



# Enterprise Act 2002

## 2002 CHAPTER 40

### PART 4

#### [<sup>F1</sup>MARKET STUDIES AND] MARKET INVESTIGATIONS

### CHAPTER 4

#### SUPPLEMENTARY

#### *Investigation powers*

#### [<sup>F1</sup>174B Restriction on powers to impose penalties under section 174A

- (1) No penalty shall be imposed by virtue of section 174A(1) or (3) if more than 4 weeks have passed since the day which is the relevant day in the case in question; but this subsection shall not apply in relation to any variation or substitution of the penalty which is permitted by virtue of this Part.
- (2) In the following provisions of this section, “the section 174 power” means the power under section 174 to which the failure or (as the case may be) the obstruction or delay in question relates.
- (3) Where the section 174 power is exercised for the purpose mentioned in section 174(1) (a), the relevant day is the day when the CMA finally concludes the carrying out of its section 5 functions.
- (4) Where the section 174 power is exercised in connection with an enforcement function (within the meaning of that section), the relevant day is the day when the enforcement undertaking concerned is superseded or released or (as the case may be) the enforcement order concerned is revoked.
- (5) Except where subsection (3) or (4) applies, the relevant day is the day determined in accordance with the following provisions of this section.

*Changes to legislation: There are currently no known outstanding effects for the Enterprise Act 2002, Section 174B. (See end of Document for details)*

- (6) Where the section 174 power is exercised for the purpose mentioned in section 174(1) (b) in connection with a matter that is the subject of a possible reference under section 131, the relevant day is the day when the CMA finally decides whether to make the reference.
- (7) Where the section 174 power is exercised for the purpose mentioned in section 174(1) (b) in connection with a matter that is the subject of a reference under section 131 or 132, the relevant day is the day when the reference is finally determined (see section 183).
- (8) Where the section 174 power is exercised for the purpose mentioned in section 174(1) (c) in connection with a matter that is the subject of a possible reference under section 140A(5) or (6), the relevant day is the day when the Secretary of State makes the reference.
- (9) Where the section 174 power is exercised for the purpose mentioned in section 174(1) (c) in connection with a matter that is the subject of a reference under section 140A(6), the relevant day is the day when the reference is finally determined (see section 183).]

#### Textual Amendments

- F1** Ss. 174A-174E inserted (25.4.2013 for specified purposes, 1.4.2014 in so far as not already in force) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(1)(i)(3), **Sch. 11 para. 1**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

#### Modifications etc. (not altering text)

- C1** Pt. 4 modified by 2012 c. 7, s. 73(3)(b) (as substituted (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014 \(S.I. 2014/892\)](#), art. 1(1), **Sch. 1 para. 189(4)(c)** (with art. 3))
- C2** Pt. 4 modified by 2000 c. 38, s. 86(4A) (as inserted (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014 \(S.I. 2014/892\)](#), art. 1(1), **Sch. 1 para. 154(6)** (with art. 3))
- C3** Pt. 4 modified (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), **Sch. 4 para. 57**; S.I. 2014/416, art. 2(1)(c) (with Sch.)
- C4** Pt. 4 modified by 2012 c. 19, s. 60(3A) (as inserted (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014 \(S.I. 2014/892\)](#), art. 1(1), **Sch. 1 para. 197(5)** (with art. 3))
- C5** Pt. 4 certain functions made exercisable concurrently (1.4.2014) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#), s. 59(1)-(5), 148(5); S.I. 2014/823, art.
- C6** Pt. 4 modified by 1991 c. 56, s. 31(4) (as amended (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014 \(S.I. 2014/892\)](#), art. 1(1), **Sch. 1 para. 84(5)(d)** (with art. 3))
- C7** Pt. 4 modified by 1989 c. 29, s. 43(2B) (as amended (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014 \(S.I. 2014/892\)](#), art. 1(1), **Sch. 1 para. 65(4)(d)** (with art. 3))
- C8** Pt. 4 modified by 1986 c. 44, s. 36A (as amended (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014 \(S.I. 2014/892\)](#), art. 1(1), **Sch. 1 para. 50(4)(d)** (with art. 3))
- C9** Pt. 4 modified by 1993 c. 43, s. 67(4)(d) (as amended (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014 \(S.I. 2014/892\)](#), art. 1(1), **Sch. 1 para. 105(4)(d)** (with art. 3))

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**Changes to legislation:** There are currently no known outstanding effects  
for the Enterprise Act 2002, Section 174B. (See end of Document for details)

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- C10** S. 174B modified by 2007 c. 29, s. 57(5A) (as inserted (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014 \(S.I. 2014/892\)](#), art. 1(1), **Sch. 1 para. 176(3)** (with art. 3, Sch. 2 para. 4))
- C11** S. 174B modified by 2000 c. 8, s. 140D(2) (as inserted (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014 \(S.I. 2014/892\)](#), art. 1(1), **Sch. 1 para. 124(4)** (with art. 3, Sch. 2 para. 4))

**Changes to legislation:**

There are currently no known outstanding effects for the Enterprise Act 2002, Section 174B.