



# Competition Act 1980

## 1980 CHAPTER 21

### *Control of anti-competitive practices*

#### **4 Undertakings in consequence of Director's reports**

- (1) Where a report is published under section 3 above stating, in accordance with subsection (10)(b) of that section, that it is appropriate for the Director to make a reference under section 5 below, the Director shall consider any representations in writing which are made to him by a person specified in the report as a person who was or is engaged in an anti-competitive practice and which contain proposals as to what should be done in consequence of the conclusions of the report so far as they relate to that person.
- (2) Any such representations may include an undertaking by which the person who makes the representations agrees to be bound, if the undertaking is accepted by the Director, for a period specified in the representations.
- (3) At any time before the Director makes a reference under section 5 below in relation to a report under section 3 above, the Director may, by notice given to the person concerned, accept an undertaking which is offered by that person by reference to that report.
- (4) It shall be the duty of the Director—
  - (a) to arrange for any undertaking accepted by him under this section to be published in such manner as appears to him to be appropriate,
  - (b) to keep under review the carrying out of any such undertaking and from time to time to consider whether, by reason of any change of circumstances, the undertaking is no longer appropriate and either the person concerned can be released from the undertaking or the undertaking needs to be varied or superseded by a new undertaking, and
  - (c) if it appears to him that the person by whom an undertaking was given has failed to carry it out, to give that person notice of that fact.
- (5) If at any time the Director concludes under subsection (4)(b) above—
  - (a) that any person can be released from an undertaking, or

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*Status: This is the original version (as it was originally enacted).*

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- (b) that an undertaking needs to be varied or superseded by a new undertaking, he shall give notice to that person stating that he is so released, or specifying the variation or, as the case may be, the new undertaking which in his opinion is required.
- (6) Where a notice is served on any person under subsection (5) above specifying a variation or new undertaking, the notice shall state the change of circumstances by virtue of which the notice is served.
- (7) Subject to subsection (8) below, the Director may at any time, by notice given to the person concerned—
- (a) agree to the continuation of an undertaking in relation to which he has given notice under subsection (5) above specifying a variation or new undertaking, or
  - (b) accept a new or varied undertaking which is offered by that person as a result of such a notice.
- (8) If the Director makes a reference under section 5 below in relation to a notice under subsection (5) above, he shall not, after the reference has been made, agree to the continuation of the undertaking in relation to which that notice was given or accept a new or varied undertaking which is offered as a result of that notice.
- (9) The Secretary of State may by regulations prescribe the manner in which any notice is to be given under this section, and the evidence which is to be sufficient evidence of its having been given, and of its contents and authenticity.