
Changes to legislation: There are currently no known outstanding effects for the Enterprise and Regulatory Reform Act 2013, Paragraph 5. (See end of Document for details)

SCHEDULES

SCHEDULE 10

MARKETS: PUBLIC INTEREST INTERVENTIONS

- 5 (1) Section 140 (supplementary provision about intervention notices under section 139(1)) is amended as follows.
- (2) In subsection (1)—
- (a) for paragraphs (a) and (b) substitute—
 - “(a) the matter to which the market study notice or (as the case may be) the consultation under section 169 concerned relates;
 - (b) the date of publication of that notice or (as the case may be) on which the process of consultation began;”, and
 - (b) in paragraph (c), for “case” substitute “matter”.
- (3) In subsection (2), for “case” (in the second place where it occurs) substitute “matter”.
- (4) After subsection (4) insert—
- “(4A) An intervention notice under section 139(1) shall also cease to be in force if—
 - (a) it mentions a public interest consideration which was not finalised on the giving of the notice or public interest considerations which, at that time, were not finalised;
 - (b) no other public interest consideration is mentioned in the notice;
 - (c) at least 24 weeks has elapsed since the giving of the notice;
 - (d) the public interest consideration mentioned in the notice has not been finalised within that period of 24 weeks or (as the case may be) none of the public interest considerations mentioned in the notice has been finalised within that period of 24 weeks; and
 - (e) the Secretary of State has not, by the end of that period of 24 weeks, made a reference under section 140A in relation to the matter.
 - (4B) Subsection (4D) applies in a case where—
 - (a) an intervention notice ceases to be in force in accordance with subsection (4A);
 - (b) the CMA has, before the time at which the notice ceases to be in force, prepared a market study report in relation to the matter within the period permitted by section 131B(4) and given it to the Secretary of State in accordance with section 140A(3)(b); and
 - (c) the report contains the decision of the CMA that it should make a reference in relation to the matter concerned under section 131.
 - (4C) Subsection (4D) also applies in a case where—

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- (a) an intervention notice ceases to be in force in accordance with subsection (4A); and
 - (b) the CMA has, before the time at which the notice ceases to be in force—
 - (i) decided that it should make an ordinary reference or a cross-market reference under section 131 in relation to the matter concerned; and
 - (ii) given a document containing its decision, the reasons for it and such information as the CMA considers appropriate for facilitating a proper understanding of the reasons for its decision to the Secretary of State in accordance with section 140A(3)(c).
- (4D) In a case to which this subsection applies—
- (a) the CMA shall, as soon as reasonably practicable, make a reference in relation to the matter under section 131; and
 - (b) the reference is to be treated for the purposes of this Part as having been made in accordance with the requirements imposed by this Part.”
- (5) In subsection (5)—
- (a) before paragraph (a) insert—
 - “(za) the CMA accepts an undertaking under section 154 instead of making a reference under section 131 in relation to the matter;
 - (zb) the CMA publishes notice that it has otherwise decided not to make a reference under section 131 in relation to the matter;
 - (zc) the period permitted for the preparation by the CMA of the market study report in relation to the matter and for the report to be published under section 131B(4) or (as the case may be) given to the Secretary of State under section 140A(3) has expired and no such report has been so prepared or no such action has been taken;
 - (zd) the Secretary of State makes a reference under section 140A(5) in relation to the matter;”,
 - (b) in paragraph (a), after “143(1) or (3)” insert “ or (as the case may be) 143A(2) or (3) ”,
 - (c) in paragraph (c), after “143(1)” insert “ or (as the case may be) 143A(2) ”,
 - (d) in paragraph (d), at the end insert “ or (as the case may be) fails to make and publish a decision under subsection (2) of section 146A within the period required by subsection (6) of that section ”,
 - (e) in paragraph (e), at the end insert “ or (as the case may be) decides under section 146A(2) to make no finding at all in relation to the matter ”, and
 - (f) in paragraph (f), after “147(2)” insert “ or (as the case may be) 147A(2) ”.
- (6) In subsection (6)—
- (a) before paragraph (a) insert—
 - “(za) in a case falling within subsection (5)(za), the acceptance of the undertaking concerned;

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- (zb) in a case falling within subsection (5)(zb), the publication of the notice concerned;”,
- (b) in paragraph (a), after “(5)” insert “ (zc), ”, and
- (c) after paragraph (a) insert—
 - “(aa) in a case falling within subsection (5)(zd), the making of the reference concerned;”.

(7) After subsection (6) insert—

“(6A) In subsection (6)(za) the reference to the acceptance of the undertaking concerned shall, in a case where the CMA has accepted a group of undertakings under section 154, be treated as a reference to the acceptance of the last undertaking in the group; but undertakings which vary, supersede or revoke earlier undertakings shall be disregarded for the purposes of subsections (5)(za) and (6)(za).”

(8) In subsection (7), after “147(2)” insert “ or (as the case may be) 147A(2) ”.

Commencement Information

II Sch. 10 para. 5 in force at 1.4.2014 by S.I. 2014/416, art. 2(1)(d) (with Sch.)

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