



Enterprise Act 2002

2002 CHAPTER 40

PART 3

MERGERS

CHAPTER 4

ENFORCEMENT

Interim restrictions and powers

80 Interim undertakings

- (1) [^{F1}Subsections (2) and (2A)] apply where a reference under section 22 [^{F2}, 33, 68B or 68C] has been made but is not finally determined.
 - (2) The [^{F3}CMA] may, for the purpose of preventing pre-emptive action, accept from such of the parties concerned as it considers appropriate undertakings to take such action as it considers appropriate.
- [^{F4}(2A) Where the CMA has reasonable grounds for suspecting that pre-emptive action has or may have been taken, it may, for the purpose of restoring the position to what it would have been had the action not been taken or otherwise for the purpose of mitigating its effects, accept from such of the parties concerned as it considers appropriate undertakings to take such action as it considers appropriate.]
- [^{F5}(2B) A person may, with the consent of the CMA, take action or action of a particular description where the action would otherwise constitute a contravention of an undertaking under this section.]
- ^{F6}(3)
- ^{F6}(4)
- (5) [^{F7}An undertaking] under this section—

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- (a) shall come into force when accepted;
- (b) may be varied or superseded by another undertaking; and
- (c) may be released by the [^{F8}CMA].

^{F9}(6)

- (7) An undertaking which is in force under this section in relation to a reference under section 22 [^{F10}, 33, 68B or 68C] shall cease to be in force if an order under section 81 comes into force in relation to that reference.
- (8) An undertaking under this section shall, if it has not previously ceased to be in force, cease to be in force when the reference under section 22 [^{F11}, 33, 68B or 68C] is finally determined.
- (9) The [^{F12}CMA] shall, as soon as reasonably practicable, consider any representations received by it in relation to varying or releasing an undertaking under this section.
- (10) In this section and section 81 “pre-emptive action” means action which might prejudice the reference concerned or impede the taking of any action under this Part which may be justified by the [^{F13}CMA's] decisions on the reference.

Textual Amendments

- F1** Words in s. 80(1) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 7 para. 2(2)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F2** Words in s. 80(1) substituted (26.10.2023) by Energy Act 2023 (c. 52), s. 334(2)(j), **Sch. 16 para. 18**
- F3** Word in s. 80(2) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 120(2)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F4** S. 80(2A) inserted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 7 para. 2(3)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F5** S. 80(2B) inserted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 7 para. 2(4)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F6** S. 80(3)(4) omitted (1.4.2014) by virtue of Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 7 para. 2(5)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F7** Words in s. 80(5) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 7 para. 2(6)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F8** Word in s. 80(5) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 120(2)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F9** S. 80(6) omitted (1.4.2014) by virtue of Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 7 para. 2(7)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F10** Words in s. 80(7) substituted (26.10.2023) by Energy Act 2023 (c. 52), s. 334(2)(j), **Sch. 16 para. 18**
- F11** Words in s. 80(8) substituted (26.10.2023) by Energy Act 2023 (c. 52), s. 334(2)(j), **Sch. 16 para. 18**
- F12** Word in s. 80(9) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 120(2)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F13** Word in s. 80(10) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 120(3)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

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