



Enterprise Act 2002 (repealed)

2002 CHAPTER 40

PART 3 **U.K.**

MERGERS

CHAPTER 4 **U.K.**

ENFORCEMENT

Final powers

Textual Amendments applied to the whole legislation

- F1** Act: for the words "solicitor of the Supreme Court of Northern Ireland" wherever they occur there is substituted (prosp.) the words "solicitor of the Court of Judicature of Northern Ireland" by virtue of [Constitutional Reform Act 2005 \(c. 4\), ss. 59, 148\(1\), Sch. 11 para. 5](#) [Editorial Note: this amendment will be carried through into the text of the Act at the same time as any other effects on the Act for the year in which the relevant commencement order (or first such order) is made]

82 Final undertakings **U.K.**

- (1) The Commission may, in accordance with section 41, accept, from such persons as it considers appropriate, undertakings to take action specified or described in the undertakings.
- (2) 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 - (b) may be varied or superseded by another undertaking; and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 Commission.

Status: Point in time view as at 20/06/2003.

Changes to legislation: There are currently no known outstanding effects for the Enterprise Act 2002 (repealed), Cross Heading: Final powers. (See end of Document for details)

- (3) An undertaking which is in force under this section in relation to a reference under section 22 or 33 shall cease to be in force if an order under section 76(1)(b) or 83 comes into force in relation to the subject-matter of the undertaking.
- (4) No undertaking shall be accepted under this section in relation to a reference under section 22 or 33 if an order has been made under—
 - (a) section 76(1)(b) or 83 in relation to the subject-matter of the undertaking; or
 - (b) section 84 in relation to that reference.
- (5) The Commission shall, as soon as reasonably practicable, consider any representations received by it in relation to varying or releasing an undertaking under this section.

83 Order-making power where final undertakings not fulfilled **U.K.**

- (1) Subsection (2) applies where the Commission considers that—
 - (a) an undertaking accepted by it under section 82 has not been, is not being or will not be fulfilled; or
 - (b) in relation to an undertaking accepted by it under that section, information which was false or misleading in a material respect was given to the Commission or the OFT by the person giving the undertaking before the Commission decided to accept the undertaking.
- (2) The Commission may, for any of the purposes mentioned in section 41(2), make an order under this section.
- (3) Subsections (3) to (5) of section 41 shall apply for the purposes of subsection (2) above as they apply for the purposes of subsection (2) 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 Commission 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) No order shall be varied or revoked under this section unless the OFT advises that such a variation or revocation is appropriate by reason of a change of circumstances.

Modifications etc. (not altering text)

- C1** Ss. 75(4)(a), 83(4)(a), 84(2)(a), 89(1), 160(4)(a), 161(3)(a), 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)
- C2** 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)

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C3 Ss. 75(4)(a), 83(4)(a), 84(2)(a), 89(1), 160(4)(a), 161(3)(a), 164(1) and 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)

84 Final orders **U.K.**

- (1) The Commission may, in accordance with section 41, make an order under this section.
- (2) An order under this section may contain—
 - (a) anything permitted by Schedule 8; and
 - (b) such supplementary, consequential or incidental provision as the Commission considers appropriate.
- (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) No order shall be varied or revoked under this section unless the OFT advises that such a variation or revocation is appropriate by reason of a change of circumstances.
- (5) No order shall be made under this section in relation to a reference under section 22 or 33 if an undertaking has been accepted under section 82 in relation to that reference.

Modifications etc. (not altering text)

- C4** Ss. 75(4)(a), 83(4)(a), 84(2)(a), 89(1), 160(4)(a), 161(3)(a), 164(1) and Sch. 7 para. 5 modified (20.6.2003) by 1988 c. 48, s. 144(2) (as substituted by Enterprise Act 2002 (c. 40), s. 279, Sch. 25 para. 18(2)); S.I. 2003/1397, art. 2(1), Sch. (with art. 8)
- C5** Ss. 75(4)(a), 83(4)(a), 84(2)(a), 89(1), 160(4)(a), 161(3)(a), 164(1) and Sch. 7 para. 5 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)
- C6** Ss. 75(4)(a), 83(4)(a), 84(2)(a), 89(1), 160(4)(a), 161(3)(a), 164(1) and Sch. 7 paras. 5, 10, 11 modified (20.6.2003) by 1988 c. 48, Sch. 2A(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)

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