



Enterprise Act 2002

2002 CHAPTER 40

PART 3

MERGERS

CHAPTER 4

ENFORCEMENT

Other

94 Rights to enforce undertakings and orders

- (1) This section applies to any enforcement undertaking or enforcement order.
- (2) Any person to whom such an undertaking or order relates shall have a duty to comply with it.
- (3) The duty shall be owed to any person who may be affected by a contravention of the undertaking or (as the case may be) order.
- (4) Any breach of the duty which causes such a person to sustain loss or damage shall be actionable by him.
- (5) In any proceedings brought under subsection (4) against a person to whom an enforcement undertaking or an enforcement order relates it shall be a defence for that person to show that he took all reasonable steps and exercised all due diligence to avoid contravening the undertaking or (as the case may be) order.
- (6) Compliance with an enforcement undertaking or an enforcement order shall also be enforceable by civil proceedings brought by the [^{F1}CMA] for an injunction or for interdict or for any other appropriate relief or remedy.

^{F2}(7)

Changes to legislation: There are currently no known outstanding effects for the Enterprise Act 2002, Section 94. (See end of Document for details)

- (8) Compliance with an undertaking under paragraph ^{F3}... 3 or 9 of Schedule 7, an order made by the Secretary of State under paragraph 2 of that Schedule or an order under paragraph 5, 6, 10 or 11 of that Schedule, shall also be enforceable by civil proceedings brought by the Secretary of State for an injunction or for interdict or for any other appropriate relief or remedy.
- (9) Subsections (6) to (8) shall not prejudice any right that a person may have by virtue of subsection (4) to bring civil proceedings for contravention or apprehended contravention of an enforcement undertaking or an enforcement order.
- [^{F4}(10) In subsection (8), “Secretary of State” includes the Chancellor of the Duchy of Lancaster.]

Textual Amendments

- F1** Word in s. 94(6) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 130(2)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F2** S. 94(7) omitted (1.4.2014) by virtue of Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 130(3)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F3** Word in s. 94(8) omitted (1.4.2014) by virtue of Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 15 para. 34**; S.I. 2014/416, art. 2(1)(f) (with Sch.)
- F4** S. 94(10) inserted (3.5.2023) by The Secretaries of State for Energy Security and Net Zero, for Science, Innovation and Technology, for Business and Trade, and for Culture, Media and Sport and the Transfer of Functions (National Security and Investment Act 2021 etc) Order 2023 (S.I. 2023/424), art. 1(2), **Sch. para. 10(6)** (with art. 17)

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.)
- C2** S. 94 applied (with modifications) (20.6.2003) by The Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003 (S.I. 2003/1592), art. 15, **Sch. 3 para. 1(1)(i)(9)** (as amended (1.4.2014) by The Enterprise Act 2002 (Protection of Legitimate Interests) (Amendment) Order 2014 (S.I. 2014/891), arts. 1, **18(1)-(17)** (with arts. 20-23))
- C3** S. 94 applied (29.12.2003) by Communications Act 2003 (c. 21), ss. 406(6), 411(2)(3), **Sch. 18 para. 62(7)(e)** (with transitional provisions in Sch. 18); S.I. 2003/3142, **art. 3(1)**, Sch. 1 (subject to arts. 3(3), 11)
- C4** Ss. 85-95: functions made exercisable concurrently (3.5.2023) by The Secretaries of State for Energy Security and Net Zero, for Science, Innovation and Technology, for Business and Trade, and for Culture, Media and Sport and the Transfer of Functions (National Security and Investment Act 2021 etc) Order 2023 (S.I. 2023/424), arts. 1(2), **15(2)** (with arts. 16(5)(6), 17)
- C5** S. 94(1) applied (20.6.2003) by 1980 c. 21, s. 11D(7) (as inserted by the Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 10(3)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
S. 94(1) applied (20.6.2003) by 1980 c. 21 s. 12(6) (as substituted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 10(4)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C6** S. 94(2) applied (20.6.2003) by 1980 c. 21, s. 11D(7) (as inserted by the Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 10(3)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
S. 94(2) applied (20.6.2003) by 1980 c. 21 s. 12(6) (as substituted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 10(4)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C7** S. 94(3) applied (20.6.2003) by 1980 c. 21, s. 11D(7) (as inserted by the Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 10(3)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
S. 94(3) applied (20.6.2003) by 1980 c. 21 s. 12(6) (as substituted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 10(4)**); 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, Section 94. (See end of Document for details)

- C8** S. 94(4) applied (20.6.2003) by 1980 c.21, s. 11D(7) (as inserted by the Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 10(3)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
S. 94(4) applied (20.6.2003) by 1980 c. 21 s. 12(6) (as substituted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 10(4)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C9** S. 94(5) applied (20.6.2003) by 1980 c.21, s. 11D(7) (as inserted by the Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 10(3)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
S. 94(5) applied (20.6.2003) by 1980 c. 21 s. 12(6) (as substituted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 10(4)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C10** S. 94(8) applied (20.6.2003) by 1980 c.21 s. 11D(7) (as inserted by the Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 10(3)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
S. 94(8) applied (20.6.2003) by 1980 c. 21 s. 12(6) (as substituted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 10(4)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C11** S. 94(9) applied (20.6.2003) by 1980 c. 21, s. 11D(7) (as inserted by the Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 10(3)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
S. 94(9) applied (20.6.2003) by 1980 c. 21 s. 12(6) (as substituted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 10(4)**); 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, Section 94.