



# Enterprise Act 2002

## 2002 CHAPTER 40

### PART 3

#### MERGERS

### CHAPTER 5

#### SUPPLEMENTARY

#### *Miscellaneous*

#### **120 Review of decisions under Part 3**

- (1) Any person aggrieved by a decision of the OFT, the Secretary of State or the Commission under this Part in connection with a reference or possible reference in relation to a relevant merger situation or a special merger situation may apply to the Competition Appeal Tribunal for a review of that decision.
- (2) For this purpose “decision”—
  - (a) does not include a decision to impose a penalty under section 110(1) or (3); but
  - (b) includes a failure to take a decision permitted or required by this Part in connection with a reference or possible reference.
- (3) Except in so far as a direction to the contrary is given by the Competition Appeal Tribunal, the effect of the decision is not suspended by reason of the making of the application.
- (4) In determining such an application the Competition Appeal Tribunal shall apply the same principles as would be applied by a court on an application for judicial review.
- (5) The Competition Appeal Tribunal may—
  - (a) dismiss the application or quash the whole or part of the decision to which it relates; and

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*Status: This is the original version (as it was originally enacted).*

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- (b) where it quashes the whole or part of that decision, refer the matter back to the original decision maker with a direction to reconsider and make a new decision in accordance with the ruling of the Competition Appeal Tribunal.
- (6) An appeal lies on any point of law arising from a decision of the Competition Appeal Tribunal under this section to the appropriate court.
- (7) An appeal under subsection (6) requires the permission of the Tribunal or the appropriate court.
- (8) In this section—
  - “the appropriate court” means the Court of Appeal or, in the case of Tribunal proceedings in Scotland, the Court of Session; and
  - “Tribunal rules” has the meaning given by section 15(1).