



Enterprise Act 2002

2002 CHAPTER 40

PART 3

MERGERS

CHAPTER 4

ENFORCEMENT

Powers exercisable before references under [F1 section 22, 33, 68B or 68C]

74 Effect of undertakings under section 73

- (1) The relevant authority shall not make a reference under section 22, 33 [F1, 45, 68B or 68C] in relation to the creation of a relevant merger situation if—
 - (a) the [F2CMA] has accepted an undertaking or group of undertakings under section 73; and
 - (b) the relevant merger situation is the situation by reference to which the undertaking or group of undertakings was accepted.
- (2) Subsection (1) does not prevent the making of a reference if material facts about relevant arrangements or transactions, or relevant proposed arrangements or transactions, were not notified (whether in writing or otherwise) to the [F2CMA] or made public before any undertaking concerned was accepted.
- (3) For the purposes of subsection (2) arrangements or transactions, or proposed arrangements or transactions, are relevant if they are the ones in consequence of which the enterprises concerned ceased or may have ceased, or may cease, to be distinct enterprises.
- (4) In subsection (2) “made public” means so publicised as to be generally known or readily ascertainable.
- (5) In this section “relevant authority” means—

Changes to legislation: There are currently no known outstanding effects for the Enterprise Act 2002, Section 74. (See end of Document for details)

- (a) in relation to a possible reference under section 22 [^{F3}, 33, 68B or 68C], the [^{F4}CMA]; and
- (b) in relation to a possible reference under section 45, the Secretary of State.

Textual Amendments

- F1** Words in s. 74(1) substituted (26.10.2023) by Energy Act 2023 (c. 52), s. 334(2)(j), **Sch. 16 para. 14(2)**
- F2** Word in s. 74(1)(2) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 114** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F3** Words in s. 74(5)(a) substituted (26.10.2023) by Energy Act 2023 (c. 52), s. 334(2)(j), **Sch. 16 para. 14(3)**
- F4** Word in s. 74(5) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 114** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

Modifications etc. (not altering text)

- C1** Pt. 3 modified (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 4 para. 56**; S.I. 2014/416, art. 2(1)(c) (with Sch.)

Changes to legislation:

There are currently no known outstanding effects for the Enterprise Act 2002, Section 74.