



# Enterprise Act 2002

## 2002 CHAPTER 40

### PART 3

#### MERGERS

### CHAPTER 3

#### OTHER SPECIAL CASES

##### *Special public interest cases*

#### **66 Decision and enforcement action by Secretary of State**

- (1) Subsection (2) applies where the Secretary of State has received a report of the [F<sup>1</sup>CMA] under section 65 in relation to a special merger situation.
- (2) The Secretary of State shall, in connection with a reference under section 62(2) or (3), decide the questions which the [F<sup>1</sup>CMA] is required to decide by virtue of section 63(1) to (3).
- (3) The Secretary of State shall make and publish his decision under subsection (2) within the period of 30 days beginning with the receipt of the report of the [F<sup>1</sup>CMA] under section 65; and subsection (8) of section 54 shall apply for the purposes of this subsection as it applies for the purposes of subsection (5) of that section.
- (4) In making his decisions under subsection (2), the Secretary of State shall accept the decisions of the report of the [F<sup>1</sup>CMA] under section 65 as to whether a special merger situation has been created or whether arrangements are in progress or in contemplation which, if carried into effect, will result in the creation of a special merger situation.
- (5) Subsection (6) applies where the Secretary of State has decided under subsection (2) that—

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*Changes to legislation: There are currently no known outstanding effects for the Enterprise Act 2002, Section 66. (See end of Document for details)*

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- (a) a special merger situation has been created or arrangements are in progress or in contemplation which, if carried into effect, will result in the creation of a special merger situation;
- (b) at least one consideration which is mentioned in the special intervention notice concerned is relevant to a consideration of the special merger situation concerned; and
- (c) taking account only of the relevant consideration or considerations concerned, the creation of that situation operates or may be expected to operate against the public interest;

and has so decided, and published his decision, within the period required by subsection (3).

- (6) The Secretary of State may take such action under paragraph 9 or 11 of Schedule 7 as he considers to be reasonable and practicable to remedy, mitigate or prevent any of the effects adverse to the public interest which have resulted from, or may be expected to result from, the creation of the special merger situation concerned.
- (7) In making a decision under subsection (6), the Secretary of State shall, in particular, have regard to the report of the [<sup>F2</sup>CMA] under section 65.

#### **Textual Amendments**

- F1** Word in s. 66(1)-(4) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 5 para. 109](#) (with s. 28); S.I. 2014/416, [art. 2\(1\)\(d\)](#) (with Sch.)
- F2** Word in s. 66(7) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 5 para. 109](#) (with s. 28); S.I. 2014/416, [art. 2\(1\)\(d\)](#) (with Sch.)

**Changes to legislation:**

There are currently no known outstanding effects for the Enterprise Act 2002, Section 66.