



Enterprise Act 2002

2002 CHAPTER 40

PART 3

MERGERS

CHAPTER 2

PUBLIC INTEREST CASES

Reports on references

49 Variation of references under section 45

- (1) The Commission 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) a reference made under subsection (2) or (3) of section 45 as if it had been made under subsection (4) or (as the case may be) (5) of that section; or
 - (b) a reference made under subsection (4) or (5) of section 45 as if it had been made under subsection (2) or (as the case may be) (3) of that section;and, in such cases, references in this Part to references under those enactments shall, so far as may be necessary, be construed accordingly.
- (2) Where, by virtue of subsection (1), the Commission treats a reference made under subsection (2) or (3) of section 45 as if it had been made under subsection (4) or (as the case may be) (5) of that section, paragraphs 1, 2, 7 and 8 of Schedule 7 shall, in particular, apply as if the reference had been made under subsection (4) or (as the case may be) (5) of that section instead of under subsection (2) or (3) of that section.
- (3) Where, by virtue of subsection (1), the Commission treats a reference made under subsection (4) or (5) of section 45 as if it had been made under subsection (2) or (as the case may be) (3) of that section, paragraphs 1, 2, 7 and 8 of Schedule 7 shall, in particular, apply as if the reference had been made under subsection (2) or (as the case may be) (3) of that section instead of under subsection (4) or (5) of that section.

Status: This is the original version (as it was originally enacted).

- (4) Subsection (5) applies in relation to any undertaking accepted under paragraph 1 of Schedule 7, or any order made under paragraph 2 of that Schedule, which is in force immediately before the Commission, by virtue of subsection (1), treats a reference as mentioned in subsection (1).
- (5) The undertaking or order shall, so far as applicable, continue in force as if—
 - (a) in the case of an undertaking or order which relates to a reference under subsection (2) or (3) of section 45, accepted or made in relation to a reference made under subsection (4) or (as the case may be) (5) of that section; and
 - (b) in the case of an undertaking or order which relates to a reference made under subsection (4) or (5) of that section, accepted or made in relation to a reference made under subsection (2) or (as the case may be) (3) of that section;and the undertaking or order concerned may be varied, superseded, released or revoked accordingly.
- (6) The Secretary of State may at any time vary a reference under section 45.
- (7) The Secretary of State shall consult the Commission before varying any such reference.
- (8) Subsection (7) shall not apply if the Commission has requested the variation concerned.
- (9) No variation by the Secretary of State under this section shall be capable of altering the public interest consideration or considerations specified in the reference or the period permitted by section 51 within which the report of the Commission under section 50 is to be prepared and given to the Secretary of State.