



# Enterprise Act 2002

## 2002 CHAPTER 40

### <sup>F1</sup>PART 3

#### MERGERS

### CHAPTER 5

#### SUPPLEMENTARY

#### *Other*

#### 127 Associated persons

- (1) Associated persons, and any bodies corporate which they or any of them control, shall be treated as one person—
  - (a) for the purpose of deciding under section 26 whether any two enterprises have been brought under common ownership or common control;
  - <sup>F1</sup>(aa) for the purposes of section 58(2C); and]
  - (b) for the purpose of determining what activities are carried on by way of business by any one person so far as that question arises in connection with paragraph 13(2) of Schedule 8.
- (2) Subsection (1) shall not exclude from section 26 any case which would otherwise fall within that section.
- (3) A reference under section 22, 33, 45 or 62 (whether or not made by virtue of this section) may be framed so as to exclude from consideration, either altogether or for a specified purpose or to a 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—

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*Status: Point in time view as at 05/12/2019. This version of this provision has been superseded.*

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- (a) any individual and that individual's spouse [<sup>F2</sup>, civil partner] or partner and any relative, or spouse or partner of a relative, of that individual or of that individual's spouse [<sup>F2</sup>, civil partner] or partner;
- (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 spouse [<sup>F2</sup>, civil partner] or partner and relatives of any of them; or
- (d) two or more persons acting together to secure or exercise control of a body of persons corporate or unincorporate or to secure control of any enterprise or assets,

shall be regarded as associated with one another.

- (5) The reference in subsection (1) to bodies corporate which associated persons control shall be construed in accordance with section 26(3) and (4).
- (6) In this section “relative” means a brother, sister, uncle, aunt, nephew, niece, lineal ancestor or descendant (the stepchild of any person, or anyone adopted by a person, whether legally or otherwise, as his child being regarded as a relative or taken into account to trace a relationship in the same way as that person's child); and references to a spouse [<sup>F2</sup>, civil partner] or partner shall include a former spouse [<sup>F2</sup>, civil partner] or partner.

#### Textual Amendments

- F1** S. 127(1)(aa) substituted (29.12.2003) for word by [Communications Act 2003 \(c. 21\), ss. 375\(3\), 411\(2\)\(3\)](#) (with transitional provisions in [Sch. 18](#)); S.I. 2003/3142, [art. 3\(1\)](#), [Sch. 1](#) (subject to [arts. 3\(3\), 11](#))
- F2** Words in s. 127(4)(a)(c)(6) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\), ss. 261\(1\), 263, Sch. 27 para. 168](#); S.I. 2005/3175, [art. 2](#), [Sch. 1](#)

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

- C1** Pt. 3 modified (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\), s. 103\(3\), Sch. 4 para. 56](#); S.I. 2014/416, [art. 2\(1\)\(c\)](#) (with [Sch.](#))
- C2** S. 127 applied (with modifications) (20.6.2003) by [The Enterprise Act 2002 \(Protection of Legitimate Interests\) Order 2003 \(S.I. 2003/1592\), art. 15, Sch. 3 para. 1\(1\)\(dd\)\(25\)](#) (as amended (1.4.2014) by [The Enterprise Act 2002 \(Protection of Legitimate Interests\) \(Amendment\) Order 2014 \(S.I. 2014/891\), arts. 1, 18\(1\)-\(17\)](#) (with [arts. 20-23](#)))
- C3** S. 127 applied (20.6.2003) by [The Enterprise Act 2002 \(Merger Fees and Determination of Turnover\) Order 2003 \(S.I. 2003/1370\), art. 2, Sch. para. 7](#)  
S. 127 applied (29.12.2004) by [The Water Mergers \(Determination of Turnover\) Regulations 2004 \(S.I. 2004/3206\), reg. 2\(b\), Sch. para. 7](#)
- C4** S. 127 applied in part (5.12.2019 at 12.10 p.m.) by [The Public Interest Merger Reference \(Gardner Aerospace Holdings Ltd. and Impcross Ltd.\) \(Pre-emptive Action\) Order 2019 \(S.I. 2019/1490\), arts. 1, 5](#)

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