

Changes to legislation: There are currently no known outstanding effects for the Enterprise and Regulatory Reform Act 2013, Cross Heading: Enterprise Act 2002 (c. 40). (See end of Document for details)

SCHEDULES

SCHEDULE 15

MINOR AND CONSEQUENTIAL AMENDMENTS: PART 4

Enterprise Act 2002 (c. 40)

15 The Enterprise Act 2002 is amended as follows.

Annotations:

Commencement Information

I1 Sch. 15 para. 15 in force at 1.4.2014 by S.I. 2014/416, art. 2(1)(f) (with Sch.)

16 (1) Section 25 (extension of time-limits) is amended as follows.

(2) In subsection (2), for the words from “has failed” to the end of the subsection substitute “ has failed (with or without a reasonable excuse) to comply with any requirement of a notice under section 109 ”.

(3) For subsection (3) substitute—

“(3) An extension under subsection (2) shall come into force when notice of the extension is given and end—

- (a) when the person concerned provides the information or documents to the satisfaction of the CMA or (as the case may be) appears as a witness in accordance with the requirements of the CMA; or
- (b) if earlier, the CMA cancels the extension.”

Annotations:

Commencement Information

I2 Sch. 15 para. 16 in force at 1.4.2014 by S.I. 2014/416, art. 2(1)(f) (with Sch.)

17 Omit section 31 (information powers in relation to completed mergers).

Annotations:

Commencement Information

I3 Sch. 15 para. 17 in force at 1.4.2014 by S.I. 2014/416, art. 2(1)(f) (with Sch.)

18 (1) Section 32 (supplementary provision for purposes of sections 25 and 31) is amended as follows.

(2) Omit subsections (1) to (3).

(3) In subsection (4), omit “or subsection (3)(a) above”.

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(4) In the heading, for “sections 25 and 31” substitute “ section 25 ”.

Annotations:

Commencement Information

I4 Sch. 15 para. 18 in force at 1.4.2014 by S.I. 2014/416, art. 2(1)(f) (with Sch.)

19 (1) Section 34A (duty where case referred by European Commission) is amended as follows.

(2) For subsection (5) substitute—

“(5) The CMA may extend the preliminary assessment period if it considers that any of the persons carrying on the enterprises concerned has failed (whether with or without reasonable excuse) to comply with any requirement of a notice under section 109.”

(3) For subsection (6) substitute—

“(6) An extension under subsection (5) shall come into force when published under section 107.

(6A) An extension under subsection (5) shall continue in force until—

- (a) the person concerned provides the information or documents to the satisfaction of the CMA or (as the case may be) appears as a witness in accordance with the requirements of the CMA; or
- (b) the CMA publishes its decision to cancel the extension.”

(4) Omit subsection (7).

Annotations:

Commencement Information

I5 Sch. 15 para. 19 in force at 1.4.2014 by S.I. 2014/416, art. 2(1)(f) (with Sch.)

20 Omit section 34B (power to request information in referred cases).

Annotations:

Commencement Information

I6 Sch. 15 para. 20 in force at 1.4.2014 by S.I. 2014/416, art. 2(1)(f) (with Sch.)

21 (1) Section 42 (intervention by Secretary of State in certain public interest cases) is amended as follows.

(2) In subsection (1), in paragraph (d)(i)—

- (a) for “section 22(3)(a) or (e)” substitute “ section 22(3)(za), (a) or (e) ”, and
- (b) for “33(3)(a) or (e)” substitute “ 33(3)(za), (a) or (e) ”.

(3) In subsection (5), for “to 32” substitute “ to 30 ”.

(4) In subsection (6), in the words before paragraph (a), for “to 32” substitute “ to 30 ”.

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- (5) In that subsection, in paragraph (b), for “sections 25(1) to (3), (6) and (8) and 31” substitute “ section 25(1) to (3), (6) and (8) ”.
- (6) In that subsection, in paragraph (h)—
 - (a) omit “, and the power to request information under section 31(1) as so applied,”, and
 - (b) after “existing time-limits” insert “ by virtue of section 24 (as so applied) ”.
- (7) In that subsection, in paragraph (i), after “existing time-limits” insert “ by virtue of section 24 (as so applied) ”.
- (8) In that subsection, omit paragraph (j).
- (9) In that subsection, in paragraph (k), for “to 32” substitute “ to 30 ”.
- (10) In that subsection, omit paragraph (l) and the word “and” immediately preceding it.

Annotations:

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I7 Sch. 15 para. 21 in force at 1.4.2014 by S.I. 2014/416, art. 2(1)(f) (with Sch.)

- 22 In section 46 (references under section 45: supplementary), in subsection (1)(a), omit “or 96(3)”.

Annotations:

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I8 Sch. 15 para. 22 in force at 1.4.2014 by S.I. 2014/416, art. 2(1)(f) (with Sch.)

- 23 (1) Section 46B (extension of preliminary assessment period) is amended as follows.
- (2) For subsection (1) substitute—

“(1) The CMA may extend the preliminary assessment period for the purposes of section 46A if it considers that any of the persons carrying on the enterprises concerned has failed (whether with or without reasonable excuse) to comply with any requirement of a notice under section 109.”
 - (3) Omit subsection (2).
 - (4) For subsection (3) substitute—

“(3) An extension under subsection (1) shall come into force when published under section 107.

(3A) An extension under subsection (1) shall continue in force until—

 - (a) the person concerned provides the information or documents to the satisfaction of the CMA or (as the case may be) appears as a witness in accordance with the requirements of the CMA; or
 - (b) the CMA publishes its decision to cancel the extension.”
 - (5) Omit subsection (4).

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I9 Sch. 15 para. 23 in force at 1.4.2014 by S.I. 2014/416, art. 2(1)(f) (with Sch.)

24 Omit section 46C (power to request information in referred cases).

Annotations:**Commencement Information**

I10 Sch. 15 para. 24 in force at 1.4.2014 by S.I. 2014/416, art. 2(1)(f) (with Sch.)

- 25 (1) Section 49 (variation of references under section 45) is amended as follows.
- (2) In subsection (2), omit “1”.
- (3) In subsection (3), omit “1”.
- (4) In subsection (4) —
- (a) omit “any undertaking accepted under paragraph 1 of Schedule 7, or”, and
 - (b) for “that Schedule” substitute “ Schedule 7 ”.
- (5) In subsection (5)—
- (a) omit “undertaking or” (in each place where it occurs),
 - (b) omit “, accepted or” (in each place where it occurs), and
 - (c) omit “, superseded, released”.

Annotations:**Commencement Information**

I11 Sch. 15 para. 25 in force at 1.4.2014 by S.I. 2014/416, art. 2(1)(f) (with Sch.)

- 26 (1) Section 59 (intervention by Secretary of State in special public interest cases) is amended as follows.
- (2) In subsection (5), for “to 32” substitute “ to 30 ”.
- (3) In subsection (6), in the words before paragraph (a), for “to 32” substitute “ to 30 ”.
- (4) In that subsection, in paragraph (c), for “sections 25(1) to (3), (6) and (8) and 31” substitute “ section 25(1) to (3), (6) and (8) ”.
- (5) In that subsection, in paragraph (g), omit “, and the power to request information under section 31(1) as so applied,”.
- (6) In that subsection, omit paragraph (h).
- (7) In that subsection, in paragraph (i), for “to 32” substitute “ to 30 ”.
- (8) In that subsection, omit paragraph (j) and the word “and” immediately preceding it.

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I12 Sch. 15 para. 26 in force at 1.4.2014 by S.I. 2014/416, art. 2(1)(f) (with Sch.)

- 27 (1) Section 64 (cancellation and variation of references under section 62) is amended as follows.
- (2) In subsection (3), omit “1,”.
- (3) In subsection (4)—
- (a) omit “any undertaking accepted under paragraph 1 of Schedule 7, or”, and
 - (b) for “that Schedule” substitute “ Schedule 7 ”.
- (4) In subsection (5)—
- (a) omit “undertaking or” (in each place where it occurs),
 - (b) omit “, accepted or” (in each place where it occurs), and
 - (c) omit “, superseded, released”.

Annotations:

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I13 Sch. 15 para. 27 in force at 1.4.2014 by S.I. 2014/416, art. 2(1)(f) (with Sch.)

- 28 (1) Section 67 (intervention to protect legitimate interests) is amended as follows.
- (2) In subsection (7), for “to 32” substitute “ to 30 ”.
- (3) In subsection (8), in the words before paragraph (a), for “to 32” substitute “ to 30 ”.
- (4) In that subsection, in paragraph (d), for “sections 25, 31 and 32” substitute “ section 25 ”.

Annotations:

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I14 Sch. 15 para. 28 in force at 1.4.2014 by S.I. 2014/416, art. 2(1)(f) (with Sch.)

- 29 In section 68 (scheme for protecting legitimate interests), in subsection (4)(a), for “to 32” substitute “ to 30 ”.

Annotations:

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I15 Sch. 15 para. 29 in force at 1.4.2014 by S.I. 2014/416, art. 2(1)(f) (with Sch.)

- 30 In section 77 (restrictions on certain share dealings: completed mergers), in subsection (1)(b), omit “71 or”.

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I16 Sch. 15 para. 30 in force at 1.4.2014 by S.I. 2014/416, art. 2(1)(f) (with Sch.)

- 31 In section 78 (restrictions on certain share dealings: anticipated mergers), in subsection (1)(b), for “section 81” substitute “section 72 or 81”.

Annotations:

Commencement Information

I17 Sch. 15 para. 31 in force at 1.4.2014 by S.I. 2014/416, art. 2(1)(f) (with Sch.)

- 32 In section 89 (subject matter of undertakings), in subsection (2)—
- (a) omit “71,”, and
 - (b) omit “1,”.

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I18 Sch. 15 para. 32 in force at 1.4.2014 by S.I. 2014/416, art. 2(1)(f) (with Sch.)

- 33 (1) Section 93 (further role of OFT in relation to undertakings and orders) is amended as follows.
- (2) In subsection (1), in paragraph (b), omit “1,”.
 - (3) In subsection (2), omit “1,”.
 - (4) In subsection (4), omit “1,”.

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I19 Sch. 15 para. 33 in force at 1.4.2014 by S.I. 2014/416, art. 2(1)(f) (with Sch.)

- 34 In section 94 (rights to enforce undertakings and orders), in subsection (8), omit “1,”.

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I20 Sch. 15 para. 34 in force at 1.4.2014 by S.I. 2014/416, art. 2(1)(f) (with Sch.)

- 35 (1) Section 99 (functions in relation to merger notices) is amended as follows.
- (2) Omit subsections (2) to (4).
 - (3) In subsection (5), in paragraph (c), for the words from “or any” to “as required” substitute “or the person who gave the merger notice has failed (with or without a reasonable excuse) to comply with any requirement of a notice under section 109 in relation to the case concerned”.

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I21 Sch. 15 para. 35 in force at 1.4.2014 by S.I. 2014/416, art. 2(1)(f) (with Sch.)

- 36 (1) Section 107 (further publicity requirements) is amended as follows.
- (2) In subsection (1), for paragraph (a) substitute—
- “(a) any decision made by it that the duty to make a reference under section 22 or 33 applies and any such reference made by it;
 - (aa) any decision made by it that the duty to make such a reference does not apply (other than a decision made by virtue of subsection (2)(b) of section 33);”.
- (3) In that subsection, after paragraph (aa) insert—
- “(ab) any notice given by it as mentioned in paragraph (b) of the definition of “initial period” in section 34ZA(3);
 - (ac) any extension by it under section 34ZB of the initial period;
 - (ad) any decision made by it to cancel an extension as mentioned in section 34ZB(7)(b);
 - (ae) any extension by it under section 34A of the preliminary assessment period;
 - (af) any decision made by it to cancel an extension as mentioned in section 34A(6A)(b);
 - (ag) any extension by it under section 46B of the preliminary assessment period;
 - (ah) any decision made by it to cancel an extension as mentioned in section 46B(3A)(b);”.
- (4) In that subsection, omit paragraph (d).
- (5) In that subsection, after paragraph (e) insert—
- “(ea) any notice given by it under section 73A(2)(b);
 - (eb) any extension by it under section 73A of the period for considering whether to accept an undertaking under section 73;
 - (ec) any decision made by it to cancel an extension as mentioned in section 73A(11)(b);”.
- (6) In that subsection, in paragraph (f), for “such an undertaking or order” substitute “an order mentioned in paragraph (e) ”.
- (7) At the end of that subsection insert “; and
- (i) any notice given by it under section 96(2A).”
- (8) In subsection (2), after paragraph (e) insert—
- “(ea) any extension by it under section 41A of the period within which its duty under section 41(2) is to be discharged;
 - (eb) any decision made by it to cancel an extension as mentioned in section 41A(7)(b);”.
- (9) In subsection (3), omit paragraphs (h) and (i).

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I22 Sch. 15 para. 36 in force at 1.4.2014 by S.I. 2014/416, art. 2(1)(f) (with Sch.)

- 37 In section 130 (index of defined expressions), omit the entry for “Undertakings under paragraph 1 of Schedule 7”.

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I23 Sch. 15 para. 37 in force at 1.4.2014 by S.I. 2014/416, art. 2(1)(f) (with Sch.)

- 38 (1) Schedule 7 (enforcement regime for public interest and special public interest cases) is amended as follows.
- (2) In paragraph 7, in sub-paragraph (1), for paragraph (b) substitute—
“(b) no orders under paragraph 2 are in force in relation to the relevant merger situation concerned or (as the case may be) the special merger situation concerned.”
- (3) In paragraph 8, in sub-paragraph (1), for paragraph (b) substitute—
“(b) no orders under paragraph 2 are in force in relation to the relevant merger situation concerned or (as the case may be) the special merger situation concerned.”

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I24 Sch. 15 para. 38 in force at 1.4.2014 by S.I. 2014/416, art. 2(1)(f) (with Sch.)

- 39 In Schedule 15 (enactments conferring functions for the purposes of which specified information may be disclosed), at the end insert— “The Health and Social Care Act 2012. ”

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I25 Sch. 15 para. 39 in force at 1.4.2014 by S.I. 2014/416, art. 2(1)(f) (with Sch.)

Changes to legislation:

There are currently no known outstanding effects for the Enterprise and Regulatory Reform Act 2013, Cross Heading: Enterprise Act 2002 (c. 40).