



Enterprise Act 2002

2002 CHAPTER 40

PART 4

[^{F1}MARKET STUDIES AND] MARKET INVESTIGATIONS

CHAPTER 3

ENFORCEMENT

Modifications etc. (not altering text)

- C1** Pt. 4 modified by 2012 c. 7, s. 73(3)(b) (as substituted (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014](#) (S.I. 2014/892), art. 1(1), **Sch. 1 para. 189(4)(c)** (with art. 3))
- C2** Pt. 4 modified by 2000 c. 38, s. 86(4A) (as inserted (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014](#) (S.I. 2014/892), art. 1(1), **Sch. 1 para. 154(6)** (with art. 3))
- C3** Pt. 4 modified (1.4.2014) by [Enterprise and Regulatory Reform Act 2013](#) (c. 24), s. 103(3), **Sch. 4 para. 57**; S.I. 2014/416, art. 2(1)(c) (with Sch.)
- C4** Pt. 4 modified by 2012 c. 19, s. 60(3A) (as inserted (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014](#) (S.I. 2014/892), art. 1(1), **Sch. 1 para. 197(5)** (with art. 3))
- C5** Pt. 4 certain functions made exercisable concurrently (1.4.2014) by [Financial Services \(Banking Reform\) Act 2013](#) (c. 33), s. 59(1)-(5), 148(5); S.I. 2014/823, art.
- C6** Pt. 4 modified by 1991 c. 56, s. 31(4) (as amended (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014](#) (S.I. 2014/892), art. 1(1), **Sch. 1 para. 84(5)(d)** (with art. 3))
- C7** Pt. 4 modified by 1989 c. 29, s. 43(2B) (as amended (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014](#) (S.I. 2014/892), art. 1(1), **Sch. 1 para. 65(4)(d)** (with art. 3))
- C8** Pt. 4 modified by 1986 c. 44, s. 36A (as amended (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014](#) (S.I. 2014/892), art. 1(1), **Sch. 1 para. 50(4)(d)** (with art. 3))

Status: Point in time view as at 01/04/2014.

Changes to legislation: There are currently no known outstanding effects for the Enterprise Act 2002, Chapter 3. (See end of Document for details)

- C9** Pt. 4 modified by 1993 c. 43, s. 67(4)(d) (as amended (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014 \(S.I. 2014/892\)](#), art. 1(1), **Sch. 1 para. 105(4)(d)** (with art. 3))

Undertakings and orders

154 Undertakings in lieu of market investigation references

- (1) Subsection (2) applies if the [^{F1}CMA] considers that it has the power to make a reference under section 131 and otherwise intends to make such a reference.
- (2) The [^{F1}CMA] may, instead of making such a reference and for the purpose of remedying, mitigating or preventing—
 - (a) any adverse effect on competition concerned; or
 - (b) any detrimental effect on customers so far as it has resulted from, or may be expected to result from, the adverse effect on competition;
 accept, from such persons as it considers appropriate, undertakings to take such action as it considers appropriate.
- (3) In proceeding under subsection (2), the [^{F1}CMA] shall, in particular, have regard to the need to achieve as comprehensive a solution as is reasonable and practicable to the adverse effect on competition concerned and any detrimental effects on customers so far as resulting from the adverse effect on competition.
- (4) In proceeding under subsection (2), the [^{F1}CMA] may, in particular, have regard to the effect of any action on any relevant customer benefits of the feature or features of the market [^{F2}or markets] concerned.
- (5) The [^{F1}CMA] shall take no action under subsection (2) to remedy, mitigate or prevent any detrimental effect on customers so far as it may be expected to result from the adverse effect on competition concerned if—
 - (a) no detrimental effect on customers has resulted from the adverse effect on competition; and
 - (b) the adverse effect on competition is not being remedied, mitigated or prevented.
- (6) An undertaking under this section—
 - (a) shall come into force when accepted;
 - (b) may be varied or superseded by another undertaking; and
 - (c) may be released by the [^{F1}CMA].
- (7) The [^{F1}CMA] shall, as soon as reasonably practicable, consider any representations received by it in relation to varying or releasing an undertaking under this section.
- (8) This section is subject to sections 150 and 155.

Textual Amendments

- F1** Word in s. 154(1)-(7) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), **Sch. 5 para. 187** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F2** Words in s. 154(4) inserted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), **Sch. 9 para. 7**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

Status: Point in time view as at 01/04/2014.

Changes to legislation: There are currently no known outstanding effects for the Enterprise Act 2002, Chapter 3. (See end of Document for details)

155 Undertakings in lieu: procedural requirements

- (1) Before accepting an undertaking under section 154 (other than an undertaking under that section which varies an undertaking under that section but not in any material respect), the [^{F3}CMA] shall—
 - (a) publish notice of the proposed undertaking; and
 - (b) consider any representations made in accordance with the notice and not withdrawn.
- (2) A notice under subsection (1) shall state—
 - (a) that the [^{F3}CMA] proposes to accept the undertaking;
 - (b) the purpose and effect of the undertaking;
 - (c) the situation that the undertaking is seeking to deal with;
 - (d) any other facts which the [^{F3}CMA] considers justify the acceptance of the undertaking;
 - (e) a means of gaining access to an accurate version of the proposed undertaking at all reasonable times; and
 - (f) the period (not less than 15 days starting with the date of publication of the notice) within which representations may be made in relation to the proposed undertaking.
- (3) The matters to be included in a notice under subsection (1) by virtue of subsection (2) shall, in particular, include—
 - (a) the terms of the reference under section 131 which the [^{F3}CMA] considers that it has power to make and which it otherwise intends to make [^{F4}or (but for the effect of section 140A(3)) it would have had power to make and which it would otherwise have intended to make]; and
 - (b) the adverse effect on competition, and any detrimental effect on customers so far as resulting from the adverse effect on competition, which the [^{F3}CMA] has identified.
- (4) The [^{F3}CMA] shall not accept the undertaking with modifications unless it—
 - (a) publishes notice of the proposed modifications; and
 - (b) considers any representations made in accordance with the notice and not withdrawn.
- (5) A notice under subsection (4) shall state—
 - (a) the proposed modifications;
 - (b) the reasons for them; and
 - (c) the period (not less than 7 days starting with the date of the publication of the notice under subsection (4)) within which representations may be made in relation to the proposed modifications.
- (6) If, after publishing notice under subsection (1) or (4), the [^{F5}CMA] decides—
 - (a) not to accept the undertaking concerned; and
 - (b) not to proceed by virtue of subsection (8) or (9);it shall publish notice of that decision.
- (7) As soon as practicable after accepting an undertaking to which this section applies, the [^{F5}CMA] shall—
 - (a) serve a copy of the undertaking on any person by whom it is given; and
 - (b) publish the undertaking.

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- (8) The requirements of subsection (4) (and those of subsection (1)) shall not apply if the [^{F5}CMA]—
- (a) has already published notice under subsection (1) but not subsection (4) in relation to the proposed undertaking; and
 - (b) considers that the modifications which are now being proposed are not material in any respect.
- (9) The requirements of subsection (4) (and those of subsection (1)) shall not apply if the [^{F5}CMA]—
- (a) has already published notice under subsections (1) and (4) in relation to the matter concerned; and
 - (b) considers that the further modifications which are now being proposed do not differ in any material respect from the modifications in relation to which notice was last given under subsection (4).
- (10) Paragraphs 6 to 8 (but not paragraph 9) of Schedule 10 (procedural requirements before terminating undertakings) shall apply in relation to the proposed release of undertakings under section 154 (other than in connection with accepting an undertaking under that section which varies or supersedes an undertaking under that section) as they apply in relation to the proposed release of undertakings under section 73.

Textual Amendments

- F3** Word in s. 155(1)-(4) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 5 para. 188](#) (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F4** Words in s. 155(3)(a) inserted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 10 para. 23](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F5** Word in s. 155(6)-(9) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 5 para. 188](#) (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

156 Effect of undertakings under section 154

- [^{F6}(A1) No market investigation reference shall be made by the CMA or the appropriate Minister in relation to any feature, or combination of features, of a market in the United Kingdom for goods or services if—
- (a) the CMA has accepted an undertaking or group of undertakings under section 154 within the previous 12 months;
 - (b) the feature or combination of features to which the undertaking or group of undertakings relates is the same as the feature or combination of features to which the reference would relate; and
 - (c) the goods or services to which the undertaking or group of undertakings relates are of the same description as the goods or services to which the reference would relate.]
- (1) No [^{F7}ordinary] reference shall be made by the [^{F8}CMA] or the appropriate Minister in relation to any feature, or combination of features, of a market in the United Kingdom for goods or services if—
- (a) the [^{F8}CMA] has [^{F9}, instead of making an ordinary reference,] accepted an undertaking or group of undertakings under section 154 within the previous 12 months; and

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- (b) the goods or services to which the undertaking or group of undertakings relates are of the same description as the goods or services to which [F10the reference would relate].
- (2) [F11Subsections (A1) and (1) do] not prevent the making of a market investigation reference if—
- (a) the [F8CMA] considers that any undertaking concerned has been breached and has given notice of that fact to the person responsible for giving the undertaking; or
- (b) the person responsible for giving any undertaking concerned supplied, in connection with the matter, information to the [F8CMA] which was false or misleading in a material respect.
- [F12(3) The expiry of the period mentioned in section 131B(4) does not prevent the making of a market investigation reference if the CMA has accepted an undertaking or group of undertakings under section 154 and—
- (a) the CMA considers that any undertaking concerned has been breached and has given notice of that fact to the person responsible for giving the undertaking; or
- (b) the person responsible for giving any undertaking concerned supplied, in connection with the matter, information to the OFT which was false or misleading in a material respect.]

Textual Amendments

- F6** S. 156(A1) inserted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 9 para. 8\(2\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F7** Word in s. 156(1) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 9 para. 8\(3\)\(a\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F8** Word in s. 156(1)(2) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 5 para. 189](#) (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F9** Words in s. 156(1)(a) inserted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 9 para. 8\(3\)\(b\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F10** Words in s. 156(1)(b) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 9 para. 8\(3\)\(c\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F11** Words in s. 156(2) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 9 para. 8\(4\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F12** S. 156(3) inserted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 12 para. 12](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)

157 Interim undertakings: Part 4

- (1) Subsection (2) applies where—
- (a) a market investigation reference has been made;
- (b) a report has been published under section 136 within the period permitted by section 137 or (as the case may be) a report prepared under section 142 and given to the Secretary of State under section 143(3) [F13or (as the case may be) 143A(3)] within the period permitted by section 144 has been published; and
- (c) the market investigation reference concerned is not finally determined.

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- (2) The relevant authority may, for the purpose of preventing pre-emptive action, accept, from such persons as the relevant authority considers appropriate, undertakings to take such action as the relevant authority considers appropriate.
- [^{F14}(2A) Subsection (2B) applies where—
- (a) subsection (1)(a) to (c) applies; and
 - (b) the relevant authority has reasonable grounds for suspecting that pre-emptive action has or may have been taken.
- (2B) The relevant authority may, for the purpose of restoring the position to what it would have been had the pre-emptive action not been taken or otherwise for the purpose of mitigating its effects, accept, from such persons as the relevant authority considers appropriate, undertakings to take such action as the relevant authority considers appropriate.]
- [^{F15}(2C) A person may, with the consent of the relevant authority, take action of a particular description where the action would otherwise constitute a contravention of an undertaking accepted under this section.]
- (3) An undertaking under this section—
- (a) shall come into force when accepted;
 - (b) may be varied or superseded by another undertaking; and
 - (c) may be released by the relevant authority.
- (4) An undertaking under this section shall, if it has not previously ceased to be in force, cease to be in force when the market investigation reference is finally determined.
- (5) The relevant authority shall, as soon as reasonably practicable, consider any representations received by the relevant authority in relation to varying or releasing an undertaking under this section.
- (6) In this section and section 158—
- “pre-emptive action” means action which might impede the taking of any action under section 138(2)[^{F16}, 147(2) or (as the case may be) 147A(2)] in relation to the market investigation reference concerned; and
- [^{F17}“the relevant authority” means—
- (a) in the case of a restricted PI reference or a full PI reference, the Secretary of State;
 - (b) in any other case, the CMA.]

Textual Amendments

- F13** Words in s. 157(1)(b) inserted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 10 para. 24\(2\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F14** S. 157(2A)(2B) inserted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), [ss. 37\(2\)](#), 103(3); S.I. 2014/416, art. 2(1)(b) (with Sch.)
- F15** S. 157(2C) inserted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), [ss. 37\(3\)](#), 103(3); S.I. 2014/416, art. 2(1)(b) (with Sch.)
- F16** Words in s. 157(6) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 10 para. 24\(3\)\(a\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F17** Words in s. 157(6) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 10 para. 24\(3\)\(b\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)

Status: Point in time view as at 01/04/2014.

Changes to legislation: There are currently no known outstanding effects for the Enterprise Act 2002, Chapter 3. (See end of Document for details)

158 Interim orders: Part 4

- (1) Subsection (2) applies where—
- (a) a market investigation reference has been made;
 - (b) a report has been published under section 136 within the period permitted by section 137 or (as the case may be) a report prepared under section 142 and given to the Secretary of State under section 143(3) [^{F18}or (as the case may be) 143A(3)] within the period permitted by section 144 has been published; and
 - (c) the market investigation reference concerned is not finally determined.
- (2) The relevant authority may by order, for the purpose of preventing pre-emptive action—
- (a) prohibit or restrict the doing of things which the relevant authority considers would constitute pre-emptive action;
 - (b) impose on any person concerned obligations as to the carrying on of any activities or the safeguarding of any assets;
 - (c) provide for the carrying on of any activities or the safeguarding of any assets either by the appointment of a person to conduct or supervise the conduct of any activities (on such terms and with such powers as may be specified or described in the order) or in any other manner;
 - (d) do anything which may be done by virtue of paragraph 19 of Schedule 8.

[^{F19}(2A) Subsection (2B) applies where—

- (a) subsection (1)(a) to (c) applies; and
- (b) the relevant authority has reasonable grounds for suspecting that pre-emptive action has or may have been taken.

(2B) The relevant authority may by order, for the purpose of restoring the position to what it would have been had the pre-emptive action not been taken or otherwise for the purpose of mitigating its effects—

- (a) do anything mentioned in subsection (2)(b) to (d);
- (b) impose such other obligations, prohibitions or restrictions as it considers appropriate for that purpose.]

[^{F20}(2C) A person may, with the consent of the relevant authority, take action of a particular description where the action would otherwise constitute a contravention of an undertaking accepted under this section.]

- (3) An order under this section—
- (a) shall come into force at such time as is determined by or under the order; and
 - (b) may be varied or revoked by another order.
- (4) An order under this section shall, if it has not previously ceased to be in force, cease to be in force when the market investigation reference is finally determined.
- (5) The relevant authority shall, as soon as reasonably practicable, consider any representations received by the relevant authority in relation to varying or revoking an order under this section.

Textual Amendments

F18 Words in s. 158(1)(b) inserted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 10 para. 25](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)

Status: Point in time view as at 01/04/2014.

Changes to legislation: There are currently no known outstanding effects for the Enterprise Act 2002, Chapter 3. (See end of Document for details)

- F19** S. 158(2A)(2B) inserted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), ss. 37(4), 103(3); S.I. 2014/416, art. 2(1)(b) (with Sch.)
- F20** S. 158(2C) inserted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), ss. 37(5), 103(3); S.I. 2014/416, art. 2(1)(b) (with Sch.)

159 Final undertakings: Part 4

- (1) The [^{F21}CMA] may, in accordance with section 138, accept, from such persons as it considers appropriate, undertakings to take action specified or described in the undertakings.
- (2) The Secretary of State may, in accordance with section 147 [^{F22}or (as the case may be) 147A], accept, from such persons as he considers appropriate, undertakings to take action specified or described in the undertakings.
- (3) An undertaking under this section shall come into force when accepted.
- (4) An undertaking under subsection (1) or (2) may be varied or superseded by another undertaking under that subsection.
- (5) An undertaking under subsection (1) may be released by the [^{F23}CMA] and an undertaking under subsection (2) may be released by the Secretary of State.
- (6) The [^{F24}CMA] or (as the case may be) the Secretary of State shall, as soon as reasonably practicable, consider any representations received by it or (as the case may be) him in relation to varying or releasing an undertaking under this section.

Textual Amendments

- F21** Word in s. 159(1) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 190** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F22** Words in s. 159(2) inserted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 10 para. 26**; S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F23** Word in s. 159(5) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 190** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F24** Word in s. 159(6) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 190** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

160 Order-making power where final undertakings not fulfilled: Part 4

- (1) Subsection (2) applies where the relevant authority considers that—
 - (a) an undertaking accepted by the relevant authority under section 159 has not been, is not being or will not be fulfilled; or
 - (b) in relation to an undertaking accepted by the relevant authority under that section, information which was false or misleading in a material respect was given to [^{F25}a relevant person] by the person giving the undertaking before the relevant authority decided to accept the undertaking.

[^{F26}(1A) In subsection (1), a “relevant person” means—

- (a) in a case where the relevant authority is the CMA, the CMA;
- (b) in a case where the relevant authority is the Secretary of State, the Secretary of State or the CMA.]

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- (2) The relevant authority may, for any of the purposes mentioned in section 138(2)^[F27], 147(2) or (as the case may be) 147A(2)], make an order under this section.
- (3) Subsections (3) to (6) of section 138 ^[F28]or 147 or (as the case may be) subsections (3) and (4) of section 147A] shall apply for the purposes of subsection (2) above as they apply for the purposes of that section.
- (4) An order under this section may contain—
- (a) anything permitted by Schedule 8; and
 - (b) such supplementary, consequential or incidental provision as the relevant authority considers appropriate.
- (5) An order under this section—
- (a) shall come into force at such time as is determined by or under the order;
 - (b) may contain provision which is different from the provision contained in the undertaking concerned; and
 - (c) may be varied or revoked by another order.
- (6) ^[F29]The Secretary of State shall not vary or revoke an order made by him under this section unless the CMA] advises that such a variation or revocation is appropriate by reason of a change of circumstances.
- (7) In this section “the relevant authority” means—
- (a) in the case of an undertaking accepted under section 159 by the ^[F30]CMA], the ^[F30]CMA]; and
 - (b) in the case of an undertaking accepted under that section by the Secretary of State, the Secretary of State.

Textual Amendments

- F25** Words in s. 160(1)(b) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 5 para. 191\(2\)](#) (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F26** S. 160(1A) inserted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 5 para. 191\(3\)](#) (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F27** Words in s. 160(2) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 10 para. 27\(2\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F28** Words in s. 160(3) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 10 para. 27\(3\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F29** Words in s. 160(6) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 5 para. 191\(4\)](#) (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F30** Word in s. 160(7)(a) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 5 para. 191\(5\)](#) (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

Modifications etc. (not altering text)

- C10** Ss. 75(4)(a), 83(4)(a), 84(2)(a), 89(1), 160(4)(a), 161(3)(a), 164(1), Sch. 7 paras. 5, 10, 11 modified (20.6.2003) by [1988 c. 48, s. 144\(2\)](#) (as substituted by [Enterprise Act 2002 \(c. 40\)](#), ss. 278, 279, [Sch. 25 para. 18\(2\)](#)); S.I. 2003/1397, [art. 2\(1\)](#), Sch. (with [art. 8](#))
- C11** Ss. 75(4)(a), 83(4)(a), 84(2)(a), 89(1), 160(4)(a), 161(3)(a), 164(1), Sch. 7 paras. 5, 10, 11 modified (20.6.2003) by [1988 c. 48, s. 238\(2\)](#) (as substituted by [Enterprise Act 2002 \(c. 40\)](#) ss. 278, 279, {Sch. 25 para. 18(4)}); S.I. 2003/1397, [art. 2\(1\)](#), Sch. (with [art. 8](#))

Status: Point in time view as at 01/04/2014.

Changes to legislation: There are currently no known outstanding effects for the Enterprise Act 2002, Chapter 3. (See end of Document for details)

- C12** Ss. 75(4)(a), 83(4)(a), 84(2)(a), 89(1), 160(4)(a), 161(3)(a), 164(1), Sch. 7 paras. 5, 10, 11 modified (20.6.2003) by 1988 c. 48, Sch. 2A para. 17(2) (as substituted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 18(5)(a)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C13** Ss. 160(4)(a), 161(3)(a), 164(1) modified (20.6.2003) by 1993 c. 21, s. 33(2A) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 29(3)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C14** Ss. 160(4)(a), 161(3)(a), 164(1) modified (20.6.2003) by 1994 c. 17, s. 33(2A) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 31(3)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)

161 Final orders: Part 4

- (1) The [^{F31}CMA] may, in accordance with section 138, make an order under this section.
- (2) The Secretary of State may, in accordance with section 147 [^{F32}or (as the case may be) 147A], make an order under this section.
- (3) An order under this section may contain—
 - (a) anything permitted by Schedule 8; and
 - (b) such supplementary, consequential or incidental provision as the person making it considers appropriate.
- (4) An order under this section—
 - (a) shall come into force at such time as is determined by or under the order; and
 - (b) may be varied or revoked by another order.
- (5) [^{F33}The Secretary of State shall not vary or revoke an order made by him under this section unless the CMA] advises that such a variation or revocation is appropriate by reason of a change of circumstances.

Textual Amendments

- F31** Word in s. 161(1) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 192(2)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F32** Words in s. 161(2) inserted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 10 para. 28**; S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F33** Words in s. 161(5) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 192(3)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

Modifications etc. (not altering text)

- C15** Ss. 75(4)(a), 83(4)(a), 84(2)(a), 89(1), 160(4)(a), 161(3)(a), 164(1), Sch. 7 paras. 5, 10, 11 modified (20.6.2003) by 1988 c. 48, s. 144(2) (as substituted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 18(2)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C16** Ss. 75(4)(a), 83(4)(a), 84(2)(a), 89(1), 160(4)(a), 161(3)(a), 164(1), Sch. 7 paras. 5, 10, 11 modified (20.6.2003) by 1988 c. 48, s. 238(2) (as substituted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 18(4)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C17** Ss. 75(4)(a), 83(4)(a), 84(2)(a), 89(1), 160(4)(a), 161(3)(a), 164(1), Sch. 7 paras. 5, 10, 11 modified (20.6.2003) by 1988 c. 48, Sch. 2A para. 17(2) (as substituted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 18(5)(a)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C18** Ss. 160(4)(a), 161(3)(a), 164(1) modified (20.6.2003) by 1993 c. 21, s. 33(2A) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 29(3)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)

Status: Point in time view as at 01/04/2014.

Changes to legislation: There are currently no known outstanding effects for the Enterprise Act 2002, Chapter 3. (See end of Document for details)

- C19** Ss. 160(4)(a), 161(3)(a), 164(1) modified (20.6.2003) by 1994 c. 17, s. 33(2A) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 31(3)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C20** S. 161(5) excluded (25.6.2013) by Groceries Code Adjudicator Act 2013 (c. 19), **ss. 21(5)**, 25; S.I. 2013/1236, art. 2

[^{F34}Undertakings and orders: monitoring, consultation and advice]

Textual Amendments

- F34** S. 162 cross-heading substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 193** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

162 Duty of [^{F35}CMA] to monitor undertakings and orders: Part 4

- (1) The [^{F36}CMA] shall keep under review the carrying out of any enforcement undertaking or any enforcement order.
- (2) The [^{F36}CMA] shall, in particular, from time to time consider—
- (a) whether an enforcement undertaking or enforcement order has been or is being complied with;
 - (b) whether, by reason of any change of circumstances, an enforcement undertaking is no longer appropriate and—
 - (i) one or more of the parties to it can be released from it; or
 - (ii) it needs to be varied or to be superseded by a new enforcement undertaking; and
 - (c) whether, by reason of any change of circumstances, an enforcement order is no longer appropriate and needs to be varied or revoked.
- (3) The [^{F37}CMA] shall give ^{F38}... the Secretary of State such advice as it considers appropriate in relation to—
- (a) any possible variation or release by ^{F39}...the Secretary of State of an enforcement undertaking accepted by ^{F40}... him;
 - (b) any possible new enforcement undertaking to be accepted by ^{F41}... the Secretary of State so as to supersede another enforcement undertaking given to ^{F41}... the Secretary of State;
 - (c) any possible variation or revocation by ^{F41}... the Secretary of State of an enforcement order made by ^{F41}... the Secretary of State;
 - (d) any possible enforcement undertaking to be accepted by ^{F41}... the Secretary of State instead of an enforcement order or any possible enforcement order to be made by ^{F41}... the Secretary of State instead of an enforcement undertaking; or
 - (e) the enforcement by virtue of section [^{F42}167(6) and (7)] of any enforcement undertaking or enforcement order.
- (4) The [^{F43}CMA] shall take such action as it considers appropriate in relation to—
- (a) any possible variation or release by it of an undertaking accepted by it under section 154;
 - (b) any possible new undertaking to be accepted by it under section 154 so as to supersede another undertaking given to it under that section;

Status: Point in time view as at 01/04/2014.

Changes to legislation: There are currently no known outstanding effects for the Enterprise Act 2002, Chapter 3. (See end of Document for details)

- [^{F44}(ba) any possible variation or release by it of an enforcement undertaking accepted by it;
- (bb) any possible new enforcement undertaking to be accepted by it so as to supersede another enforcement undertaking given to it;
- (bc) any possible variation or revocation by it of an enforcement order made by it;
- (bd) any possible enforcement undertaking to be accepted by it instead of an enforcement order or any possible enforcement order to be made by it instead of an enforcement undertaking;] or
- (c) the enforcement by it by virtue of section 167(6) of any enforcement undertaking or enforcement order.
- (5) The [^{F45}CMA] shall keep under review the effectiveness of enforcement undertakings accepted under this Part and enforcement orders made under this Part.
- (6) The [^{F45}CMA] shall, whenever requested to do so by the Secretary of State and otherwise from time to time, prepare a report of its findings under subsection (5).
- (7) The [^{F46}CMA] shall—
- ^{F47}(a)
- (b) give a copy of the report to the Secretary of State; and
- (c) publish [^{F48}any report prepared by it under subsection (6)].
- (8) In this Part—
- “enforcement order” means an order made under section 158, 160 or 161; and
- “enforcement undertaking” means an undertaking accepted under section 154, 157 or 159.

Textual Amendments

- F35** Word in s. 162 heading substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 194(7)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F36** Word in s. 162(1)(2) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 194(2)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F37** Word in s. 162(3) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 194(3)(a)(i)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F38** Words in s. 162(3) omitted (1.4.2014) by virtue of Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 194(3)(a)(ii)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F39** Words in s. 162(3)(a) omitted (1.4.2014) by virtue of Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 194(3)(b)(i)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F40** Words in s. 162(3)(a) omitted (1.4.2014) by virtue of Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 194(3)(b)(ii)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F41** Words in s. 162(3)(b)-(d) omitted (1.4.2014) by virtue of Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 194(3)(c)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F42** Words in s. 162(3)(e) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 194(3)(d)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F43** Word in s. 162(4) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 194(4)(a)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F44** S. 162(4)(ba)-(bd) inserted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 194(4)(b)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F45** Word in s. 162(5)(6) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 194(5)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

Status: Point in time view as at 01/04/2014.

Changes to legislation: There are currently no known outstanding effects for the Enterprise Act 2002, Chapter 3. (See end of Document for details)

- F46** Word in s. 162(7) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 194(6)(a)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F47** S. 162(7)(a) omitted (1.4.2014) by virtue of Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 194(6)(b)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F48** Words in s. 162(7)(b) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 194(6)(c)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

Modifications etc. (not altering text)

- C21** Ss. 91(3), 92(1)(a), 162(1), 166(3) modified (20.6.2003) by 1977 c. 37, s. 50A(7) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 8(2)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C22** Ss. 162(1), 166(3) modified (20.6.2003) by S.I. 1982/1080 (N.I. 12), art. 23(6) (as substituted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 12(2)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C23** Ss. 162(1), 166(3) modified (20.6.2003) by S.I. 1982/1080 (N.I. 12), art. 42(5A) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para 12(3)(e)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)

163 ^[F49] **Role of CMA in relation to undertakings and orders in public interest cases: Part 4]**

- (1) Subsections (2) and (3) apply where ^{F50}... the Secretary of State ^{F51}... is considering whether to accept undertakings under section 157 or 159.
- (2) The ^{F52}Secretary of State] may require the ^{F53}CMA] to consult with such persons as the ^{F52}Secretary of State] considers appropriate with a view to discovering whether they will offer undertakings which the ^{F52}Secretary of State] would be prepared to accept under section 157 or (as the case may be) 159.
- (3) The ^{F54}Secretary of State] may require the ^{F55}CMA] to report to the ^{F54}Secretary of State] on the outcome of the ^{F56}CMA's] consultations within such period as the ^{F54}Secretary of State] may require.
- (4) A report under subsection (3) shall, in particular, contain advice from the ^{F57}CMA] as to whether any undertakings offered should be accepted by the ^{F58}Secretary of State] under section 157 or (as the case may be) 159.
- (5) The powers conferred on the ^{F59}Secretary of State] by subsections (1) to (4) are without prejudice to the power of the ^{F59}Secretary of State] to consult the persons concerned ^{F60}....
- (6) If asked by the ^{F61}Secretary of State] for advice in relation to the taking of enforcement action (whether or not by way of undertakings) in a particular case, the ^{F62}CMA] shall give such advice as it considers appropriate.

Textual Amendments

- F49** S. 163 heading substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 195(8)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F50** Words in s. 163(1) omitted (1.4.2014) by virtue of Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 195(2)(a)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F51** Words in s. 163(1) omitted (1.4.2014) by virtue of Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 195(2)(b)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

Status: Point in time view as at 01/04/2014.

Changes to legislation: There are currently no known outstanding effects for the Enterprise Act 2002, Chapter 3. (See end of Document for details)

- F52** Words in s. 163(2) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 195(3)(a)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F53** Word in s. 163(2) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 195(3)(b)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F54** Words in s. 163(3) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 195(4)(a)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F55** Word in s. 163(3) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 195(4)(b)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F56** Word in s. 163(3) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 195(4)(c)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F57** Word in s. 163(4) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 195(5)(a)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F58** Words in s. 163(4) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 195(5)(b)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F59** Words in s. 163(5) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 195(6)(a)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F60** Word in s. 163(5) omitted (1.4.2014) by virtue of Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 195(6)(b)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F61** Words in s. 163(6) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 195(7)(a)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F62** Word in s. 163(6) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 195(7)(b)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

Supplementary

164 Enforcement undertakings and orders under this Part: general provisions

- (1) The provision which may be contained in an enforcement undertaking is not limited to the provision which is permitted by Schedule 8.
- (2) The following enactments in Part 3 shall apply in relation to enforcement orders under this Part as they apply in relation to enforcement orders under that Part—
 - (a) section 86(1) to (5) (enforcement orders: general provisions); and
 - (b) section 87 (power of directions conferred by enforcement order).
- (3) An enforcement order under section 160 or 161 or any explanatory material accompanying the order shall state—
 - (a) the actions that the persons or description of persons to whom the order is addressed must do or (as the case may be) refrain from doing;
 - (b) the date on which the order comes into force;
 - (c) the possible consequences of not complying with the order; and
 - (d) the section of this Part under which a review can be sought in relation to the order.

Modifications etc. (not altering text)

- C24** Ss. 75(4)(a), 83(4)(a), 84(2)(a), 89(1), 160(4)(a), 161(3)(a), 164(1), Sch. 7 paras. 5, 10, 11 modified (20.6.2003) by 1988 c. 48, s. 144(2) (as substituted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 18(2)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)

Status: Point in time view as at 01/04/2014.

Changes to legislation: There are currently no known outstanding effects for the Enterprise Act 2002, Chapter 3. (See end of Document for details)

- C25** Ss. 75(4)(a), 83(4)(a), 84(2)(a), 89(1), 160(4)(a), 161(3)(a), 164(1), Sch. 7 paras. 5, 10, 11 modified (20.6.2003) by 1988 c. 48, s. 238(2) (as substituted by Enterprise Act 2002 (c. 40) ss. 278, 279, {Sch. 25 para. 18(4)}); S.I. 2003/1397, art. 2(1), Sch. (with art. 8)
- C26** Ss. 75(4)(a), 83(4)(a), 84(2)(a), 89(1), 160(4)(a), 161(3)(a), 164(1), Sch. 7 paras. 5, 10, 11 modified (20.6.2003) by 1988 c. 48, Sch. 2A para. 17(2) (as substituted by Enterprise Act 2002 (c. 40), ss. 278, 279, Sch. 25 para. 18(5)(a)); S.I. 2003/1397, art. 2(1), Sch. (with art. 8)
- C27** Ss. 160(4)(a), 161(3)(a), 164(1) modified (20.6.2003) by 1993 c. 21, s. 33(2A) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, Sch. 25 para. 29(3)); S.I. 2003/1397, art. 2(1), Sch. (with art. 8)
- C28** Ss. 160(4)(a), 161(3)(a), 164(1) modified (20.6.2003) by 1994 c. 17, s. 33(2A) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, Sch. 25 para. 31(3)); S.I. 2003/1397, art. 2(1), Sch. (with art. 8)

165 Procedural requirements for certain undertakings and orders: Part 4

Schedule 10 (procedural requirements for certain undertakings and orders), other than paragraph 9 of that Schedule, shall apply in relation to undertakings under section 159 and orders under section 160 or 161 as it applies in relation to undertakings under section 82 and orders under section 83 or 84.

166 Register of undertakings and orders: Part 4

- (1) The [F63CMA] shall compile and maintain a register for the purposes of this Part.
- (2) The register shall be kept in such form as the [F63CMA] considers appropriate.
- (3) The [F64CMA] shall ensure that the following matters are entered in the register—
 - (a) the provisions of any enforcement undertaking accepted by virtue of this Part [F65] ...;
 - (b) the provisions of any enforcement order made by virtue of this Part [F66] ...; and
 - (c) the details of any variation, release or revocation of such an undertaking or order.
- (4) The duty in subsection (3) does not extend to anything of which the [F67CMA] is unaware.
- (5) The [F68] Secretary of State and any relevant sectoral regulator shall inform the [F69CMA] of any matters which are to be included in the register by virtue of subsection (3) and which relate to enforcement undertakings accepted by them or enforcement orders made by them.
- (6) The [F70CMA] shall ensure that the contents of the register are available to the public—
 - (a) during (as a minimum) such hours as may be specified in an order made by the Secretary of State; and
 - (b) subject to such reasonable fees (if any) as the [F70CMA] may determine.
- (7) If requested by any person to do so and subject to such reasonable fees (if any) as the [F70CMA] may determine, the [F70CMA] shall supply the person concerned with a copy (certified to be true) of the register or of an extract from it.

Status: Point in time view as at 01/04/2014.

Changes to legislation: There are currently no known outstanding effects for the Enterprise Act 2002, Chapter 3. (See end of Document for details)

Textual Amendments

- F63** Word in s. 166(1)(2) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 196(2)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F64** Word in s. 166(3) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 196(3)(a)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F65** Words in s. 166(3)(a) omitted (1.4.2014) by virtue of Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 196(3)(b)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F66** Words in s. 166(3)(b) omitted (1.4.2014) by virtue of Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 196(3)(c)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F67** Word in s. 166(4) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 196(4)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F68** Words in s. 166(5) omitted (1.4.2014) by virtue of Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 196(5)(a)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F69** Word in s. 166(5) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 196(5)(b)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F70** Word in s. 166(6)(7) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 196(6)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

Modifications etc. (not altering text)

- C29** Ss. 91(3), 92(1)(a), 162(1), 166(3) modified (20.6.2003) by 1977 c. 37, s. 50A(7) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 8(2)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C30** Ss. 162(1), 166(3) modified (20.6.2003) by S.I. 1982/1080 (N.I. 12), art. 23(6) (as substituted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 12(2)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C31** Ss. 162(1), 166(3) modified (20.6.2003) by S.I. 1982/1080 (N.I. 12), art. 42(5A) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para 12(3)(e)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)

167 Rights to enforce undertakings and orders under this Part

- (1) This section applies to any enforcement undertaking or enforcement order.
- (2) Any person to whom such an undertaking or order relates shall have a duty to comply with it.
- (3) The duty shall be owed to any person who may be affected by a contravention of the undertaking or (as the case may be) order.
- (4) Any breach of the duty which causes such a person to sustain loss or damage shall be actionable by him.
- (5) In any proceedings brought under subsection (4) against a person to whom an enforcement undertaking or enforcement order relates it shall be a defence for that person to show that he took all reasonable steps and exercised all due diligence to avoid contravening the undertaking or (as the case may be) order.
- (6) Compliance with an enforcement undertaking or an enforcement order shall also be enforceable by civil proceedings brought by the [^{F71}CMA] for an injunction or for interdict or for any other appropriate relief or remedy.

Status: Point in time view as at 01/04/2014.

Changes to legislation: There are currently no known outstanding effects for the Enterprise Act 2002, Chapter 3. (See end of Document for details)

(7) Compliance with an undertaking accepted [^{F72}by the Secretary of State] under section 157 or 159, or an order [^{F73}made by the Secretary of State] under section 158, 160 or 161, shall also be enforceable by civil proceedings brought by the [^{F74}Secretary of State] for an injunction or for interdict or for any other appropriate relief or remedy.

^{F75}(8)

(9) Subsections [^{F76}(6) and (7)] shall not prejudice any right that a person may have by virtue of subsection (4) to bring civil proceedings for contravention or apprehended contravention of an enforcement undertaking or an enforcement order.

Textual Amendments

- F71** Word in s. 167(6) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 5 para. 197\(2\)](#) (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F72** Words in s. 167(7) inserted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 5 para. 197\(3\)\(a\)](#) (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F73** Words in s. 167(7) inserted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 5 para. 197\(3\)\(b\)](#) (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F74** Words in s. 167(7) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 5 para. 197\(3\)\(c\)](#) (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F75** S. 167(8) omitted (1.4.2014) by virtue of [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 5 para. 197\(4\)](#) (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F76** Words in s. 167(9) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 5 para. 197\(5\)](#) (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

Status:

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Changes to legislation:

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