



# Fair Trading Act 1973

## 1973 CHAPTER 41

### PART IV

#### FUNCTIONS OF DIRECTOR AND COMMISSION IN RELATION TO MONOPOLY SITUATIONS AND UNCOMPETITIVE PRACTICES

##### Modifications etc. (not altering text)

- C1** Pts. III, IV (ss. 34-56) amended (E.W.) (01.12.1991) by [Water Industry Act 1991](#) (c. 56, SIF 130), [ss. 31\(4\)\(a\)](#), [35\(4\)](#), [223\(2\)](#) (with [ss. 82\(3\)](#), [186\(1\)](#), [188](#), [222\(1\)](#), [Sch. 14](#) para. 6).
- Pt. IV (ss. 44-56) modified by [Telecommunications Act 1984](#) (c. 12, SIF 96), [s. 50\(2\)](#)
- Pt. IV (ss. 44-56) modified (E.W.) by [Water Act 1989](#) (c. 15, SIF 130), [s. 28\(2\)](#)
- Pt. IV (ss. 44-56) modified (E.W.S.) by [Electricity Act 1989](#) (c. 29, SIF 44:1), [s. 43\(2\)](#)
- Pt. IV (ss. 44-56) modified (1.4.1992) by [S.I. 1992/231](#) (N.I. 1), [art. 46\(2\)](#); [S.R. 1992/117](#), [art.3\(1\)](#)
- Pt. IV amended (E.W.S.) (1.4.1994) by [1993 c. 43](#), [s. 67\(2\)\(4\)](#); [S.I. 1994/571](#), [art. 5](#)
- Pt. IV (ss. 44-56) amended (1.2.2001) by [2000 c. 38](#), [s. 86\(4\)\(a\)\(5\)\(7\)\(a\)](#) (with [s. 106](#)); [S.I. 2001/57](#), [art. 3\(1\)](#), [Sch. 2 Pt. I](#) (subject to transitional provision and saving in [Sch. 2 Pt. II](#))
- Pt IV modified (10.6.1996) by [S.I. 1996/275](#) (N.I. 2), [art. 23\(6\)\(7\)](#) (with [Sch. 7](#) paras. 2, 3(2); [S.R. 1996/216](#), [art. 2](#)
- Pt. IV amended (N.I.) (10.6.1996) by [S.I. 1996/275](#) (N.I. 2), [art. 23\(2\)](#) (with [Sch. 7](#) paras. 2, 3(2)); [S.R. 1996/216](#), [art. 2](#)
- Pt. IV amended (E.W.S.) (1.3.1996) by [1986 c. 44](#), [s. 36A\(2\)](#) (as inserted (1.3.1996) by [1995 c. 45](#), [s. 10\(1\)](#), [Sch. 3 para. 43](#); [S.I. 1996/218](#), [art. 2](#))

#### *Powers for Director to require information*

#### **44 General power for Director to require information.**

- (1) Where it appears to the Director that there are grounds for believing—
- (a) that a monopoly situation may exist in relation to the supply of goods or services of any description, or in relation to exports of goods of any description from the United Kingdom, and

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- (b) that in accordance with the following provisions of this Part of this Act he would not be precluded from making a monopoly reference to the Commission with respect to the existence or possible existence of that situation,

[<sup>F1</sup>the Director may exercise the powers conferred by subsection (2) below for the purpose of assisting him in determining whether to take either of the following decisions with regard to that situation.]

[<sup>F2</sup>(1A) Those decisions are—

- (a) whether to make a monopoly reference with respect to the existence or possible existence of the situation;
- (b) whether, instead, to make a proposal under section 56A below for the Secretary of State to accept undertakings.]

[<sup>F3</sup>(2) In the circumstances and for the purpose mentioned in subsection (1) above, the Director may—

- (a) require any person within subsection (3) below to produce to the Director, at a specified time and place—
- (i) any specified documents, or
- (ii) any document which falls within a specified category,
- which are in his custody or under his control and which are relevant;
- (b) require any person within subsection (3) below who is carrying on a business to give the Director specified estimates, forecasts, returns, or other information, and specify the time at which and the form and manner in which the estimates, forecasts, returns or information are to be given;
- (c) enter any premises used by a person within subsection (3) below for business purposes, and—
- (i) require any person on the premises to produce any documents on the premises which are in his custody or under his control and which are relevant;
- (ii) require any person on the premises to give the Director such explanation of the documents as he may require.

(3) A person is within this subsection if—

- (a) he produces goods of the description in question in the United Kingdom;
- (b) he supplies goods or (as the case may be) services of the description in question in the United Kingdom; or
- (c) such goods (or services) are supplied to him in the United Kingdom.

(4) The power to impose a requirement under subsection (2)(a) or (b) above is to be exercised by notice in writing served on the person on whom the requirement is imposed; and “specified” in those provisions means specified or otherwise described in the notice, and “specify” is to be read accordingly.

(5) The power under subsection (2)(a) above to require a person (“the person notified”) to produce a document includes power—

- (a) if the document is produced—
- (i) to take copies of it or extracts from it;
- (ii) to require the person notified, or any person who is a present or past officer of his, or is or was at any time employed by him, to provide an explanation of the document;

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- (b) if the document is not produced, to require the person notified to state, to the best of his knowledge and belief, where it is.
- (6) Nothing in this section confers power to compel any person—
- (a) to produce any document which he could not be compelled to produce in civil proceedings before the High Court or, in Scotland, the Court of Session; or
  - (b) in complying with any requirement for the giving of information, to give any information which he could not be compelled to give in evidence in such proceedings.
- (7) No person has to comply with a requirement imposed under subsection (2) above by a person acting under an authorisation under paragraph 7 of Schedule 1 to this Act unless evidence of the authorisation has, if required, been produced.
- (8) For the purposes of subsection (2) above—
- (a) a document is relevant if—
    - (i) it is relevant to a decision mentioned in subsection (1A) above; and
    - (ii) the powers conferred by this section are exercised in relation to the document for the purpose of assisting the Director in determining whether to take that decision;
  - (b) “document” includes information recorded in any form; and
  - (c) in relation to information recorded otherwise than in legible form, the power to require its production includes power to require production of it in legible form, so far as the means to do so are within the custody or under the control of the person on whom the requirement is imposed.]

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#### Textual Amendments

- F1** Words in s. 44(1) substituted (1.4.1999) by 1998 c. 41, ss. 54(1), 66(2)(5), **Sch. 10 Pt. I para. 1** (with s. 73); S.I. 1999/505, art. 2, **Sch. 2**
- F2** S. 44(1A) inserted (1.4.1999) by 1998 c. 41, ss. 54, 66(3)(5), **Sch. 10 Pt. I para. 1** (with s. 73); S.I. 1999/505, art. 2, **Sch. 2**
- F3** s. 44(2) substituted (1.4.1999) by 1998 c. 41, ss. 54(1), 66(4)(5), **Sch. 10 Pt. I para. 1** (with s. 73); S.I. 1999/505, art. 2, **Sch. 2**

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#### Modifications etc. (not altering text)

- C2** Power to apply s. 44 with modifications conferred by Competition Act 1980 (c. 21), **ss. 2(5)**, 33(5)  
 Ss. 44, 45 modified by Telecommunications Act 1984 (c. 12, SIF 96), **s. 50(2)(a)**  
 Ss. 44, 45 modified (E.W.) by Water Act 1989 (c. 15, SIF 130), **s. 28(2)(a)**  
 Ss. 44, 45 modified (E.W.S.) by Electricity Act 1989 (c. 29, SIF 44:1), **s. 43(2)(a)**  
 S. 44: certain functions transferred (1.4.1992) by S.I. 1992/231 (N.I. 1), **art. 46(2)(a)(4)**; S.R. 1992/117, **art. 3(1)**  
 S. 44: certain functions transferred (E.W.S.) (1.4.1994) by 1993 c. 43, **s. 67(2)(a)(4)**; S.I. 1994/571, **art. 5**  
 S. 44: certain functions transferred (E.W.S.) (1.3.1996) by 1986 c. 44, **s. 36A** (as inserted (1.3.1996) by 1995 c. 45, s. 10(1), **Sch. 3 para. 43**; S.I. 1996/218, **art. 2**)  
 S. 44: functions transferred (N.I.) (10.6.1999) by S.I. 1996/275 (N.I. 2), **art. 23(2)(a)** (with Sch. 7 paras. 2, 3(2)); S.R. 1996/216, **art. 2**
- C3** S. 44 amended (1.2.2001) by 2000 c. 38, **ss. 86(1)(2)**, 87, 89 (with s. 106); S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to transitional provision and saving in Sch. 2 Pt. II)

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**F4** 45 .....

**Textual Amendments**

**F4** S. 45 repealed (1.4.1999) by 1998 c. 41, s. 74(1)(3), Sch. 12 para. 1(8), **Sch. 14 Pt. I** (with s. 73); S.I. 1999/505, art. 2, **Sch. 2**

**46 Supplementary provisions as to requirements to furnish information.**

**F5**(1) .....

**F5**(2) .....

(3) ..... **F6**

[**F7**(4) Any person who refuses or wilfully neglects to comply with a requirement imposed under section 44(2) above is guilty of an offence and liable—

- (a) on summary conviction, to a fine not exceeding the prescribed sum, or
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

(5) If a person is charged with an offence under subsection (4) in respect of a requirement to produce a document, it is a defence for him to prove—

- (a) that the document was not in his possession or under his control; and
- (b) that it was not reasonably practicable for him to comply with the requirement.

(6) If a person is charged with an offence under subsection (4) in respect of a requirement—

- (a) to provide an explanation of a document, or
- (b) to state where a document is to be found,

it is a defence for him to prove that he had a reasonable excuse for failing to comply with the requirement.

(7) A person who intentionally obstructs the Director in the exercise of his powers under section 44 is guilty of an offence and liable—

- (a) on summary conviction, to a fine not exceeding the prescribed sum;
- (b) on conviction on indictment, to a fine.

(8) A person who wilfully alters, suppresses or destroys any document which he has been required to produce under section 44(2) is guilty of an offence and liable—

- (a) on summary conviction, to a fine not exceeding the prescribed sum;
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.]

**Textual Amendments**

**F5** S. 46(1)(2) omitted (1.4.1999) by virtue of 1998 c. 41, ss. 54, 67(2), **Sch. 10 Pt. I para. 1** (with s. 73); S.I. 1999/505, art. 2, **Sch. 2**

**F6** S. 46(3) repealed by Companies Act 1989 (c. 40, SIF 27), ss. 153, 212, Sch. 20 para. 1, **Sch. 24**

**F7** S. 46(4)-(8) inserted (1.4.1999) by 1998 c. 41, ss. 54, 67(3), **Sch. 10 Pt. I para. 1** (with s. 73); S.I. 1999/505, art. 2, **Sch. 2**

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**Modifications etc. (not altering text)**

**C4** Power to apply S. 46 with modification conferred by [Competition Act 1980 \(c. 21\)](#), **ss. 2(5), 33(5)**

*Monopoly references*

**47 General provisions as to monopoly references**

- (1) A monopoly reference—
- (a) shall specify the description of goods or services to which it relates;
  - (b) in the case of a reference relating to goods, shall state whether it relates to the supply of goods or to exports of goods from the United Kingdom or to both; and
  - (c) if, for the purposes of the reference, consideration is to be limited to a part of the United Kingdom, shall specify the part of the United Kingdom to which consideration is to be limited,
- and (subject to the next following subsection) shall be framed in one or other of the ways specified in section 48 or section 49 of this Act.
- (2) A monopoly reference (whether it falls within section 48 or within section 49 of this Act) may be so framed as to require the Commission to exclude from consideration, or to limit consideration to,—
- (a) such agreements as are mentioned in paragraph (d) of section 6(1) or paragraph (d) of section 7(1) of this Act (or in either of those paragraphs as modified by section 9(2) of this Act) or as are mentioned in subsection (2) or subsection (3) of section 8 of this Act, or
  - (b) agreements or practices whereby persons conduct their affairs as mentioned in section 6(2) or section 7(2) of this Act,
- or to exclude from consideration, or to limit consideration to, such one or more agreements or practices falling within paragraph (a) or paragraph (b) of this subsection as are specified in the reference.

**48 Monopoly reference limited to the facts.**

A monopoly reference may be so framed as to require the Commission only to investigate and report on the questions whether a monopoly situation exists in relation to the matters set out in the reference in accordance with section 47 of this Act and, if so,—

- (a) by virtue of which provisions of sections 6 to 8 of this Act that monopoly situation is to be taken to exist;
- (b) in favour of what person or persons that monopoly situation exists;
- (c) whether any steps (by way of uncompetitive practices or otherwise) are being taken by that person or those persons for the purpose of exploiting or maintaining the monopoly situation and, if so, by what uncompetitive practices or in what other way; and
- (d) whether any action or omission on the part of that person or those persons is attributable to the existence of the monopoly situation and, if so, what action or omission and in what way it is so attributable;

and a monopoly reference so framed is in this Act referred to as a “monopoly reference limited to the facts”.

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#### **49 Monopoly reference not limited to the facts.**

- (1) A monopoly reference may be so framed as to require the Commission to investigate and report on the question whether a monopoly situation exists in relation to the matters set out in the reference in accordance with section 47 of this Act and, if so, to investigate and report—
  - (a) on the questions mentioned in paragraphs (a) to (d) of section 48 of this Act, and
  - (b) on the question whether any facts found by the Commission in pursuance of their investigations under the preceding provisions of this subsection operate, or may be expected to operate, against the public interest.
- (2) A monopoly reference may be so framed as to require the Commission to investigate and report on the questions whether a monopoly situation exists in relation to the matters set out in the reference in accordance with section 47 of this Act and, if so,—
  - (a) by virtue of which provisions of sections 6 to 8 of this Act that monopoly situation is to be taken to exist;
  - (b) in favour of what person or persons that monopoly situation exists; and
  - (c) whether any action or omission on the part of that person or those persons in respect of matters specified in the reference for the purposes of this paragraph operates, or may be expected to operate, against the public interest.
- (3) For the purposes of subsection (2)(c) of this section any matter may be specified in a monopoly reference if it relates to any of the following, that is to say—
  - (a) prices charged, or proposed to be charged, for goods or services of the description specified in the reference;
  - (b) any recommendation or suggestion made as to such prices;
  - (c) any refusal to supply goods or services of the description specified in the reference;
  - (d) any preference given to any person (whether by way of discrimination in respect of prices or in respect of priority of supply or otherwise) in relation to the supply of goods or services of that description;

and any matter not falling within any of the preceding paragraphs may be specified for those purposes in a monopoly reference if, in the opinion of the person or persons making the reference, it is of a kind such that (if a monopoly situation is found to exist) that matter might reasonably be regarded as a step taken for the purpose of exploiting or maintaining that situation or as being attributable to the existence of that situation.
- (4) A monopoly reference framed in either of the ways mentioned in subsections (1) and (2) of this section is in this Act referred to as a “monopoly reference not limited to the facts”.

#### **50 Monopoly references by Director.**

- (1) Where it appears to the Director that a monopoly situation exists or may exist in relation to—
  - (a) the supply of goods of any description, or
  - (b) the supply of services of any description, or
  - (c) exports of goods of any description from the United Kingdom, either generally or to any particular market,

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the Director, subject to section 12 of this Act and to the following provisions of this section, may if he thinks fit make a monopoly reference to the Commission with respect to the existence or possible existence of such a monopoly situation.

(2) [<sup>F8</sup>Subject to subsection (2A) of this section] no monopoly reference shall be made by the Director with respect to the existence or possible existence of a monopoly situation in relation to the supply of goods or services of any description specified in Part I of Schedule 5 or in Part I of Schedule 7 to this Act.

[<sup>F9</sup>(2A) Subsection (2) of this section shall not preclude the making of a monopoly reference by the Director with respect to the existence or possible existence of a monopoly situation in relation to the supply of such services as are specified in paragraph 5 of Schedule 5 to this Act in Great Britain, except in relation to the supply of any such services by—

- (a) a body corporate to which section 16 of this Act applies;
- (b) a subsidiary, within the meaning of section 736 of the <sup>M1</sup>Companies Act 1985, of any such body corporate; or
- (c) a publicly owned railway company, within the meaning of the Railways Act 1993.]

(3) Notwithstanding anything in subsections (3) and (4) of section 10 of this Act—

- (a) for the purposes of any monopoly reference made by the Director the supply of goods or services of any description specified in the first column . . . <sup>F10</sup> of Part II of Schedule 7 to this Act in any manner specified in relation to that description of goods or services in the second column of Part II of the relevant Schedule shall be taken to be a separate form of supply, and
- (b) any monopoly reference made by the Director in relation to the supply of goods or services of any such description shall be limited so as to exclude that form of supply.

(4) For the purposes of any monopoly reference made by the Director in relation to goods of any description specified in the first column of Part III of Schedule 7 to this Act—

- (a) the supply of goods of that description in Northern Ireland in any manner specified in relation to that description of goods in the second column of that Part of that Schedule shall be taken to be a separate form of supply, and, notwithstanding anything in section 10(3) and (4) of this Act, any monopoly reference so made in relation to the supply of goods of any such description in Northern Ireland shall be limited so as to exclude that form of supply, and
- (b) for the purposes of any such monopoly reference the Director shall so exercise his powers under section 9 of this Act as to comply with the requirements of the preceding paragraph.

(5) The Secretary of State may by order made by statutory instrument vary any of the provisions of Schedule 7 to this Act, either by adding one or more further entries or by altering or deleting any entry for the time being contained in it; and any reference in this Act to that Schedule shall be construed as a reference to that Schedule as for the time being in force.

(6) On making a monopoly reference to the Commission, the Director shall send a copy of it to the Secretary of State; and if, before the end of the period of fourteen days from the day on which the reference is first published in the Gazette in accordance with section 53 of this Act, the Secretary of State directs the Commission not to proceed with the reference,—

- (a) the Commission shall not proceed with that reference, but

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- (b) nothing in the preceding paragraph shall prevent the Commission from proceeding with any subsequent monopoly reference, notwithstanding that it relates wholly or partly to the same matters.

#### Textual Amendments

- F8** Words in s. 50(2) inserted (1.4.1994) by 1993 c. 43, s. 66(1); S.I. 1994/571, art. 5  
**F9** S. 50(2A) inserted (1.4.1994) by 1993 c. 43, s. 66(1); S.I. 1994/571, art. 5  
**F10** Words repealed by Telecommunications Act 1984 (c. 12, SIF 96), s. 109(6), Sch. 7 Pt. I

#### Modifications etc. (not altering text)

- C5** S. 50 modified by Telecommunications Act 1984 (c. 12, SIF 96), s. 50(2)(b)  
 S. 50 modified (E.W.) by Water Act 1989 (c. 15, SIF 130), s. 28(2)(b)  
 S. 50 modified (E.W.S.) by Electricity Act 1989 (c. 29, SIF 44:1), s. 43(2)(b)  
 S. 50: certain functions transferred (1.4.1992) by S.I. 1992/231 (N.I. 1), art. 46(2)(b)(4); S.R. 1992/117, art. 3(1)  
 S. 50: certain functions transferred (E.W.S.) (1.4.1999) by 1993 c. 43, s. 67(2)(b)(4); S.I. 1994/571, art. 5  
 S. 50: certain functions transferred (E.W.S.) (1.3.1996) by 1986 c. 44, s. 36A(2) (as inserted (1.3.1996) by 1995 c. 45, s. 10(1), Sch. 3 para. 43; S.I. 1996/218, art. 2)  
 S. 50: functions transferred (N.I.) (10.6.1996) by S.I. 1996/275 (N.I. 2), art. 23(2)(b) (with Sch. 7 paras. 2, 3(2)); S.R. 1996/216, art. 2  
 S. 50 amended (1.2.2001) by 2000 c. 38, ss. 86(1)(2), 87, 89 (with s. 106); S.I. 2001/57, art. 3(1), Sch. 2 Pt. I (subject to transitional provision and saving in Sch. 2 Pt. II)  
**C6** S. 50(2) modified (27.5.1993) by 1993 c. viii, s. 4.  
 S. 50(2) excluded (21.7.1994) by 1994 c. xi, s. 50(6)

#### Marginal Citations

- M1** 1985 c. 6.

## 51 Monopoly references by Ministers.

- (1) Subject to the following provisions of this section, the Secretary of State, or the Secretary of State and any other Minister acting jointly, where it appears to him or them that a monopoly situation exists or may exist in relation to—
- (a) the supply of goods of any description, or
  - (b) the supply of services of any description, or
  - (c) exports of goods of any description from the United Kingdom, either generally or to any particular market,

may, if the Secretary of State (or, in the case of joint action by the Secretary of State and another Minister, each of them) thinks fit, make a monopoly reference to the Commission with respect to the existence or possible existence of such a monopoly situation.

- (2) Where it appears to the Secretary of State that a monopoly situation exists or may exist as mentioned in the preceding subsection, and that the goods or services in question are of a description specified in Part I of, . . . <sup>F11</sup>, Schedule 5 or Schedule 7 to this Act, the Secretary of State shall not make a monopoly reference with respect to the existence or possible existence of that situation except jointly with such one or more of the Ministers mentioned in the next following subsection as appear to him to have functions directly relating—



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- (a) to the supply of goods or services of that description in the area (whether consisting of the whole or part of the United Kingdom) in relation to which the question arises, or
- (b) to exports of goods of that description from the United Kingdom, as the case may be.
- (3) The Ministers referred to in subsection (2) of this section are the Secretary of State for Scotland, the Secretary of State for Wales, the Secretary of State for Northern Ireland, [<sup>F12</sup>the Secretary of State for the Environment, Transport and the Regions] the Minister of Agriculture, Fisheries and Food, the Minister of Agriculture for Northern Ireland, the Minister of Commerce for Northern Ireland . . . . .<sup>F13</sup>
- (4) Where it appears to the Secretary of State that a monopoly situation exists or may exist as mentioned in subsection (1) of this section in relation to the supply in Northern Ireland of goods of a description specified in the first column of Part III of Schedule 7 to this Act, the Secretary of State shall not make a monopoly reference with respect to the existence or possible existence of that situation except jointly with the Minister of Agriculture for Northern Ireland.

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#### Textual Amendments

**F11** Words repealed by [Telecommunications Act 1984 \(c. 12, SIF 96\)](#), s. 109(6), **Sch. 7 Pt. I**

**F12** Words in s. 51(3) substituted (26.1.1998) by S.I. 1997/2971, art. 6(1), **Sch.**

**F13** Words repealed by S.I. 1974/691, **Sch.**

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#### Modifications etc. (not altering text)

**C7** S. 51 explained (1.5.1980) by [Competition Act 1980 \(c. 21\)](#), s. 21

**C8** Reference to Minister of Agriculture for Northern Ireland and Minister of Commerce for Northern Ireland to be construed as reference to Department of Agriculture for Northern Ireland and Department of Commerce for Northern Ireland: [Northern Ireland Constitution Act 1973 \(c. 36\)](#), **Sch. 5 para 7(1)** and [Northern Ireland Act 1974 \(c. 28\)](#), **Sch. 1 para. 2(1)(b)(4)**

## 52 Variation of monopoly reference.

- (1) Subject to the following provisions of this section, the Director may at any time vary a monopoly reference made by him, and the Secretary of State (or, in the case of a monopoly reference made by the Secretary of State jointly with one or more other Ministers, the Secretary of State and that Minister or those Ministers acting jointly) may vary a monopoly reference made by him or them.
- (2) A monopoly reference not limited to the facts shall not be varied so as to become a monopoly reference limited to the facts; but (subject to the following provisions of this section) a monopoly reference limited to the facts may be varied so as to become a monopoly reference not limited to the facts, whether the Commission have already reported on the reference as originally made or not.
- (3) A monopoly reference made by the Director shall not be varied so as to become a reference which he is precluded from making by any provisions of section 50 of this Act.
- (4) On varying a monopoly reference made by him, the Director shall send a copy of the variation to the Secretary of State; and if, before the end of the period of fourteen days from the day on which the variation is first published in the Gazette in accordance

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with the next following section, the Secretary of State directs the Commission not to give effect to the variation,—

- (a) the Commission shall proceed with the reference as if that variation had not been made, but
- (b) nothing in the preceding paragraph shall prevent the Commission from proceeding with any subsequent monopoly reference, or from giving effect to any subsequent variation, notwithstanding that it relates wholly or partly to the matters to which that variation related.

- (5) In this section and in sections 53 to 55 of this Act “Minister” includes [<sup>F14</sup>the Department of Agriculture for Northern Ireland and the Department of Commerce for Northern Ireland].

#### Textual Amendments

**F14** Words substituted by virtue of [Northern Ireland Act 1974 \(c. 28\)](#), [Sch. 1 para. 2\(1\)\(b\)\(4\)](#)

#### Modifications etc. (not altering text)

- C9** Ss. 52, 53 modified by [Telecommunications Act 1984 \(c. 12, SIF 96\)](#), [s. 50\(2\)\(b\)](#)  
 Ss. 52, 53 modified (E.W.) by [Water Act 1989 \(c. 15, SIF 130\)](#), [s. 28\(2\)\(b\)](#)  
 Ss. 52, 53 modified (E.W.S.) by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), [s. 43\(2\)\(b\)](#)  
 S. 52: certain functions transferred (1.4.1992) by S.I. 1992/231 (N.I. 1), [art. 46\(2\)\(b\)\(4\)](#); S.R. 1992/117, [art.3\(1\)](#)  
 S. 52 amended (1.2.2001) by [2000 c. 38](#), [ss. 86\(1\)\(2\)](#), 87, 89 (with s. 106); S.I. 2001/57, [art. 3\(1\)](#), [Sch. 2 Pt. I](#) (subject to transitional provision and saving in [Sch. 2 Pt. II](#))  
 S. 52: certain functions transferred (E.W.S.) (1.4.1994) by [1993 c. 43](#), [s. 67\(2\)\(b\)\(4\)](#); S.I. 1994/ 571, [art. 5](#)  
 S. 52: functions transferred (N.I.) (10.6.1996) by S.I. 1996/275 (N.I. 2), [art. 23\(2\)\(b\)](#) (with [Sch. 7 paras. 2, 3\(2\)](#)); S.R. 1996/216, [art. 2](#)  
 S. 52: certain functions transferred (E.W.S.) (1.3.1996) by [1986 c. 44](#), [s. 36A\(2\)](#) (as inserted (1.3.1996) by [1995 c. 45](#), [s. 10\(1\)](#), [Sch. 3 para. 43](#); S.I. 1996/218, [art. 2](#))

### 53 Publication of monopoly references and variations, and of directions relating to them.

- (1) On making a monopoly reference, or a variation of a monopoly reference, the Director or, as the case may be, the Secretary of State (or, in the case of a monopoly reference or variation made by the Secretary of State acting jointly with one or more other Ministers, the Secretary of State and that Minister or those Ministers acting jointly) shall arrange for the reference or variation to be published in full in the Gazette, and shall arrange for the reference or variation to be published in such other manner as he or they may think most suitable for bringing it to the attention of persons who, in his or their opinion, would be affected by it.
- (2) Where the Secretary of State gives a direction under section 50(6) of this Act with respect to a monopoly reference, or gives a direction under section 52(4) of this Act with respect to a variation of a monopoly reference, the Secretary of State shall arrange for the direction to be published in the Gazette and otherwise in the same manner as the monopoly reference or variation was published in accordance with the preceding subsection.

*Status: Point in time view as at 10/11/1999.*

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- (3) In this section “the Gazette” means the London, Edinburgh and Belfast Gazettes, except that, in relation to a monopoly reference under which consideration is limited to a particular part of the United Kingdom in accordance with section 9 of this Act (including a reference under which consideration is required to be so limited by section 50(4)(b) of this Act), it means such one or more of those Gazettes as are appropriate to that part of the United Kingdom.
- (4) In sections 50 and 52 of this Act any reference to publication in the Gazette is a reference to publication in the London Gazette, the Edinburgh Gazette or the Belfast Gazette, whichever first occurs.

#### **Modifications etc. (not altering text)**

- C10** Ss. 52, 53 modified by [Telecommunications Act 1984 \(c. 12, SIF 96\)](#), **s. 50(2)(b)**  
Ss. 52, 53 modified (E.W.) by [Water Act 1989 \(c. 15, SIF 130\)](#), **s. 28(2)(b)**  
Ss. 52, 53 modified (E.W.S.) by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), **s. 43(2)(b)**  
S. 53: certain functions transferred (1.4.1992) by [S.I. 1992/231 \(N.I. 1\)](#), **art. 46(2)(b)(4)**; [S.R. 1992/117](#), **art.3(1)**  
S. 53: certain functions transferred (E.W.S.) (1.4.1994) by [1993 c. 43](#), **s. 67(2)(b)(4)**; [S.I. 1994/571](#), **art. 5**  
S. 53 amended (1.2.2001) by [2000 c. 38](#), **ss. 86(1)(2)**, 87, 89 (with s. 106); [S.I. 2001/57](#), **art. 3(1)**, **Sch. 2 Pt. I** (subject to transitional provision and saving in [Sch. 2 Pt. II](#))  
S. 53: functions transferred (N.I.) (10.6.1996) by [S.I. 1996/275 \(N.I. 2\)](#), **art. 23(2)(b)** (with [Sch. 7 paras. 2, 3\(2\)](#)); [S.R. 1996/216](#), **art. 2**  
S. 53: certain functions transferred (E.W.S.) (1.3.1996) by [1986 c. 44](#), **s. 36A(2)** (as inserted (1.3.1996) by [1995 c. 45](#), **s. 10(1)**, [Sch. 3 para. 43](#); [S.I. 1996/218](#), **art. 2**

#### **54 Report of Commission on monopoly reference.**

- (1) A report of the Commission on a monopoly reference—
  - (a) if the reference was made by the Director, shall be made to the Secretary of State, and
  - (b) in any other case, shall be made to the Minister or Ministers by whom the reference was made.
- (2) In making their report on a monopoly reference, the Commission shall include in it definite conclusions on the questions comprised in the reference, together with—
  - (a) such an account of their reasons for those conclusions, and
  - (b) such a survey of the general position with respect to the subject-matter of the reference, and of the developments which have led to that position,as in their opinion are expedient for facilitating a proper understanding of those questions and of their conclusions.
- (3) Where, on a monopoly reference not limited to the facts, the Commission find that a monopoly situation exists and that facts found by the Commission in pursuance of their investigations under subsection (1) or subsection (2) of section 49 of this Act operate, or may be expected to operate, against the public interest, the report shall specify those facts, and the conclusions to be included in the report, in so far as they relate to the operation of those facts, shall specify the particular effects, adverse to the public interest, which in their opinion those facts have or may be expected to have; and the Commission—

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- (a) shall, as part of their investigations, consider what action (if any) should be taken for the purpose of remedying or preventing those adverse effects, and
  - (b) may, if they think fit, include in their report recommendations as to such action.
- (4) In paragraph (a) of subsection (3) of this section the reference to action to be taken for the purpose mentioned in that paragraph is a reference to action to be taken for that purpose either—
- (a) by one or more Ministers (including [<sup>F15</sup>Northern Ireland departments]) or other public authorities, or
  - (b) by the person or (as the case may be) one or more of the persons in whose favour, in accordance with the findings of the Commission, the monopoly situation in question exists.

<sup>F16</sup>(5) . . . . .

**Textual Amendments**

**F15** Words substituted by virtue of Northern Ireland Act 1974 (c. 28), **Sch. 1 para. 2(1)(b)(4)**

**F16** S. 54(5) repealed (10.11.1999) by 1998 c. 41, s. 74(1)(3), Sch. 12 para. 1(3)(b), **Sch. 14 Pt. I** (with s. 73); S.I. 1999/2859, **art. 2(a)**

**Modifications etc. (not altering text)**

**C11** S. 54(3) amended by Financial Services Act 1986 (c. 60, SIF 69), ss. 124(3), 140, Sch. 11 paras. 12(1), **36(2)**

S. 54(3) applied (with modifications) (26.11.2001) by S.I. 2001/3755, reg. 13, **Sch. 2 para. 5(3)** (with regs. 39, 45)

**55 Time-limit for report on monopoly reference.**

- (1) A monopoly reference shall specify a period within which the Commission are to report on the reference; and, if a report of the Commission on the reference—
- (a) is not made before the end of the period so specified, or
  - (b) if one or more extended periods are allowed under the next following subsection, is not made before the end of that extended period or of the last of those extended periods, as the case may be,
- the reference shall cease to have effect and no action, or (if action has already been taken) no further action, shall be taken in relation to that reference under this Act.
- (2) Directions may be given—
- (a) in the case of a monopoly reference made by the Director or by the Secretary of State otherwise than jointly with one or more Ministers, by the Secretary of State, or
  - (b) in the case of a monopoly reference made by the Secretary of State jointly with one or more other Ministers, by the Secretary of State and that Minister or those Ministers acting jointly,

allowing to the Commission such extended period for the purpose of reporting on the reference as may be specified in the directions, or, if the period has already been extended once or more than once by directions under this subsection, allowing to the Commission such further extended period for that purpose as may be so specified.

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## 56 Order of appropriate Minister on report on monopoly reference.

- (1) The provisions of this section shall have effect where a report of the Commission on a monopoly reference not limited to the facts has been laid before Parliament in accordance with the provisions of Part VII of this Act, and the conclusions of the Commission set out in the report, as so laid,—
  - (a) include conclusions to the effect that a monopoly situation exists and that facts found by the Commission in pursuance of their investigations under section 49 of this Act operate, or may be expected to operate, against the public interest, and
  - (b) specify particular effects, adverse to the public interest, which in their opinion those facts have or may be expected to have.
- (2) In the circumstances mentioned in the preceding subsection the appropriate Minister may (subject to subsection (6) of this section) by order made by statutory instrument exercise such one or more of the powers specified in Parts I and II of Schedule 8 to this Act as he considers it requisite to exercise for the purpose of remedying or preventing the adverse effects specified in the report as mentioned in the preceding subsection; and those powers may be so exercised to such extent and in such manner as the appropriate Minister considers requisite for that purpose.
- (3) In determining whether, or to what extent or in what manner, to exercise any of those powers, the appropriate Minister shall take into account any recommendations included in the report of the Commission in pursuance of section 54(3)(b) of this Act and any advice given by the Director under section 88 of this Act.
- (4) Subject to the next following subsection, in this section “the appropriate Minister” means the Secretary of State.
- (5) Where, in any such report as is mentioned in subsection (1) of this section, the person or one of the persons specified as being the person or persons in whose favour the monopoly situation in question exists is a body corporate fulfilling the following conditions, that is to say—
  - (a) that the affairs of the body corporate are managed by its members, and
  - (b) that by virtue of an enactment those members are appointed by a Minister,
 then for the purpose of making any order under this section in relation to that body corporate (but not for the purpose of making any such order in relation to any other person) “the appropriate Minister” in this section means the Minister by whom members of that body corporate are appointed.
- (6) In relation to any such body corporate as is mentioned in subsection (5) of this section, the powers exercisable by virtue of subsection (2) of this section shall not include the powers specified in Part II of Schedule 8 to this Act.

### Modifications etc. (not altering text)

**C12** S. 56 modified (13.5.1999) by 1994 c. 17, s. 33(3)(4)(a); S.I. 1999/1309, art. 2, Sch.

S. 56 modified (1.4.1999) by 1998 c. 41, s. 45(7), Sch. 7 Pt. II para. 20(2)(a) (with s. 73); S.I. 1999/505, art. 2, Sch. 2

**C13** S. 56(2) amended by Copyright, Designs and Patents Act 1988 (c. 48, SIF 67A), ss. 144(2), 238(2)

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*Changes to legislation: Fair Trading Act 1973, Part IV is up to date with all changes known to be in force on or before 07 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

*[<sup>F17</sup> Undertakings as alternative to monopoly reference by Director]*

**Textual Amendments**

**F17** Ss. 56A-56G inserted (3.1.1995) by 1994 c. 40, ss. 7(1), 82(2)(a)

**56A [<sup>F18</sup> Proposals by Director.]**

- (1) The Director may propose that the Secretary of State accept undertakings in lieu of the Director making a monopoly reference if—
- (a) he considers that a monopoly situation exists and that there are facts relating to the monopoly situation which may now or in future operate against the public interest,
  - (b) he intends, apart from the question of undertakings being accepted in lieu, to make a monopoly reference with respect to the existence of the monopoly situation and that the reference should be a monopoly reference not limited to the facts, and
  - (c) he considers that undertakings offered to be given by particular persons would be sufficient to deal with such of the relevant adverse effects of the monopoly situation as he thinks need to be dealt with.
- (2) A proposal under this section shall include—
- (a) a statement of the terms of the proposed undertakings and the persons by whom they are proposed to be given,
  - (b) a statement of the facts relating to the monopoly situation which the Director considers may now or in future operate against the public interest, and
  - (c) a statement of the effects identified by the Director as the relevant adverse effects of the monopoly situation.
- (3) For the purposes of the law relating to defamation, absolute privilege shall attach to anything included in a proposal under this section pursuant to subsection (2)(b) or (c) of this section.
- (4) In this section, references to the relevant adverse effects of a monopoly situation are to the particular effects, adverse to the public interest, which the facts relating to the monopoly situation may now or in future have.

**Textual Amendments**

**F18** Ss. 56A-56G inserted (3.1.1995) by 1994 c. 40, ss. 7(1), 82(2)  
 Ss. 56A-56G: functions transferred (N.I.) (10.6.1996) by S.I. 1996/275 (N.I. 2), art. 23(2)(c)(4)(c) (with Sch. 7 paras. 2, 3(2)); S.R. 1996/216, art. 2  
 Ss. 56A-56G: certain functions transferred (E.W.S.) (1.3.1996) by 1986 c. 44, s. 36A(2) (as inserted (1.3.1996) by 1995 c. 45, s. 10(1), Sch. 3 para. 43; S.I. 1996/218, art. 2)

**Modifications etc. (not altering text)**

**C14** Ss. 56A-56G extended (E.W.) (3.1.1995) by 1994 c. 40, ss. 7, 82(2), Sch. 2 paras. 8, 9  
**C15** Ss. 56A-56G extended (3.1.1995) by 1994 c. 40, ss. 7, 82(2), Sch. 2 para. 1(1)  
 Ss. 56A-56G extended (E.W.S.) (3.1.1995) by 1994 c. 40, ss. 7, 82(2), Sch. 2 para. 4(1)  
 Ss. 56A-56G extended (N.I.) (3.1.1995) by 1994 c. 40, ss. 7, 82(2), Sch. 2 para. 5(1)

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Ss. 56A-56G amended (1.2.2001) by 2000 c. 38, **ss. 86(1)(2)**, 87, 89 (with s. 106); S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to transitional provision and saving in **Sch. 2 Pt. II**)  
Ss. 56A-56G extended (E.W.S.) (3.1.1995) by 1994 c. 40, **ss. 7, 82(2)**, **Sch. 2 para. 11(1)**

## [<sup>F19</sup>56B Proposals under section 56A: preparatory steps.

- (1) The Director may only make a proposal under section 56A of this Act if—
  - (a) the first or second condition is met, and
  - (b) the third condition is met.
- (2) The first condition is that the Director has published in an appropriate manner a notice containing—
  - (a) each of the matters mentioned in subsection (5) of this section, and
  - (b) the invitation mentioned in subsection (6) of this section.
- (3) The second condition is that the Director has published in an appropriate manner—
  - (a) a notice containing the matters mentioned in paragraphs (a) and (b) of subsection (5) of this section, and
  - (b) a notice containing—
    - (i) the matters mentioned in paragraphs (c), (d), (e) and (f) of that subsection, and
    - (ii) the invitation mentioned in subsection (6) of this section.
- (4) The third condition is that the Director has considered any representations made to him in accordance with the notice under this section which contains the invitation mentioned in subsection (6) of this section.
- (5) The matters referred to above are—
  - (a) the identity of the person or persons in whose favour the Director considers the monopoly situation exists,
  - (b) the terms of the proposed monopoly reference,
  - (c) the facts relating to the monopoly situation which the Director considers may now or in future operate against the public interest,
  - (d) the effects identified by the Director as the particular effects, adverse to the public interest, which the facts relating to the monopoly situation may now or in future have,
  - (e) the terms of the undertakings which the Director is, at the time of the notice, considering proposing the Secretary of State accept in lieu of the Director making the proposed monopoly reference (“the potential undertakings”), and
  - (f) the identity of the persons by whom the potential undertakings would be given.
- (6) The invitation referred to above is an invitation to make representations to the Director, within such time as he may specify, about the potential undertakings being the subject of a proposal under section 56A of this Act.
- (7) For the purposes of the law relating to defamation, absolute privilege shall attach to anything contained in a notice published under this section.
- (8) In this section, references to an appropriate manner, in relation to the publication of a notice by the Director, are to such manner as he considers most suitable for the purpose

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of bringing the notice to the attention of persons who, in his opinion, are likely to be interested in it.]

#### Textual Amendments

- F19** Ss. 56A-56G inserted (3.1.1995) by 1994 c. 40, **ss. 7(1)**, 82(2)  
 Ss. 56A-56G: functions transferred (N.I.) (10.6.1996) by S.I. 1996/275 (N.I. 2), **art. 23(2)(c)(4)(c)**  
 (with **Sch. 7 paras. 2, 3(2)**); S.R. 1996/216, **art. 2**  
 Ss. 56A-56G: certain functions transferred (E.W.S.) (1.3.1996) by 1986 c. 44, **s. 36A(2)** (as inserted  
 (1.3.1996) by 1995 c. 45, s. 10(1), **Sch. 3 para. 43**; S.I. 1996/218, **art. 2**)

#### Modifications etc. (not altering text)

- C16** Ss. 56A-56G extended (E.W.) by 1994 c. 40, **ss. 7, 82(2)**, **Sch. 2 paras. 8(1), 9**  
**C17** Ss. 56A-56G extended (3.1.1995) by 1994 c. 40, **ss. 7, 82(2)**, **Sch. 2 para. 1(1)**  
 Ss. 56A-56G extended (E.W.S.) (3.1.1995) by 1994 c. 40, **ss. 7, 82(2)**, **Sch. 2 para. 4(1)**  
 Ss. 56A-56G amended (1.2.2001) by 2000 c. 38, **ss. 86(1)(2)**, 87, 89 (with s. 106); S.I. 2001/57, **art.**  
**3(1)**, **Sch. 2 Pt. I** (subject to transitional provision and saving in **Sch. 2 Pt. II**)  
 Ss. 56A-56G extended (N.I.) (3.1.1995) by 1994 c. 40, **ss. 7, 82(2)**, **Sch. 2 para. 5(1)**  
 Ss. 56A-56G extended (E.W.S.) (3.1.1995) by 1994 c. 40, **ss. 7, 82(2)**, **Sch. 2 para. 11(1)**

### [<sup>F20</sup>56C Proposals under section 56A: exclusion of sensitive information.

- (1) The Director shall—
- (a) in formulating the statement required by section 56A(2)(b) or (c) of this Act, and
  - (b) in publishing a notice under section 56B of this Act containing the matters mentioned in subsection (5)(c) and (d) of that section,
- have regard to the need for excluding, so far as practicable, any matter to which subsection (2) or (3) of this section applies.
- (2) This subsection applies to any matter which relates to the private affairs of an individual, where publication of that matter would or might, in the opinion of the Director, seriously and prejudicially affect the interests of that individual.
- (3) This subsection applies to any matter which relates specifically to the affairs of a particular body of persons, whether corporate or unincorporate, where publication of that matter would or might, in the opinion of the Director, seriously and prejudicially affect the interests of that body, unless in his opinion the inclusion of that matter relating specifically to that body is necessary for the purposes of the statement or notice, as the case may be.]

#### Textual Amendments

- F20** Ss. 56A-56G inserted (3.1.1995) by 1994 c. 40, **ss. 7(1)**, 82(2)  
 Ss. 56A-56G: functions transferred (N.I.) (10.6.1996) by S.I. 1996/275 (N.I. 2), **art. 23(2)(c)(4)(c)**  
 (with **Sch. 7 paras. 2, 3(2)**); S.R. 1996/216, **art. 2**  
 Ss. 56A-56G: certain functions transferred (E.W.S.) (1.3.1996) by 1986 c. 44, **s. 36A(2)** (as inserted  
 (1.3.1996) by 1995 c. 45, s. 10(1), **Sch. 3 para. 43**; S.I. 1996/218, **art. 2**)

#### Modifications etc. (not altering text)

- C18** Ss. 56A-56G extended (E.W.) (3.1.1995) by 1994 c. 40, **ss. 7, 82(2)**, **Sch. 2 paras. 8, 9**



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- C19** Ss. 56A-56G extended (3.1.1995) by 1994 c. 40, ss. 7, 82(2), **Sch. 2 para. 1(1)**  
 Ss. 56A-56G extended (E.W.S.) (3.1.1995) by 1994 c. 40, ss. 7, 82(2), **Sch. 2 para. 4(1)**  
 Ss. 56A-56G extended (N.I.) (3.1.1995) by 1994 c. 40, ss. 7, 82(2), **Sch. 2 para. 5(1)**  
 Ss. 56A-56G amended (1.2.2001) by 2000 c. 38, **ss. 86(1)(2)**, 87, 89 (with s. 106); S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to transitional provision and saving in **Sch. 2 Pt. II**)  
 Ss. 56A-56G extended (E.W.S.) (3.1.1995) by 1994 c. 40, ss. 7, 82(2), **Sch. 2 para. 11(1)**

## [<sup>F21</sup>56D Acceptance by Secretary of State of proposals under section 56A.

- (1) Where the Secretary of State accepts a proposal under section 56A of this Act, then, within the period of twelve months from the date of acceptance of the undertakings to which the proposal relates, no monopoly reference may be made in the same, or substantially the same, terms as those published by the Director under section 56B of this Act preparatory to making the proposal.
- (2) Subsection (1) of this section shall not prevent a reference being made if the Director—
  - (a) considers that any of the undertakings has been breached, or needs to be varied or superseded, and
  - (b) has given notice of that fact to the person responsible for giving the undertaking.
- (3) The Secretary of State shall send to the Director a copy of every undertaking accepted pursuant to a proposal under section 56A of this Act.
- (4) For the purposes of subsection (1) of this section, the Secretary of State shall be treated as accepting a proposal under section 56A of this Act if he accepts the undertakings to which the proposal relates, either in the form in which they were proposed or with such modifications as he thinks fit; and references in this Act to an undertaking accepted pursuant to a proposal under that section shall be construed accordingly.]

### Textual Amendments

- F21** Ss. 56A-56G inserted (3.1.1995) by 1994 c. 40, **ss. 7(1)**, 82(2)  
 Ss. 56A-56G: functions transferred (N.I.) (10.6.1996) by S.I. 1996/275 (N.I. 2), **art. 23(2)(c)(4)(c)** (with **Sch. 7 paras. 2, 3(2)**); S.R. 1996/216, **art. 2**  
 Ss. 56A-56G: certain functions transferred (E.W.S.) (1.3.1996) by 1986 c. 44, **s. 36A(2)** (as inserted (1.3.1996) by 1995 c. 45, s. 10(1), **Sch. 3 para. 43**; S.I. 1996/218, **art. 2**)

### Modifications etc. (not altering text)

- C20** Ss. 56A-56G extended (E.W.) (3.1.1995) by 1994 c. 40, ss. 7, 82(2), **Sch. 2 paras. 8(1), 9**  
**C21** Ss. 56A-56G extended (3.1.1995) by 1994 c. 40, ss. 7, 82(2), **Sch. 2 para. 1(1)**  
 Ss. 56A-56G extended (E.W.S.) (3.1.1995) by 1994 c. 40, ss. 7, 82(2), **Sch. 2 para. 4(1)**  
 Ss. 56A-56G amended (1.2.2001) by 2000 c. 38, **ss. 86(1)(2)**, 87, 89 (with s. 106); S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to transitional provision and saving in **Sch. 2 Pt. II**)  
 Ss. 56A-56G extended (N.I.) (3.1.1995) by 1994 c. 40, ss. 7, 82(2), **Sch. 2 para. 5(1)**  
 Ss. 56A-56G extended (E.W.S.) (3.1.1995) by 1994 c. 40, ss. 7, 82(2), **Sch. 2 para. 11(1)**

## [<sup>F22</sup>56E Review of undertakings.

- (1) The Director shall keep the carrying out of an undertaking to which this section applies under review, and from time to time consider whether, by reason of any change of circumstances, the undertaking is no longer appropriate and either—

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- (a) one or more of the parties to it can be released from it, or
  - (b) it needs to be varied or to be superseded by a new undertaking.
- (2) If it appears to the Director—
- (a) that any one or more of the parties to an undertaking to which this section applies can be released from it,
  - (b) that such an undertaking needs to be varied or to be superseded by a new undertaking, or
  - (c) that there has been any failure to carry out such an undertaking,
- he shall give to the Secretary of State such advice as he may think proper in the circumstances.
- (3) Where the Director advises the Secretary of State under subsection (2) of this section that an undertaking needs to be varied or to be superseded by a new undertaking, he shall propose the terms of variation or, as the case may be, the new undertaking.
- (4) The Director shall, if the Secretary of State so requests, give him advice with respect to the release, variation or superseding of an undertaking to which this section applies.
- (5) In this section, references to an undertaking to which this section applies are to an undertaking accepted—
- (a) pursuant to a proposal under section 56A of this Act, or
  - (b) under section 56F of this Act.]

#### Textual Amendments

- F22** Ss. 56A-56G inserted (3.1.1995) by 1994 c. 40, ss. 7(1), 82(2)  
 Ss. 56A-56G: functions transferred (N.I.) (10.6.1996) by S.I. 1996/275 (N.I. 2), art. 23(2)(c)(4)(c) (with Sch. 7 paras. 2, 3(2)); S.R. 1996/216, art. 2  
 S. 56A-56G : certain functions transferred (E.W.S.) (1.3.1996) by 1986 c. 44, s. 36A(2) (as inserted (1.3.1996) by 1995 c. 45, s. 10(1), Sch. 3 para. 43; S.I. 1996/218, art. 2)

#### Modifications etc. (not altering text)

- C22** Ss. 56A-56G extended (E.W.) (3.1.1995) by 1994 c. 40, ss. 7, 82(2), Sch. 2 paras. 8(1), 9  
**C23** Ss. 56A-56G extended (3.1.1995) by 1994 c. 40, ss. 7, 82(2), Sch. 2 para. 1(1)  
 Ss. 56A-56G extended (N.I.) (3.1.1995) by 1994 c. 40, ss. 7, 82(2), Sch. 2 para. 5(1)  
 Ss. 56A-56G amended (1.2.2001) by 2000 c. 38, ss. 86(1)(2), 87, 89 (with s. 106); S.I. 2001/57, art. 3(1), Sch. 2 Pt. I (subject to transitional provision and saving in Sch. 2 Pt. II)  
 Ss. 56A-56G extended (E.W.S.) (3.1.1995) by 1994 c. 40, ss. 7, 82(2), Sch. 2 para. 4(1)  
 Ss. 56A-56G extended (E.W.S.) (3.1.1995) by 1994 c. 40, ss. 7, 82(2), Sch. 2 para. 11(1)

#### [<sup>F23</sup> 56F Release, variation and replacement of undertakings.

- (1) The Secretary of State may only—
- (a) accept a new undertaking in place of an undertaking to which this section applies,
  - (b) release a person from such an undertaking, or
  - (c) agree to the variation of such an undertaking,
- after considering the advice of the Director on the subject.
- (2) The Secretary of State shall send to the Director—

*Status: Point in time view as at 10/11/1999.*

*Changes to legislation: Fair Trading Act 1973, Part IV is up to date with all changes known to be in force on or before 07 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (a) a copy of every undertaking accepted under this section,
  - (b) particulars of every variation of an undertaking agreed under this section, and
  - (c) particulars of every release of a person from an undertaking under this section.
- (3) In this section, references to an undertaking to which this section applies are to an undertaking accepted—
- (a) pursuant to a proposal under section 56A of this Act, or
  - (b) under this section.]

#### Textual Amendments

- F23** Ss. 56A-56G inserted (3.1.1995) by 1994 c. 40, **ss. 7(1), 82(2)**  
 Ss. 56A-56G: functions transferred (N.I.) (10.6.1996) by S.I. 1996/275 (N.I. 2), **art. 23(2)(c)(4)(c)**  
 (with **Sch. 7 paras. 2, 3(2)**); S.R. 1996/216, **art. 2**  
 S. 56A-56G: certain functions transferred (E.W.S.) (1.3.1996) by 1986 c. 44, **s. 36A(2)** (as inserted  
 (1.3.1996) by 1995 c. 45, s. 10(1), **Sch. 3 para. 43**; S.I. 1996/218, **art. 2**)

#### Modifications etc. (not altering text)

- C24** Ss. 56A-56G extended (E.W.) (3.1.1995) by 1994 c. 40, **ss. 7, 82(2)**, **Sch. 2 paras. 8(1), 9**  
**C25** Ss. 56A-56G extended (3.1.1995) by 1994 c. 40, **ss. 7, 82(2)**, **Sch. 2 para. 1(1)**  
 Ss. 56A-56G extended (E.W.S.) (3.1.1995) by 1994 c. 40, **ss. 7, 82(2)**, **Sch. 2 para. 4(1)**  
 Ss. 56A-56G amended (1.2.2001) by 2000 c. 38, **ss. 86(1)(2)**, 87, 89 (with s. 106); S.I. 2001/57, **art. 3(1)**, **Sch. 2 Pt. I** (subject to transitional provision and saving in **Sch. 2 Pt. II**)  
 Ss. 56A-56G extended (N.I.) (3.1.1995) by 1994 c. 40, **ss. 7, 82(2)**, **Sch. 2 para. 5(1)**  
 Ss. 56A-56G extended (E.W.S.) (3.1.1995) by 1994 c. 40, **ss. 7, 82(2)**, **Sch. 2 para. 11(1)**

#### [<sup>F24</sup>56G Publication of undertakings etc.

- (1) The Secretary of State shall arrange for the publication in such manner as he considers appropriate of—
- (a) every undertaking accepted—
    - (i) pursuant to a proposal under section 56A of this Act, or
    - (ii) under section 56F of this Act, and
  - (b) every variation or release under that section.
- (2) Where the Secretary of State accepts undertakings pursuant to a proposal under section 56A of this Act, he shall arrange for the statements included in the proposal under subsection (2)(b) and (c) of that section to be published in such manner as he considers appropriate.
- (3) If it appears to the Secretary of State that the publication of any matter contained in a statement which falls to be published under subsection (2) of this section would be against the public interest, he shall exclude that matter from the statement as published under that subsection.
- (4) Without prejudice to subsection (3) of this section, if the Secretary of State considers that it would not be in the public interest to disclose—
- (a) any matter contained in a statement which falls to be published under subsection (2) of this section relating to the private affairs of an individual whose interests would, in the opinion of the Secretary of State, be seriously and prejudicially affected by the publication of that matter, or

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- (b) any matter contained in such a statement relating specifically to the affairs of a particular person whose interests would, in the opinion of the Secretary of State, be seriously and prejudicially affected by the publication of that matter, the Secretary of State shall exclude that matter from the statement as published under subsection (2) of this section.]

#### Textual Amendments

- F24** Ss. 56A-56G inserted (3.1.1995) by 1994 c. 40, **ss. 7(1), 82(2)**  
 Ss. 56A-56G: certain functions transferred (E.W.S.) (1.3.1996) by 1996 c. 44, **s. 36A(2)** (as inserted (1.3.1996) by 1995 c. 45, s. 10(1), **Sch. 3 para. 43**; S.I. 1996/218, **art. 2**)  
 Ss. 56A-56G: functions transferred (10.6.1996) by S.I. 1996/275 (N.I. 2), **art. 22(2)(c)(4)(c)** (with Sch. 7 paras. 2, 3(2)); S.R. 1996/216, **art. 2**

#### Modifications etc. (not altering text)

- C26** Ss. 56A-56G extended (E.W.) (3.1.1995) by 1994 c. 40, ss. 7, 82(2), Sch. 2 paras. 8(1), **9**  
**C27** Ss. 56A-56G extended (3.1.1995) by 1994 c. 40, ss. 7, 82(2), **Sch. 2 para. 1(1)**  
 Ss. 56A-56G extended (E.W.S.) (3.1.1995) by 1994 c. 40, ss. 7, 82(2), **Sch. 2 para. 4(1)**  
 Ss. 56A-56G amended (1.2.2001) by 2000 c. 38, **ss. 86(1)(2), 87, 89** (with s. 106); S.I. 2001/57, **art. 3(1), Sch. 2 Pt. I** (subject to transitional provision and saving in Sch. 2 Pt. II)  
 Ss. 56A-56G extended (N.I.) (3.1.1995) by 1994 c. 40, ss. 7, 82(2), **Sch. 2 para. 5(1)**  
 Ss. 56A-56G extended (E.W.S.) (3.1.1995) by 1994 c. 40, ss. 7, 82(2), **Sch. 2 para. 11(1)**

**Status:**

Point in time view as at 10/11/1999.

**Changes to legislation:**

Fair Trading Act 1973, Part IV is up to date with all changes known to be in force on or before 07 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.