



Enterprise Act 2002

2002 CHAPTER 40

PART 4

[^{F1}MARKET STUDIES AND] MARKET INVESTIGATIONS

CHAPTER 3

ENFORCEMENT

[^{F1}*Undertakings and orders: monitoring, consultation and advice*]

Textual Amendments

F1 S. 162 cross-heading substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 5 para. 193 (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

162 Duty of [^{F2}CMA] to monitor undertakings and orders: Part 4

- (1) The [^{F3}CMA] shall keep under review the carrying out of any enforcement undertaking or any enforcement order.
- (2) The [^{F3}CMA] shall, in particular, from time to time consider—
 - (a) whether an enforcement undertaking or enforcement order has been or is being complied with;
 - (b) whether, by reason of any change of circumstances, an enforcement undertaking is no longer appropriate and—
 - (i) one or more of the parties to it can be released from it; or
 - (ii) it needs to be varied or to be superseded by a new enforcement undertaking; and
 - (c) whether, by reason of any change of circumstances, an enforcement order is no longer appropriate and needs to be varied or revoked.

Changes to legislation: There are currently no known outstanding effects for the Enterprise Act 2002, Cross Heading: Undertakings and orders: monitoring, consultation and advice. (See end of Document for details)

- (3) The [F⁴CMA] shall give F⁵... the Secretary of State such advice as it considers appropriate in relation to—
 - (a) any possible variation or release by F⁶...the Secretary of State of an enforcement undertaking accepted by F⁷... him;
 - (b) any possible new enforcement undertaking to be accepted by F⁸... the Secretary of State so as to supersede another enforcement undertaking given to F⁸... the Secretary of State;
 - (c) any possible variation or revocation by F⁸... the Secretary of State of an enforcement order made by F⁸... the Secretary of State;
 - (d) any possible enforcement undertaking to be accepted by F⁸... the Secretary of State instead of an enforcement order or any possible enforcement order to be made by F⁸... the Secretary of State instead of an enforcement undertaking; or
 - (e) the enforcement by virtue of section [F⁹167(6) and (7)] of any enforcement undertaking or enforcement order.
- (4) The [F¹⁰CMA] shall take such action as it considers appropriate in relation to—
 - (a) any possible variation or release by it of an undertaking accepted by it under section 154;
 - (b) any possible new undertaking to be accepted by it under section 154 so as to supersede another undertaking given to it under that section;
 - [F¹¹(ba)] any possible variation or release by it of an enforcement undertaking accepted by it;
 - (bb) any possible new enforcement undertaking to be accepted by it so as to supersede another enforcement undertaking given to it;
 - (bc) any possible variation or revocation by it of an enforcement order made by it;
 - (bd) any possible enforcement undertaking to be accepted by it instead of an enforcement order or any possible enforcement order to be made by it instead of an enforcement undertaking;] or
 - (c) the enforcement by it by virtue of section 167(6) of any enforcement undertaking or enforcement order.
- (5) The [F¹²CMA] shall keep under review the effectiveness of enforcement undertakings accepted under this Part and enforcement orders made under this Part.
- (6) The [F¹²CMA] shall, whenever requested to do so by the Secretary of State and otherwise from time to time, prepare a report of its findings under subsection (5).
- (7) The [F¹³CMA] shall—
 - F¹⁴(a)
 - (b) give a copy of the report to the Secretary of State; and
 - (c) publish [F¹⁵]any report prepared by it under subsection (6)].
- (8) In this Part—
 - “enforcement order” means an order made under section 158, 160 or 161; and
 - “enforcement undertaking” means an undertaking accepted under section 154, 157 or 159.

Changes to legislation: There are currently no known outstanding effects for the Enterprise Act 2002, Cross Heading: Undertakings and orders: monitoring, consultation and advice. (See end of Document for details)

Textual Amendments

- F2** Word in s. 162 heading substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 5 para. 194(7) (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F3** Word in s. 162(1)(2) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 5 para. 194(2) (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F4** Word in s. 162(3) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 5 para. 194(3)(a)(i) (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F5** Words in s. 162(3) omitted (1.4.2014) by virtue of Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 5 para. 194(3)(a)(ii) (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F6** Words in s. 162(3)(a) omitted (1.4.2014) by virtue of Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 5 para. 194(3)(b)(i) (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F7** Words in s. 162(3)(a) omitted (1.4.2014) by virtue of Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 5 para. 194(3)(b)(ii) (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F8** Words in s. 162(3)(b)-(d) omitted (1.4.2014) by virtue of Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 5 para. 194(3)(c) (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F9** Words in s. 162(3)(e) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 5 para. 194(3)(d) (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F10** Word in s. 162(4) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 5 para. 194(4)(a) (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F11** S. 162(4)(ba)-(bd) inserted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 5 para. 194(4)(b) (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F12** Word in s. 162(5)(6) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 5 para. 194(5) (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F13** Word in s. 162(7) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 5 para. 194(6)(a) (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F14** S. 162(7)(a) omitted (1.4.2014) by virtue of Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 5 para. 194(6)(b) (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F15** Words in s. 162(7)(b) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 5 para. 194(6)(c) (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

Modifications etc. (not altering text)

- C1** Ss. 91(3), 92(1)(a), 162(1), 166(3) modified (20.6.2003) by 1977 c. 37, s. 50A(7) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, Sch. 25 para. 8(2)); S.I. 2003/1397, art. 2(1), Sch. (with art. 8)
- C2** Ss. 162(1), 166(3) modified (20.6.2003) by S.I. 1982/1080 (N.I. 12), art. 23(6) (as substituted by Enterprise Act 2002 (c. 40), ss. 278, 279, Sch. 25 para. 12(2)); S.I. 2003/1397, art. 2(1), Sch. (with art. 8)
- C3** Ss. 162(1), 166(3) modified (20.6.2003) by S.I. 1982/1080 (N.I. 12), art. 42(5A) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, Sch. 25 para 12(3)(e)); S.I. 2003/1397, art. 2(1), Sch. (with art. 8)

163 [^{F16}Role of CMA in relation to undertakings and orders in public interest cases: Part 4]

- (1) Subsections (2) and (3) apply where ^{F17}... the Secretary of State ^{F18}... is considering whether to accept undertakings under section 157 or 159.
- (2) The [^{F19}Secretary of State] may require the [^{F20}CMA] to consult with such persons as the [^{F19}Secretary of State] considers appropriate with a view to discovering whether they will offer undertakings which the [^{F19}Secretary of State] would be prepared to accept under section 157 or (as the case may be) 159.

Changes to legislation: There are currently no known outstanding effects for the Enterprise Act 2002, Cross Heading: Undertakings and orders: monitoring, consultation and advice. (See end of Document for details)

- (3) The [F²¹Secretary of State] may require the [F²²CMA] to report to the [F²¹Secretary of State] on the outcome of the [F²³CMA's] consultations within such period as the [F²¹Secretary of State] may require.
- (4) A report under subsection (3) shall, in particular, contain advice from the [F²⁴CMA] as to whether any undertakings offered should be accepted by the [F²⁵Secretary of State] under section 157 or (as the case may be) 159.
- (5) The powers conferred on the [F²⁶Secretary of State] by subsections (1) to (4) are without prejudice to the power of the [F²⁶Secretary of State] to consult the persons concerned F²⁷....
- (6) If asked by the [F²⁸Secretary of State] for advice in relation to the taking of enforcement action (whether or not by way of undertakings) in a particular case, the [F²⁹CMA] shall give such advice as it considers appropriate.

Textual Amendments

- F16 S. 163 heading substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 5 para. 195(8) (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F17 Words in s. 163(1) omitted (1.4.2014) by virtue of Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 5 para. 195(2)(a) (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F18 Words in s. 163(1) omitted (1.4.2014) by virtue of Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 5 para. 195(2)(b) (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F19 Words in s. 163(2) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 5 para. 195(3)(a) (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F20 Word in s. 163(2) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 5 para. 195(3)(b) (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F21 Words in s. 163(3) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 5 para. 195(4)(a) (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F22 Word in s. 163(3) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 5 para. 195(4)(b) (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F23 Word in s. 163(3) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 5 para. 195(4)(c) (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F24 Word in s. 163(4) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 5 para. 195(5)(a) (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F25 Words in s. 163(4) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 5 para. 195(5)(b) (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F26 Words in s. 163(5) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 5 para. 195(6)(a) (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F27 Word in s. 163(5) omitted (1.4.2014) by virtue of Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 5 para. 195(6)(b) (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F28 Words in s. 163(6) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 5 para. 195(7)(a) (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F29 Word in s. 163(6) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 5 para. 195(7)(b) (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:
Undertakings and orders: monitoring, consultation and advice.