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STATUTORY INSTRUMENTS

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**2003 No. 1592**

**The Enterprise Act 2002 (Protection  
of Legitimate Interests) Order 2003**

**Cancellation or variation of references under article 5**

7.—(1) The [<sup>F1</sup>CMA] shall cancel a reference under article 5(3) if it considers that the proposal to make arrangements of the kind mentioned in the reference has been abandoned.

(2) In relation to the question whether a European relevant merger situation has been created or the question whether a European relevant merger situation will be created, a reference under article 5 may be framed so as to require the [<sup>F1</sup>CMA] to exclude from consideration—

- (a) subsection (1) of section 23 of the Act;
- (b) subsection (2) of that section; or
- (c) one of those subsections if the [<sup>F1</sup>CMA] finds that the other is satisfied.

(3) In relation to the question whether [<sup>F2</sup>for the purpose of section 23(2)(b), the share of supply test is or will be met], a reference under article 5 may be framed so as to require the [<sup>F1</sup>CMA] to confine its investigation to the supply of goods or services in a part of the United Kingdom specified in the reference.

(4) The [<sup>F1</sup>CMA] may, if it considers that doing so is justified by the facts (including events occurring on or after the making of the reference concerned), treat a reference made under paragraph (2) or (3) of article 5 as if it had been made under paragraph (3) or (as the case may be) (2) of that article; and, in such cases, references in this Order to references under those enactments shall, so far as may be necessary, be construed accordingly.

(5) Where by virtue of paragraph (4), the [<sup>F3</sup>CMA] treats a reference made under paragraph (2) or (3) of article 5 as if it had been made under paragraph (3) or (as the case may be) (2) of that article, paragraphs <sup>F4</sup>... 2, 7 and 8 of Schedule 2, in particular, apply as if the reference had been made under paragraph (3) or (as the case may be) (2) of that article instead of under paragraph (2) or (3) of that article.

(6) Paragraph (7) applies in relation to [<sup>F5</sup>any order made under paragraph 2 of Schedule 2] which is in force immediately before the [<sup>F6</sup>CMA], by virtue of paragraph (4), treats a reference made under paragraph (2) or (3) of article 5 as if it had been made under paragraph (3) or (as the case may be) (2) of that article.

(7) The <sup>F7</sup>... order shall, so far as applicable, continue in force as if it were—

- (a) in the case of an <sup>F7</sup>... order which relates to a reference under paragraph (2) of article 5, <sup>F8</sup>... made in relation to a reference made under paragraph (3) of that article; and
- (b) in the case of an <sup>F7</sup>... order which relates to a reference made under paragraph (3) of that article, <sup>F8</sup>... made in relation to a reference made under paragraph (2) of that article;

and the <sup>F7</sup>... order concerned may be varied <sup>F9</sup>... or revoked accordingly.

(8) The Secretary of State may at any time vary a reference under article 5.

(9) The Secretary of State shall consult the [F10CMA] before varying any such reference.

(10) Paragraph (9) shall not apply if the [F10CMA] has requested the variation concerned.

(11) No variation by the Secretary of State under this article shall be capable of altering the public interest consideration or considerations specified in the reference or the period permitted by virtue of article 8 within which the report of the [F10CMA] under that article is to be prepared and given to the Secretary of State.

#### Textual Amendments

- F1** Word in art. 7(1)-(4) substituted (1.4.2014) by The Enterprise Act 2002 (Protection of Legitimate Interests) (Amendment) Order 2014 (S.I. 2014/891), arts. 1, **9(a)** (with arts. 20-23)
- F2** Words in art. 7(3) substituted (21.7.2020) by The Enterprise Act 2002 (Turnover Test) (Amendment) Order 2020 (S.I. 2020/763), arts. 1(2), **3**; S.I. 2020/748, art. 1(2)
- F3** Word in art. 7(5) substituted (1.4.2014) by The Enterprise Act 2002 (Protection of Legitimate Interests) (Amendment) Order 2014 (S.I. 2014/891), arts. 1, **9(b)(i)** (with arts. 20-23)
- F4** Word in art. 7(5) omitted (1.4.2014) by virtue of The Enterprise Act 2002 (Protection of Legitimate Interests) (Amendment) Order 2014 (S.I. 2014/891), arts. 1, **9(b)(ii)** (with arts. 20-23)
- F5** Words in art. 7(6) substituted (1.4.2014) by The Enterprise Act 2002 (Protection of Legitimate Interests) (Amendment) Order 2014 (S.I. 2014/891), arts. 1, **9(c)(i)** (with arts. 20-23)
- F6** Word in art. 7(6) substituted (1.4.2014) by The Enterprise Act 2002 (Protection of Legitimate Interests) (Amendment) Order 2014 (S.I. 2014/891), arts. 1, **9(c)(ii)** (with arts. 20-23)
- F7** Words in art. 7(7) omitted (1.4.2014) by virtue of The Enterprise Act 2002 (Protection of Legitimate Interests) (Amendment) Order 2014 (S.I. 2014/891), arts. 1, **9(d)(i)** (with arts. 20-23)
- F8** Words in art. 7(7) omitted (1.4.2014) by virtue of The Enterprise Act 2002 (Protection of Legitimate Interests) (Amendment) Order 2014 (S.I. 2014/891), arts. 1, **9(d)(ii)** (with arts. 20-23)
- F9** Words in art. 7(7) omitted (1.4.2014) by virtue of The Enterprise Act 2002 (Protection of Legitimate Interests) (Amendment) Order 2014 (S.I. 2014/891), arts. 1, **9(d)(iii)** (with arts. 20-23)
- F10** Word in art. 7(9)-(11) substituted (1.4.2014) by The Enterprise Act 2002 (Protection of Legitimate Interests) (Amendment) Order 2014 (S.I. 2014/891), arts. 1, **9(e)** (with arts. 20-23)

**Changes to legislation:**

There are currently no known outstanding effects for the The Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003, Section 7.