

SCHEDULES

SCHEDULE 7

ENFORCEMENT REGIME FOR PUBLIC INTEREST AND SPECIAL PUBLIC INTEREST CASES

Pre-emptive undertakings and orders

- 2 (1) Sub-paragraph (2) applies where an intervention notice or special intervention notice is in force.
- (2) The Secretary of State or the OFT may by order, for the purpose of preventing pre-emptive action—
- (a) prohibit or restrict the doing of things which the Secretary of State or (as the case may be) the OFT considers would constitute pre-emptive action;
 - (b) impose on any person concerned obligations as to the carrying on of any activities or the safeguarding of any assets;
 - (c) provide for the carrying on of any activities or the safeguarding of any assets either by the appointment of a person to conduct or supervise the conduct of any activities (on such terms and with such powers as may be specified or described in the order) or in any other manner;
 - (d) do anything which may be done by virtue of paragraph 19 of Schedule 8.
- (3) Sub-paragraph (4) applies where an intervention notice is in force.
- (4) The Secretary of State or the OFT may, for the purpose of preventing pre-emptive action, adopt an order made by the OFT under section 72 if the order is still in force when the Secretary of State or (as the case may be) the OFT adopts it.
- (5) An order adopted under sub-paragraph (4)—
- (a) shall continue in force, in accordance with its terms, when adopted; and
 - (b) may be varied or revoked by an order under this paragraph.
- (6) Any other order under this paragraph—
- (a) shall come into force at such time as is determined by or under the order; and
 - (b) may be varied or revoked by another order.
- (7) References in this Part to orders under this paragraph shall, unless the context otherwise requires, include references to orders adopted under this paragraph; and references to the making of orders under this paragraph shall be construed accordingly.
- (8) An order which is in force under this paragraph in relation to a reference or possible reference under section 45 or (as the case may be) 62 shall cease to be in force if an undertaking under paragraph 1 or 3 comes into force in relation to that reference.
- (9) An order under this paragraph shall, if it has not previously ceased to be in force, cease to be in force when the intervention notice concerned or (as the case may be) special intervention notice concerned ceases to be in force.

Status: This is the original version (as it was originally enacted).

- (10) No order shall be made by the Secretary of State or the OFT under this paragraph before the making of a reference under section 45 or (as the case may be) 62 unless the order relates to a relevant merger situation which has been, or may have been, created or (as the case may be) a special merger situation which has been, or may have been, created.
- (11) The Secretary of State or (as the case may be) the OFT shall, as soon as reasonably practicable, consider any representations received by that person in relation to varying or revoking an order under this paragraph.