



Enterprise Act 2002

2002 CHAPTER 40

^{F1}PART 3

MERGERS

CHAPTER 2

PUBLIC INTEREST CASES

Other

56 Competition cases where intervention on public interest grounds ceases

- (1) Where the Secretary of State decides not to make a reference under section 45 on the ground that no public interest consideration to which he is able to have regard is relevant to a consideration of the relevant merger situation concerned, he shall by notice require the [^{F1}CMA] to deal with the matter otherwise than under this Chapter.
- (2) Where a notice is given to the [^{F1}CMA] in the circumstances mentioned in subsection (1), the [^{F1}CMA] shall decide whether to make a reference under section 22 [^{F2}, 33, 68B or 68C]; and any time-limits in relation to the Secretary of State's decision whether to make a reference under section 45 (including any remaining powers of extension) shall apply in relation to the decision of the [^{F1}CMA] whether to make a reference under section 22 [^{F2}, 33, 68B or 68C].
- (3) Where the [^{F3}CMA] cancels under section 53(1) a reference under section 45 and [^{F4}its report] under section 44 contains the decision that it is or may be the case that there is an anti-competitive outcome in relation to the relevant merger situation concerned, the [^{F3}CMA] shall proceed under this Part as if a reference under section 22 or (as the case may be) 33 had been made ^{F5}....
- (4) In proceeding by virtue of subsection (3) to prepare and publish a report under section 38, the [^{F6}CMA] shall proceed as if—

Status: Point in time view as at 26/10/2023.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Enterprise Act 2002. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

- (a) the reference under section 22 or 33 had been made at the same time as the reference under section 45;
 - (b) the timetable for preparing and giving its report under section 50 (including any remaining powers of extension and as extended by an additional period of 20 days) were the timetable for preparing and publishing its report under section 38; and
 - (c) in relation to the question whether a relevant merger situation has been created or the question whether arrangements are in progress or in contemplation which, if carried into effect, will result in the creation of a relevant merger situation, the [F6CMA] were confined to the questions on the subject to be investigated by it under section 47.
- (5) In determining the period of 20 days mentioned in subsection (4) no account shall be taken of—
- (a) Saturday, Sunday, Good Friday and Christmas Day; and
 - (b) any day which is a bank holiday in England and Wales.
- (6) Where the Secretary of State decides under section 54(2) to make no finding at all in the matter in connection with a reference under section 45(2) or (4), the [F7CMA] shall proceed under this Part as if a reference under section 22 or (as the case may be) 33 had been made ^{F8}... instead of a reference under section 45 and as if its report to the Secretary of State under section 50 had been prepared and published by it under section 38 within the period permitted by section 39.
- (7) In relation to proceedings by virtue of subsection (6), the reference in section 41(3) to decisions of the [F9CMA] as included in its report by virtue of section 35(3) or 36(2) shall be construed as a reference to decisions which were included in the report of the [F9CMA] by virtue of section 47(8).
- (8) Where the [F10CMA] becomes under a duty to proceed as mentioned in subsection (3) or (6)[F11—
- (a)] references in this Part to references under sections 22 and 33 shall, so far as may be necessary, be construed accordingly; and, in particular, sections 77 to 81 shall apply as if a reference has been made ^{F12}... under section 22 or (as the case may be) 33[F13]; and
 - (b) for the purposes of section 34C, the group constituted in consequence of the reference under section 45 is to be treated as if it were constituted in consequence of a reference under section 22 or (as the case may be) 33.]

Textual Amendments

- F1** Word in s. 56(1)(2) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 98(2)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F2** Words in s. 56(2) substituted (26.10.2023) by Energy Act 2023 (c. 52), s. 334(2)(j), **Sch. 16 para. 8**
- F3** Word in s. 56(3) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 98(3)(a)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F4** Words in s. 56(3) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 98(3)(b)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F5** Words in s. 56(3) omitted (1.4.2014) by virtue of Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 98(3)(c)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F6** Word in s. 56(4) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 98(4)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

Status: Point in time view as at 26/10/2023.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Enterprise Act 2002. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

- F7** Word in s. 56(6) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 98(5)(a)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F8** Words in s. 56(6) omitted (1.4.2014) by virtue of Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 98(5)(b)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F9** Word in s. 56(7) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 98(6)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F10** Word in s. 56(8) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 98(7)(a)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F11** Words in s. 56(8) inserted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 98(7)(b)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F12** Words in s. 56(8) omitted (1.4.2014) by virtue of Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 98(7)(c)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F13** S. 56(8)(b) and word inserted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 98(7)(d)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

Status:

Point in time view as at 26/10/2023.

Changes to legislation:

There are outstanding changes not yet made by the legislation.gov.uk editorial team to Enterprise Act 2002. Any changes that have already been made by the team appear in the content and are referenced with annotations.