



Enterprise Act 2002

2002 CHAPTER 40

PART 3

MERGERS

CHAPTER 4

ENFORCEMENT

Final powers

82 Final undertakings

- (1) The [^{F1}CMA] may, in accordance with section 41, accept, from such persons as it considers appropriate, undertakings to take action specified or described in the undertakings.
- (2) An undertaking under this section—
 - (a) shall come into force when accepted;
 - (b) may be varied or superseded by another undertaking; and
 - (c) may be released by the [^{F1}CMA].
- (3) An undertaking which is in force under this section in relation to a reference under section 22 [^{F2}, 33, 68B or 68C] shall cease to be in force if an order under section 76(1)(b) or 83 comes into force in relation to the subject-matter of the undertaking.
- (4) No undertaking shall be accepted under this section in relation to a reference under section 22 [^{F3}, 33, 68B or 68C] if an order has been made under—
 - (a) section 76(1)(b) or 83 in relation to the subject-matter of the undertaking; or
 - (b) section 84 in relation to that reference.
- (5) The [^{F4}CMA] shall, as soon as reasonably practicable, consider any representations received by it in relation to varying or releasing an undertaking under this section.

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

Textual Amendments

- F1** Word in s. 82(1)(2) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 5 para. 122](#) (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F2** Words in s. 82(3) substituted (26.10.2023) by [Energy Act 2023 \(c. 52\)](#), s. 334(2)(j), [Sch. 16 para. 20](#)
- F3** Words in s. 82(4) substituted (26.10.2023) by [Energy Act 2023 \(c. 52\)](#), s. 334(2)(j), [Sch. 16 para. 20](#)
- F4** Word in s. 82(5) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 5 para. 122](#) (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

83 Order-making power where final undertakings not fulfilled

- (1) Subsection (2) applies where the [^{F5}CMA] considers that—
- an undertaking accepted by it under section 82 has not been, is not being or will not be fulfilled; or
 - in relation to an undertaking accepted by it under that section, information which was false or misleading in a material respect was given to the [^{F6}CMA] by the person giving the undertaking before the [^{F7}CMA decided] to accept the undertaking.
- (2) The [^{F8}CMA] may, for any of the purposes mentioned in section 41(2), make an order under this section.
- (3) Subsections (3) to (5) of section 41 shall apply for the purposes of subsection (2) above as they apply for the purposes of subsection (2) of that section.
- (4) An order under this section may contain—
- anything permitted by Schedule 8; and
 - such supplementary, consequential or incidental provision as the [^{F9}CMA] considers appropriate.
- (5) An order under this section—
- shall come into force at such time as is determined by or under the order;
 - may contain provision which is different from the provision contained in the undertaking concerned; and
 - may be varied or revoked by another order.

^{F10}(6)

Textual Amendments

- F5** Word in s. 83(1) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 5 para. 123\(2\)](#) (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F6** Word in s. 83(1)(b) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 5 para. 123\(3\)\(a\)](#) (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F7** Words in s. 83(1)(b) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 5 para. 123\(3\)\(b\)](#) (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F8** Word in s. 83(2) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 5 para. 123\(4\)](#) (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F9** Word in s. 83(4) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 5 para. 123\(4\)](#) (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F10** S. 83(6) omitted (1.4.2014) by virtue of [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 5 para. 123\(5\)](#) (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, Cross Heading: Final powers. (See end of Document for details)

Modifications etc. (not altering text)

- C1** Ss. 75(4)(a), 83(4)(a), 84(2)(a), 89(1), 160(4)(a), 161(3)(a), Ss. 75(4)(a), 83(4)(a), 84(2)(a), 89(1), 160(4)(a), 161(3)(a), 164(1), Sch. 7 paras. 5, 10, 11 modified (20.6.2003) by 1988 c. 48, s. 144(2) (as substituted by Enterprise Act 2002 (c. 40), ss. 278, 279, Sch. 25 para. 18(2)); S.I. 2003/1397, art. 2(1), Sch. (with art. 8)
- C2** Ss. 75(4)(a), 83(4)(a), 84(2)(a), 89(1), 160(4)(a), 161(3)(a), 164(1), Sch. 7 paras. 5, 10, 11 modified (20.6.2003) by 1988 c. 48, s. 238(2) (as substituted by Enterprise Act 2002 (c. 40), ss. 278, 279, Sch. 25 para. 18(4)); S.I. 2003/1397, art. 2(1), Sch. (with art. 8)
- C3** Ss. 75(4)(a), 83(4)(a), 84(2)(a), 89(1), 160(4)(a), 161(3)(a), 164(1) and Sch. 7 paras. 5, 10, 11 modified (20.6.2003) by 1988 c. 48, Sch. 2A para. 17(2) (as substituted by Enterprise Act 2002 (c. 40), ss. 278, 279, Sch. 25 para. 18(5)(a)); S.I. 2003/1397, art. 2(1), Sch. (with art. 8)

84 Final orders

- (1) The [F11CMA] may, in accordance with section 41, make an order under this section.
- (2) An order under this section may contain—
- (a) anything permitted by Schedule 8; and
 - (b) such supplementary, consequential or incidental provision as the [F11CMA] considers appropriate.
- (3) An order under this section—
- (a) shall come into force at such time as is determined by or under the order; and
 - (b) may be varied or revoked by another order.
- ^{F12}(4)
- (5) No order shall be made under this section in relation to a reference under section 22 [F13, 33, 68B or 68C] if an undertaking has been accepted under section 82 in relation to that reference.

Textual Amendments

- F11** Word in s. 84(1)(2) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 5 para. 124(2) (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F12** S. 84(4) omitted (1.4.2014) by virtue of Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 5 para. 124(3) (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F13** Words in s. 84(5) substituted (26.10.2023) by Energy Act 2023 (c. 52), s. 334(2)(j), Sch. 16 para. 21

Modifications etc. (not altering text)

- C4** Ss. 75(4)(a), 83(4)(a), 84(2)(a), 89(1), 160(4)(a), 161(3)(a), 164(1) and Sch. 7 para. 5 modified (20.6.2003) by 1988 c. 48, s. 144(2) (as substituted by Enterprise Act 2002 (c. 40), s. 279, Sch. 25 para. 18(2)); S.I. 2003/1397, art. 2(1), Sch. (with art. 8)
- C5** Ss. 75(4)(a), 83(4)(a), 84(2)(a), 89(1), 160(4)(a), 161(3)(a), 164(1) and Sch. 7 para. 5 modified (20.6.2003) by 1988 c. 48, s. 238(2) (as substituted by Enterprise Act 2002 (c. 40) ss. 278, 279, {Sch. 25 para. 18(4)}); S.I. 2003/1397, art. 2(1), Sch. (with art. 8)
- C6** Ss. 75(4)(a), 83(4)(a), 84(2)(a), 89(1), 160(4)(a), 161(3)(a), 164(1) and Sch. 7 paras. 5, 10, 11 modified (20.6.2003) by 1988 c. 48, Sch. 2A(2) (as substituted by Enterprise Act 2002 (c. 40), ss. 278, 279, Sch. 25 para. 18(5)(a)); S.I. 2003/1397, art. 2(1), Sch. (with art. 8)

Changes to legislation:

There are currently no known outstanding effects for the Enterprise Act 2002, Cross Heading:
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