



Enterprise Act 2002

2002 CHAPTER 40

PART 3

MERGERS

CHAPTER 3

OTHER SPECIAL CASES

Special public interest cases

62 Power of Secretary of State to refer the matter

- (1) Subsection (2) applies where the Secretary of State—
 - (a) has given a special intervention notice in relation to a special merger situation; and
 - (b) has received a report of the [^{F1}CMA] under section 61^[F2], and any report of OFCOM which is required by virtue of section 61A,] in relation to the matter.
- (2) The Secretary of State may make a reference [^{F3}to the chair of the CMA for the constitution of a group under Schedule 4 to the Enterprise and Regulatory Reform Act 2013] if he believes that it is or may be the case that—
 - (a) a special merger situation has been created;
 - (b) one or more than one consideration mentioned in the special intervention notice is relevant to a consideration of the special merger situation concerned; and
 - (c) taking account only of the relevant consideration or considerations concerned, the creation of that situation operates or may be expected to operate against the public interest.

Changes to legislation: There are currently no known outstanding effects for the Enterprise Act 2002, Section 62. (See end of Document for details)

- (3) The Secretary of State may make a reference [^{F3}to the chair of the CMA for the constitution of a group under Schedule 4 to the Enterprise and Regulatory Reform Act 2013] if he believes that it is or may be the case that—
- (a) arrangements are in progress or in contemplation which, if carried into effect, will result in the creation of a special merger situation;
 - (b) one or more than one consideration mentioned in the special intervention notice is relevant to a consideration of the special merger situation concerned; and
 - (c) taking account only of the relevant consideration or considerations concerned, the creation of that situation may be expected to operate against the public interest.
- (4) No reference shall be made under this section if the making of the reference is prevented by ^{F4}. . . paragraph 4 of Schedule 7.
- (5) The Secretary of State, in deciding whether to make a reference under this section, shall accept the decision of the [^{F5}CMA] included in its report under section 61 by virtue of subsection (4) of that section.
- (6) A reference under this section shall, in particular, specify—
- (a) the subsection of this section under which it is made;
 - (b) the date on which it is made; and
 - (c) the consideration or considerations mentioned in the special intervention notice which the Secretary of State believes are, or may be, relevant to a consideration of the special merger situation concerned.

Textual Amendments

- F1** Word in s. 62(1)(b) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 5 para. 104\(2\)](#) (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F2** Words in s. 62(1)(b) inserted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), ss. 389(1), 411(2)(3), [Sch. 16 para. 14](#) (with transitional provisions in Sch. 18); S.I. 2003/3142, [art. 3\(1\)](#), Sch. 1 (subject to arts. 3(3), 11)
- F3** Words in s. 62(2)(3) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 5 para. 104\(3\)](#) (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F4** Words in s. 62(4) repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), ss. 406(7), 411(2)(3), [Sch. 19\(1\)](#) (with transitional provisions in Sch. 18 and with Sch. 19 Note 1); S.I. 2003/3142, [art. 3\(1\)](#), Sch. 1 (subject to arts. 3(3), 11)
- F5** Word in s. 62(5) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 5 para. 104\(4\)](#) (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

Changes to legislation:

There are currently no known outstanding effects for the Enterprise Act 2002, Section 62.