INDUSTRY