



# Fair Trading Act 1973

## 1973 CHAPTER 41

### PART V

#### MERGERS

##### *Supplementary*

#### **77 Associated persons.**

(1) For the following purposes, that is to say—

- (a) for the purpose of determining under section 57(1) [<sup>F1</sup>or (1A)] of this Act whether a person is a newspaper proprietor and, if so, which newspapers are his newspapers;
- (b) for the purpose of determining under section 65 of this Act whether any two enterprises have been brought under common ownership or common control; and
- (c) for the purpose of determining what activities are carried on by way of business by any one person, in so far as that question arises in the application, by virtue of an order under section 73 of this Act, of paragraph 14 of Schedule 8 to this Act,

associated persons, and any bodies corporate which they or any of them control, shall (subject to the next following subsection) be treated as one person.

(2) The preceding subsection shall not have effect—

- (a) for the purpose mentioned in paragraph (a) of that subsection so as to exclude from section 58 of this Act any case which would otherwise fall within that section, or
- (b) for the purpose mentioned in paragraph (b) of the preceding subsection so as to exclude from section 65 of this Act any case which would otherwise fall within that section.

(3) A merger reference other than a newspaper merger reference (whether apart from this section the reference could be made or not) may be so framed as to exclude from

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*Status: Point in time view as at 03/01/1995. This version of this provision has been superseded.*

*Changes to legislation: There are currently no known outstanding effects for the Fair Trading Act 1973, Section 77. (See end of Document for details)*

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consideration, either altogether or for any specified purpose or to any specified extent, any matter which, apart from this section, would not have been taken into account on that reference.

- (4) For the purposes of this section the following persons shall be regarded as associated with one another, that is to say—
- (a) any individual and that individual's husband or wife and any relative, or husband or wife of a relative, of that individual or of that individual's husband or wife;
  - (b) any person in his capacity as trustee of a settlement and the settlor or grantor and any person associated with the settlor or grantor;
  - (c) persons carrying on business in partnership and the husband or wife and relatives of any of them;
  - (d) any two or more persons acting together to secure or exercise control of a body corporate or other association or to secure control of any enterprise or assets.
- (5) The reference in subsection (1) of this section to bodies corporate which associated persons control shall be construed as follows, that is to say—
- (a) in its application for the purpose mentioned in paragraph (a) of that subsection, “control” in that reference means having a [<sup>F2</sup>primary] controlling interest within the meaning of section 57(4) of this Act, and
  - (b) in its application for any other purpose mentioned in subsection (1) of this section, “control” in that reference shall be construed in accordance with section 65(3) and (4) of this Act.
- (6) In this section “relative” means a brother, sister, uncle, aunt, nephew, niece, lineal ancestor or descendant (the stepchild or illegitimate child or any person, or anyone adopted by a person, whether legally or otherwise, as his child, being taken into account as a relative or to trace a relationship in the same way as that person's child); and references to a wife or husband shall include a former wife or husband and a reputed wife or husband.

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**Textual Amendments**

- F1** Words inserted in s. 77(1)(a) (3.1.1995) by 1994 c. 40, s. 39, **Sch. 11 para. 2(2)(a)**; S.I. 1994/3188, **arts. 2, 3(f)(q)**
- F2** Word inserted in s. 77(5)(a) (3.1.1995) by 1994 c. 40, s. 39, **Sch. 11 para. 2(2)(b)**; S.I. 1994/3188, **arts. 2, 3(f)(q)**
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**Modifications etc. (not altering text)**

- C1** Ss. 64-77 modified (E.W.S.) (1.4.1994) by 1993 c. 43, s. 66(3); S.I. 1994/571, **art. 5**

**Status:**

Point in time view as at 03/01/1995. This version of this provision has been superseded.

**Changes to legislation:**

There are currently no known outstanding effects for the Fair Trading Act 1973, Section 77.