



Enterprise and Regulatory Reform Act 2013

2013 CHAPTER 24

PART 4

COMPETITION REFORM

CHAPTER 3

ANTI-TRUST

Investigation powers

39 Investigations: power to ask questions

- (1) Part 1 of the Competition Act 1998 (“the 1998 Act”) (competition) is amended as follows.
- (2) After section 26 (powers when conducting investigations) insert—

“26A Investigations: power to ask questions

- (1) For the purposes of an investigation, the CMA may give notice to an individual who has a connection with a relevant undertaking requiring the individual to answer questions with respect to any matter relevant to the investigation—
 - (a) at a place specified in the notice, and
 - (b) either at a time so specified or on receipt of the notice.
- (2) The CMA must give a copy of the notice under subsection (1) to each relevant undertaking with which the individual has a current connection at the time the notice is given to the individual.

Status: This is the original version (as it was originally enacted).

- (3) The CMA must take such steps as are reasonable in all the circumstances to comply with the requirement under subsection (2) before the time at which the individual is required to answer questions.
- (4) Where the CMA does not comply with the requirement under subsection (2) before the time mentioned in subsection (3), it must comply with that requirement as soon as practicable after that time.
- (5) A notice under subsection (1) must be in writing and must indicate—
 - (a) the subject matter and purpose of the investigation, and
 - (b) the nature of the offence created by section 44.
- (6) For the purposes of this section—
 - (a) an individual has a connection with an undertaking if he or she is or was—
 - (i) concerned in the management or control of the undertaking, or
 - (ii) employed by, or otherwise working for, the undertaking, and
 - (b) an individual has a current connection with an undertaking if, at the time in question, he or she is so concerned, is so employed or is so otherwise working.
- (7) In this section, a “relevant undertaking” means an undertaking whose activities are being investigated as part of the investigation in question.”
- (3) For the heading of section 26 substitute “Investigations: powers to require documents and information”.
- (4) Section 30A (use of statements in prosecution) is amended as follows.
- (5) The existing text becomes subsection (1).
- (6) In subsection (1), for “26 to 28A” substitute “26 and 27 to 28A”.
- (7) After that subsection insert—
 - “(2) A statement by an individual in response to a requirement imposed by virtue of section 26A (a “section 26A statement”) may only be used in evidence against the individual—
 - (a) on a prosecution for an offence under section 44, or
 - (b) on a prosecution for some other offence in a case falling within subsection (3).
 - (3) A prosecution falls within this subsection if, in the proceedings—
 - (a) in giving evidence, the individual makes a statement inconsistent with the section 26A statement, and
 - (b) evidence relating to the section 26A statement is adduced, or a question relating to it is asked, by or on behalf of the individual.
 - (4) A section 26A statement may not be used in evidence against an undertaking with which the individual who gave the statement has a connection on a prosecution for an offence unless the prosecution is for an offence under section 44.

- (5) For the purposes of subsection (4), an individual has a connection with an undertaking if he or she is or was—
- (a) concerned in the management or control of the undertaking, or
 - (b) employed by, or otherwise working for, the undertaking.”