



Enterprise Act 2002 (repealed)

2002 CHAPTER 40

PART 3

MERGERS

CHAPTER 2

PUBLIC INTEREST CASES

Other

VALID FROM 20/06/2003

56 Competition cases where intervention on public interest grounds ceases

- (1) Where the Secretary of State decides not to make a reference under section 45 on the ground that no public interest consideration to which he is able to have regard is relevant to a consideration of the relevant merger situation concerned, he shall by notice require the OFT to deal with the matter otherwise than under this Chapter.
- (2) Where a notice is given to the OFT in the circumstances mentioned in subsection (1), the OFT shall decide whether to make a reference under section 22 or 33; and any time-limits in relation to the Secretary of State's decision whether to make a reference under section 45 (including any remaining powers of extension) shall apply in relation to the decision of the OFT whether to make a reference under section 22 or 33.
- (3) Where the Commission cancels under section 53(1) a reference under section 45 and the report of the OFT under section 44 contains the decision that it is or may be the case that there is an anti-competitive outcome in relation to the relevant merger situation concerned, the Commission shall proceed under this Part as if a reference under section 22 or (as the case may be) 33 had been made to it by the OFT.

Status: Point in time view as at 01/04/2003. This version of this provision is not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Enterprise Act 2002 (repealed), Section 56. (See end of Document for details)

- (4) In proceeding by virtue of subsection (3) to prepare and publish a report under section 38, the Commission shall proceed as if—
- (a) the reference under section 22 or 33 had been made at the same time as the reference under section 45;
 - (b) the timetable for preparing and giving its report under section 50 (including any remaining powers of extension and as extended by an additional period of 20 days) were the timetable for preparing and publishing its report under section 38; and
 - (c) in relation to the question whether a relevant merger situation has been created or the question whether arrangements are in progress or in contemplation which, if carried into effect, will result in the creation of a relevant merger situation, the Commission were confined to the questions on the subject to be investigated by it under section 47.
- (5) In determining the period of 20 days mentioned in subsection (4) no account shall be taken of—
- (a) Saturday, Sunday, Good Friday and Christmas Day; and
 - (b) any day which is a bank holiday in England and Wales.
- (6) Where the Secretary of State decides under section 54(2) to make no finding at all in the matter in connection with a reference under section 45(2) or (4), the Commission shall proceed under this Part as if a reference under section 22 or (as the case may be) 33 had been made to it instead of a reference under section 45 and as if its report to the Secretary of State under section 50 had been prepared and published by it under section 38 within the period permitted by section 39.
- (7) In relation to proceedings by virtue of subsection (6), the reference in section 41(3) to decisions of the Commission as included in its report by virtue of section 35(3) or 36(2) shall be construed as a reference to decisions which were included in the report of the Commission by virtue of section 47(8).
- (8) Where the Commission becomes under a duty to proceed as mentioned in subsection (3) or (6), references in this Part to references under sections 22 and 33 shall, so far as may be necessary, be construed accordingly; and, in particular, sections 77 to 81 shall apply as if a reference has been made to the Commission by the OFT under section 22 or (as the case may be) 33.

Textual Amendments applied to the whole legislation

- F1** Act: for the words "solicitor of the Supreme Court of Northern Ireland" wherever they occur there is substituted (prosp.) the words "solicitor of the Court of Judicature of Northern Ireland" by virtue of [Constitutional Reform Act 2005 \(c. 4\), ss. 59, 148\(1\), Sch. 11 para. 5](#) [Editorial Note: this amendment will be carried through into the text of the Act at the same time as any other effects on the Act for the year in which the relevant commencement order (or first such order) is made]

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