



# Enterprise Act 2002

## 2002 CHAPTER 40

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

#### MERGERS

### CHAPTER 4

#### ENFORCEMENT

*Powers exercisable before references under section 22 or 33*

#### <sup>F1</sup>73A Time-limits for consideration of undertakings

- (1) A party concerned who wishes to offer an undertaking to the CMA for the purposes of section 73(2) must do so before the end of the period of 5 working days beginning with—
  - (a) the day after the CMA gives the person the notice required by section 34ZA(1)
  - (b); <sup>F2</sup>...

<sup>F2</sup>(b) .....
- (2) If an undertaking is offered for those purposes, the CMA shall, before the end of the period of 10 working days beginning with the day mentioned in subsection (1)—
  - (a) decide whether there are reasonable grounds for believing that the undertaking or a modified version of it might be accepted by the CMA under section 73(2), and
  - (b) if it considers that it might be, give notice to the person who offered the undertaking that it is considering it.
- (3) If such a notice is given, the CMA shall decide whether to accept the undertaking before the end of the period of 50 working days beginning with the day mentioned in subsection (1).

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*Status: Point in time view as at 31/12/2020. This version of this provision has been superseded.*

*Changes to legislation: There are currently no known outstanding effects for the Enterprise Act 2002, Section 73A. (See end of Document for details)*

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- (4) The CMA may extend the period mentioned in subsection (3), by no more than 40 working days, if it considers that there are special reasons for doing so.
- (5) The CMA shall prepare and publish guidance in relation to the exercise of its power under subsection (4).
- (6) The CMA may revise any such guidance and, where it does so, shall publish the revised statement.
- (7) The CMA may extend the period mentioned in subsection (3) if it considers that a relevant person has failed (with or without reasonable excuse) to comply with any requirement of a notice given under section 109 in relation to the case in question.
- (8) In subsection (7), “relevant person” means—
  - (a) any person carrying on any of the enterprises concerned;
  - (b) any person who (whether alone or as a member of a group) owns or has control of any such person; or
  - (c) any officer, employee or agent of any person mentioned in paragraph (a) or (b).
- (9) For the purposes of subsection (8), a person or group of persons able, directly or indirectly, to control or materially influence the policy of a body of persons corporate or unincorporate, but without having a controlling interest in that body of persons, may be treated as having control of it.
- (10) An extension under subsection (4) or (7) comes into force when published under section 107.
- (11) An extension under subsection (7) continues in force until—
  - (a) the person concerned provides the information or documents to the satisfaction of the CMA or (as the case may be) appears as a witness in accordance with the requirements of the CMA; or
  - (b) the CMA publishes its decision to cancel the extension.
- (12) In this section and section 73B, “working day” means any day which is not—
  - (a) a Saturday, a Sunday, Good Friday or Christmas Day, or
  - (b) a day which is a bank holiday in England and Wales.]

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#### **Textual Amendments**

- F1** Ss. 73A, 73B inserted (25.4.2013 for specified purposes, 1.4.2014 in so far as not already in force) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(1)(i)(3), **Sch. 8 para. 7**; S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F2** S. 73A(1)(b) and word omitted (31.12.2020) by virtue of [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/93\)](#), regs. 1(1), **48** (with Sch. 4 paras. 24, 28) (as amended by S.I. 2020/1343, regs. 1(1), **35-59**); 2020 c. 1, **Sch. 5 para. 1(1)**

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#### **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.)

**Status:**

Point in time view as at 31/12/2020. This version of this provision has been superseded.

**Changes to legislation:**

There are currently no known outstanding effects for the Enterprise Act 2002, Section 73A.