

*These notes refer to the Enterprise Act 2002 (c.40)
which received Royal Assent on 7 November 2002*

ENTERPRISE ACT 2002

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3: Mergers

Summary and Background

Chapter 4: Enforcement

Public interest and special public interest cases

Schedule 7: Enforcement regime for public interest and special public interest cases

240. This Schedule sets out the enforcement regime that applies for cases involving a public interest consideration. The regime mirrors that of the main regime, giving the Secretary of State equivalent powers to the CC and OFT. It includes provisions for the Secretary of State to make pre-emptive orders or accept pre-emptive undertakings (paragraphs 1 and 2); these are the equivalent of initial and interim orders and undertakings. The Secretary of State may accept undertakings in place of making a reference (paragraphs 3, 4, 5). Schedule 7 includes provision equivalent to the supplementary interim order-making power set out in section 76 (paragraph 6) and the same automatic prohibitions as apply under sections 77 and 78 on further integration for completed mergers and on further share acquisition for anticipated mergers (paragraphs 7 and 8). Finally, the Schedule includes equivalent powers to accept final undertakings (paragraph 9) or make final orders (paragraph 10 and 11). Orders of the Secretary of State under Schedule 7 are made by way of statutory instrument and subject to the negative resolution procedure in Parliament (section 124(5)).