



# Enterprise Act 2002

## 2002 CHAPTER 40

### PART 3

#### MERGERS

#### CHAPTER 1

##### DUTY TO MAKE REFERENCES

##### *Duty to make references: completed mergers*

### **26 Enterprises ceasing to be distinct enterprises**

- (1) For the purposes of this Part any two enterprises cease to be distinct enterprises if they are brought under common ownership or common control (whether or not the business to which either of them formerly belonged continues to be carried on under the same or different ownership or control).
- (2) Enterprises shall, in particular, be treated as being under common control if they are—
  - (a) enterprises of interconnected bodies corporate;
  - (b) enterprises carried on by two or more bodies corporate of which one and the same person or group of persons has control; or
  - (c) an enterprise carried on by a body corporate and an enterprise carried on by a person or group of persons having control of that body corporate.
- (3) A person or group of persons able, directly or indirectly, to control or materially to influence the policy of a body corporate, or the policy of any person in carrying on an enterprise but without having a controlling interest in that body corporate or in that enterprise, may, for the purposes of subsections (1) and (2), be treated as having control of it.

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*Changes to legislation: There are currently no known outstanding effects for the Enterprise Act 2002, Section 26. (See end of Document for details)*

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- (4) For the purposes of subsection (1), in so far as it relates to bringing two or more enterprises under common control, a person or group of persons may be treated as bringing an enterprise under his or their control if—
- (a) being already able to control or materially to influence the policy of the person carrying on the enterprise, that person or group of persons acquires a controlling interest in the enterprise or, in the case of an enterprise carried on by a body corporate, acquires a controlling interest in that body corporate; or
  - (b) being already able materially to influence the policy of the person carrying on the enterprise, that person or group of persons becomes able to control that policy.

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

- C1** Ss. 23-32 applied (with modifications) (20.6.2003) by [The Enterprise Act 2002 \(Protection of Legitimate Interests\) Order 2003 \(S.I. 2003/1592\)](#), art. 2, **Sch. 1** (as amended (1.4.2014) by [The Enterprise Act 2002 \(Protection of Legitimate Interests\) \(Amendment\) Order 2014 \(S.I. 2014/891\)](#), arts. 1, **16** (with arts. 20-23))
- C2** S. 26 applied in part (5.12.2019 at 12.10 p.m.) by [The Public Interest Merger Reference \(Gardner Aerospace Holdings Ltd. and Impcross Ltd.\) \(Pre-emptive Action\) Order 2019 \(S.I. 2019/1490\)](#), arts. 1, **5**
- C3** S. 26(2)-(4) applied (20.12.2019 at 9.20 a.m.) by [The Public Interest Merger Reference \(Mettis Aerospace Ltd.\) \(Pre-emptive Action\) Order 2019 \(S.I. 2019/1515\)](#), arts. 1, **4**
- C4** S. 26(2)-(4) applied (5.9.2021 at 7.30 p.m.) by [The Public Interest Merger Reference \(Perpetuus Advanced Materials plc\) \(Pre-emptive Action\) Order 2021 \(S.I. 2021/993\)](#), arts. 1(1), **3(2)**

**Changes to legislation:**

There are currently no known outstanding effects for the Enterprise Act 2002, Section 26.