This draft Statutory Instrument has been printed in substitution of the draft Statutory Instrument which was printed on 7 April 2004 and is being issued free of charge to all known recipients of that Statutory Instrument.Draft Order laid before Parliament under sections 50 and 71 of the Competition Act 1998, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2004 No.

COMPETITION

The Competition Act 1998 (Land Agreements Exclusion and Revocation) Order 2004

Made - - - -	*2004*
Coming into force - -	*1st May 2005*

Whereas the Secretary of State laid a draft of this Order before Parliament on 19th April 2004;

And whereas the said draft as so laid has been approved by resolution of each House of Parliament;

Now therefore the Secretary of State in exercise of the powers conferred on her by sections 50 and 71 of the Competition Act 1998(**1**), hereby makes the following Order:

Citation and commencement

1. This Order may be cited as the Competition Act 1998 (Land Agreements Exclusion and Revocation) Order 2004 and shall come into force on 1st May 2005.

Revocation

2. The Competition Act 1998 (Land and Vertical Agreements Exclusion) Order 2000(**2**) is hereby revoked.

Definitions

3. In this Order—

"the Act" means the Competition Act 1998;

"interest in land" includes any estate, interest, easement, servitude or right in or over land (including any interest or right created by a licence), and in Scotland also includes any interest under a lease and other heritable right in or over land including a heritable security;

(**1**) 1998 c. 41.
(**2**) S.I. 2000/310.

"land" includes buildings and other structures and land covered with water;

"land agreement" means an agreement between undertakings which creates, alters, transfers or terminates an interest in land, or an agreement to enter into such an agreement, together with any obligation and restriction to which Article 5 applies;

"party to an agreement" in respect of a land agreement includes a successor in title to a party to the agreement; and

"relevant land" means the land in respect of which a land agreement creates, alters, transfers or terminates an interest, or in respect of which it constitutes an agreement to do so; and "other relevant land" means other land in which a party to a land agreement has an interest.

Exclusion of land agreements from the Chapter I prohibition

4. The Chapter I prohibition shall not apply to an agreement to the extent that it is a land agreement.

Obligations and restrictions

5.—(1) This article applies to an obligation which is accepted by a party to a land agreement in its capacity as holder of an interest—

(a) in the relevant land or other relevant land and is for the benefit of another party to the agreement in its capacity as holder of an interest in the relevant land; or

(b) in other relevant land and relates to the imposition in respect of that land of:

(i) restrictions of a kind described in paragraph (2)(a) which correspond to those accepted by a party to the agreement in its capacity as holder of an interest in the relevant land; or

(ii) obligations which correspond to those accepted by a party to the agreement in its capacity as holder of an interest in the relevant land.

(2) This article applies to a restriction which—

(a) restricts the activity that may be carried out on, from, or in connection with the relevant land or other relevant land and is accepted by a party to the agreement in its capacity as holder of an interest in the relevant land or other relevant land and is for the benefit of another party to the agreement in its capacity as holder of an interest in the relevant land;

(b) is accepted by a party to the agreement in its capacity as holder of an interest in other relevant land and relates to the imposition of restrictions on the activity that may be carried out on, from, or in connection with the other relevant land which correspond to those accepted by a party to the agreement in its capacity as holder of an interest in the relevant land; or

(c) restricts the freedom of a party to the agreement to create or transfer an interest in the relevant land to another person.

Withdrawal of exclusion etc

6. The power in paragraph 4 of Schedule 1 to the Act to withdraw the benefit of the exclusion from the Chapter I prohibition applies (with the exception of sub-paragraph (5)(b) of paragraph 4 of Schedule 1 to the Act) to the exclusion provided by Article 4 as it applies to the exclusion provided by paragraph 1 of Schedule 1.

7. Article 4 does not apply to an agreement to the extent that it takes effect between the same parties and is to the like object or effect as an agreement which has been the subject of a direction under Article 6.