



# Competition Act 1980

## 1980 CHAPTER 21

### *Control of anti-competitive practices*

#### **9 Undertakings following report on competition reference.**

(1) In any case where—

- (a) the report of the Commission on a competition reference concludes that any person specified in the report was engaging in an anti-competitive practice which operated or might be expected to operate against the public interest, and
- (b) it appears to the Secretary of State that the effects of that practice which are adverse to the public interest might be remedied or prevented if that person or any other person specified in the report took or refrained from taking any action,

the Secretary of State may by notice in writing request the Director to seek to obtain from the person or, as the case may be, each of the persons specified in the notice an undertaking to take or refrain from taking any action with a view to remedying or preventing those adverse effects.

(2) Where the Secretary of State makes a request under subsection (1) above—

- (a) he shall at the same time send a copy of the notice by which the request is made to the person or, as the case may be, each of the persons from whom an undertaking is to be sought; and
- (b) it shall be the duty of the Director to seek to obtain an undertaking or undertakings of the description requested.

(3) In any case where—

- (a) the Director is satisfied that a person from whom he has been requested to seek to obtain an undertaking is unlikely to give a suitable undertaking within a reasonable time, or
- (b) having allowed such time as in his opinion is reasonable for the purpose, he is satisfied that a suitable undertaking has not been given by the person in question,

the Director shall give such advice to the Secretary of State as he may think proper in the circumstances.

*Status: Point in time view as at 01/12/1991. This version of this provision has been superseded.*

*Changes to legislation: There are currently no known outstanding effects for the Competition Act 1980, Section 9. (See end of Document for details)*

- (4) Where, following a request under subsection (1) above, an undertaking has been accepted by the Director, it shall be his duty—
- (a) to give a copy of the undertaking [<sup>F1</sup>and of any variation of it after the passing of the Companies Act 1989]to the Secretary of State;
  - (b) to arrange for the undertaking [<sup>F2</sup>and of any variation or release of it after that time]to be published in such manner as appears to him to be appropriate;
  - (c) to keep under review the carrying out of the 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 to be superseded by a new undertaking; and
  - (d) if it appears to him that any person can be so released or that an undertaking has not been or is not being fulfilled, or needs to be varied or superseded, to give such advice to the Secretary of State as he may think proper in the circumstances.
- (5) If, following advice from the Director that a person can be released from an undertaking, the Secretary of State considers that it is appropriate for the Director to release him from it—
- (a) the Secretary of State shall request the Director to do so, and
  - (b) the Director shall give the person concerned notice that he is released from the undertaking;
- and regulations under subsection (9) of section 4 above shall apply in relation to such a notice as they apply to a notice under subsection (5) of that section.
- (6) The Secretary of State shall take account of any advice given to him by the Director under this section (including advice as to the exercise by the Secretary of State of any of his powers under this Act).

#### Textual Amendments

- F1** Words inserted by [Companies Act 1989 \(c. 40, SIF 27\)](#), s. 153, [Sch. 20 para. 23\(a\)](#)  
**F2** Words inserted by [Companies Act 1989 \(c. 40, SIF 27\)](#), s. 153, [Sch. 20 para. 23\(b\)](#)

#### Modifications etc. (not altering text)

- C1** S. 9 modified (transfer of functions) by [Telecommunications Act 1984 \(c. 12, SIF 96\)](#), s. [50\(3\)](#) and (E.W.S.) by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), s. [43\(3\)](#)  
 S. 9 amended (E.W.)(1.12.1991) by [Water Industry Act 1991 \(c. 56, SIF 130\)](#), ss. [31\(4\)\(c\)](#), 35(4), 223(2) (with ss. [82\(3\)](#), [186\(1\)](#), [222\(1\)](#), [Sch. 14 para. 6](#))
- C2** S. 9 modified (transfer of functions) (1.4.1992) by S.I. 1992/231, [art. 46\(3\)\(4\)](#); S.R. 1992/117, [art. 3\(1\)](#)
- C3** S. 9 modified (transfer of functions) and amended (E.W.S.) (1.4.1994) by 1993 c. 43, s. [67\(3\)\(4\)](#); S.I. 1994/571, [art. 5](#)  
 Ss. 2-10 modified (N.I.) (10.6.1996) by S.I. 1996/275 (N.I. 2), [art. 23\(6\)](#) (with [Sch. 7 paras. 2, 3\(2\)](#)); S.R. 1996/216, [art. 2](#)
- C4** Ss. 2-10, 16: certain functions transferred (1.3.1996) by 1986 c. 44, s. [36A](#) (as inserted (1.3.1996) by 1995 c. 45, s. 10(1), [Sch. 3 para. 43](#); S.I. 1996/218, [art. 2](#))  
 Ss. 2-10, 16: certain functions transferred (N.I.) (10.6.1996) by S.I. 1996/275 (N.I. 2), [art. 23\(3\)](#) (with [Sch. 7 paras. 2, 3\(2\)](#)); S.R. 1996/216, [art. 2](#)

**Status:**

Point in time view as at 01/12/1991. This version of this provision has been superseded.

**Changes to legislation:**

There are currently no known outstanding effects for the Competition Act 1980, Section 9.