

Press release: New merger and takeover rules come into force

Updated: Links to mergers guidance published today now included

- new rules apply to businesses developing military and dual-use technology, computing hardware and quantum technology
- changes to help continue to keep the country safe and maintain UK's global reputation as an open, trading nation
- the measures follow a review of the government's approach to foreign investment and national security

Today (Monday 11 June 2018) the government made changes to the UK's merger regime to recognise the growing importance of small British businesses in developing cutting edge technology products with national security applications.

In order to address changes in the market, the government amended the threshold tests for businesses in the military, dual-use, computing hardware and quantum technology sectors that are most likely to have implications for our security.

Today's changes allow ministers to intervene on certain grounds when the target business's UK turnover is more than £1 million, down from £70 million under the previous rules. They also remove the requirement that a merger or takeover in these sectors lead to an increase in the parties' combined share of supply of relevant goods or services before the government is able to intervene.

Business Minister Richard Harrington said:

These new rules ensure mergers and takeovers in key areas of the economy cannot risk our national security, while maintaining the openness to trade and investment that is underpinned by our modern [Industrial Strategy](#).

The changes follow a consultation launched last year to amend the Enterprise Act to reform and strengthen the government's powers. Today's new rules are the first step, with broader changes to be announced in a white paper later this year.

The government has today published guidance for businesses to support them in adapting to today's changes:

BEIS: [Enterprise Act 2002: guidance on changes to the turnover and share of supply tests for mergers](#)

Notes to editors

1. The [National Security and Infrastructure Investment Review green paper](#), published on 17 October 2017, outlined the government's plans to take a staged approach through short and long term measures to reform how it scrutinises national security implications of business transactions. Today's measures are a response to this consultation on amending the Enterprise Act through secondary legislation.
2. The consultation on longer term proposals closed on 9 January. The government will publish a response to this consultation in due course.
3. Ministers can only intervene in mergers and takeovers (foreign or domestic) that give rise to specific public interest concerns of national security, financial stability or media plurality. However, for ministers to be able to intervene, the transaction had to meet certain thresholds. These were that the target company had a UK turnover of over £70 million, or that the merger took the merging parties' combined share of supply to 25% or more (or increased an existing share of supply of 25% or more). There were limited exceptions to this related to some defence and media transactions.
4. The affirmative statutory instrument that comes into force today amends the share of supply test to allow the scrutiny of more mergers in 3 areas: (a) the military and dual-use sector, (b) 2 parts of the advanced technology sector, encompassing computing hardware and quantum technologies. For these areas alone, the instrument amended the share of supply test so that it is met where a merger or takeover involves a target with 25% or more share of supply in the UK, as well as where the deal leads to an increase in the share of supply to, or above, this threshold, which is the previous requirement.
5. The second, negative statutory instrument that comes into force today amends the turnover test to allow the scrutiny of more mergers in the same 3 areas of the economy. The second instrument lowers the level of UK turnover required of the target business from over £70 million to over £1 million. Both of these instruments have come into force at the same time.
6. The changes, while made for national security-related reasons, also amend the thresholds that allow the independent Competition and Markets Authority (CMA) to scrutinise mergers for competition concerns. However, neither the government or the CMA expect that the changes will bring about a material change in the CMA's approach to the assessment of

mergers on competition grounds. The CMA have today also published their technical guidance in relation to these changes [Guidance on changes to the jurisdictional thresholds for UK merger control](#).