STATUTORY INSTRUMENTS

2001 No. 1199

COMPETITION

The Merger (Fees) (Amendment) Regulations 2001

Made - - - -	*27th March 2001*
Laid before Parliament	*27th March 2001*
Coming into force	*1st June 2001*

The Secretary of State in exercise of the powers conferred on him by section 152 of the Companies Act 1989**(a)** hereby makes the following Regulations:

Citation and Commencement

1. These Regulations may be cited as the Merger (Fees) (Amendment) Regulations 2001 and shall come into force on 1st June 2001.

Amendment of Merger (Fees) Regulations 1990

2.—(1) In the Merger (Fees) Regulations 1990**(b)**, regulation 5 (persons by whom fees are payable) is amended as follows.

(2) In paragraph (3) after the words "Subject to paragraph (5)" is inserted the words "or (6)".

(3) After paragraph (5) is inserted:

"(6) In a case falling within regulation 2(b) to (e), the person or group of persons specified in paragraph (2) or (3) above shall not be liable to pay the fee if:

(a) being a person of the kind described in paragraph (2) above, the enterprise carried on by him or under his control is one to which the notified arrangements relate and he will, if the notified arrangements are carried into effect, be in the position of a person or group of persons described in subparagraphs (b) or (c) below; or

(b) being a person or group of persons of the kind described in paragraph (3)(a) above, the relevant enterprise carried on by him or them or under his or their control will if the arrangements are carried into effect, or did if the arrangements have been carried into effect, cease to be distinct from the enterprises described in paragraph 3(a)(iv) or (v) above; or

(c) in the circumstances described in paragraph (3)(b)(i) or (ii) above he is a person or group of persons to whom paragraph (3)(b)(iii), (iv) or (v) above applies;

and the relevant enterprise carried on by that person or group of persons or under his or their control qualifies as small or medium sized.

(7) For the purposes of paragraph (6):—

(a) an enterprise qualifies as small or medium sized if, immediately before the time at which the fee would otherwise become payable—

(a) 1989 c.40, as amended by the Water Consolidation (Consequential Provisions) Act 1991 (1991 c.60), Schedule 1, paragraph 52.
(b) S.I. 1990/1660.

(i) it satisfies the requirements to be small or medium sized set out in subsections (3) to (6) of section 247 of the Companies Act 1985**(a)** ("the Act of 1985") in its most recent financial year, whether or not the enterprise is a company; and

(ii) where it is a member of a group as defined in section 262 of the Act of 1985 (whether or not the enterprise is a company), that group qualifies as small or medium sized within the meaning of subsections (3) to (5) of section 249 of the Act of 1985 in its most recent financial year;

(b) a "relevant enterprise" is, in a case falling within paragraph (3)(a) above one to which the circumstances described in paragraph (3)(a)(i), (ii) or (iii) relate, or, in a case falling within paragraph (3)(b) above one to which the circumstances described in paragraph (3)(b)(i) or (ii) relate.

(8) Paragraph (6) shall not apply to fees becoming payable before 1st June 2001."

(4) In paragraph (c) of regulation 2 and paragraph (5) of regulation 5 for the words "section 29(1) of the Water Act 1989"**(b)** are substituted the words "section 32(1) of the Water Industries Act 1991"**(c)** and in paragraph 3(a)(iii) of regulation 5 for the words "section 29 of the Water Act 1989" are substituted the words "section 32 of the Water Industries Act 1991".

Stephen Byers,
27th March 2001 — Secretary of State for Trade and Industry

(a) 1985 c.6.
(b) 1989 c.15.
(c) 1991 c.56.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Merger (Fees) Regulations 1990. Regulation 2(2) and (3) amends the 1990 Regulations to exempt acquiring enterprises where they are small or medium sized (as defined by reference to the Companies Act 1985) from the payment of fees in respect of the matters described in regulations 2(b) to (e) of the 1990 Regulations. The exemption does not apply to newspaper mergers or to fees becoming payable before 1st June 2001.

Regulation 2(4) makes an amendment to the 1990 Regulations to substitute references to the Water Industries Act 1991 for references to the Water Act 1989, the relevant provision of the Act of 1989 being re-enacted by the Act of 1991.

A Regulatory Impact Assessment has been prepared in relation to these Regulations. A copy may be obtained from Competition Policy Directorate 1a, Department of Trade and Industry, Room 637, 1 Victoria Street, London SW1H 0ET; telephone 020 7215 5009; e-mail: rob.cottam@dti.gov.uk. Copies have also been placed in the libraries of both Houses of Parliament.

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