



Enterprise Act 2002

2002 CHAPTER 40

PART 4

[^{F1}MARKET STUDIES AND] MARKET INVESTIGATIONS

CHAPTER 4

SUPPLEMENTARY

Investigation powers

[^{F1}174D Penalties

- (1) A penalty imposed under section 174A(1) or (3) shall be of such amount as the CMA considers appropriate.
- (2) In the case of a penalty imposed under section 174A(1), the amount may be—
 - (a) a fixed amount;
 - (b) an amount calculated by reference to a daily rate; or
 - (c) a combination of a fixed amount and an amount calculated by reference to a daily rate.
- (3) In the case of a penalty imposed under section 174A(3), the amount shall be a fixed amount.
- (4) A penalty imposed under section 174A(1) shall not—
 - (a) in the case of a fixed amount, exceed such amount as the Secretary of State may by order specify;
 - (b) in the case of an amount calculated by reference to a daily rate, exceed such amount per day as the Secretary of State may so specify; and
 - (c) in the case of a fixed amount and an amount calculated by reference to a daily rate, exceed such fixed amount and such amount per day as the Secretary of State may so specify.

Changes to legislation: There are currently no known outstanding effects for the Enterprise Act 2002, Section 174D. (See end of Document for details)

- (5) A penalty imposed under section 174A(3) shall not exceed such amount as the Secretary of State may by order specify.
- (6) An order under subsection (4) or (5) shall not specify—
- (a) in the case of a fixed amount, an amount exceeding £30,000;
 - (b) in the case of an amount calculated by reference to a daily rate, an amount per day exceeding £15,000; and
 - (c) in the case of a fixed amount and an amount calculated by reference to a daily rate, a fixed amount exceeding £30,000 and an amount per day exceeding £15,000.
- (7) Before making an order under subsection (4) or (5), the Secretary of State shall consult—
- (a) the CMA; and
 - (b) such other persons as the Secretary of State considers appropriate.
- (8) In imposing a penalty by reference to a daily rate—
- (a) no account is to be taken of any days before the service on the person concerned of notice of the penalty under section 112 (as applied by subsection (10)); and
 - (b) unless the CMA determines an earlier date (whether before or after the penalty is imposed), the amount payable ceases to accumulate at the beginning of the earliest of the days mentioned in subsection (9).
- (9) Those days are—
- (a) the day on which the requirement of the notice concerned under section 174 is satisfied;
 - (b) the day which is the relevant day in the case in question for the purposes of section 174B.
- (10) Sections 112 to 115 apply in relation to a penalty imposed under section 174A(1) or (3) as they apply in relation to a penalty imposed under section 110(1) or (3).]

Textual Amendments

- F1** Ss. 174A-174E inserted (25.4.2013 for specified purposes, 1.4.2014 in so far as not already in force) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(1)(i)(3), **Sch. 11 para. 1**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

Modifications etc. (not altering text)

- C1** Pt. 4 modified by 2012 c. 7, s. 73(3)(b) (as substituted (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014 \(S.I. 2014/892\)](#), art. 1(1), **Sch. 1 para. 189(4)(c)** (with art. 3))
- C2** Pt. 4 modified by 2000 c. 38, s. 86(4A) (as inserted (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014 \(S.I. 2014/892\)](#), art. 1(1), **Sch. 1 para. 154(6)** (with art. 3))
- C3** Pt. 4 modified (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), **Sch. 4 para. 57**; S.I. 2014/416, art. 2(1)(c) (with Sch.)
- C4** Pt. 4 modified by 2012 c. 19, s. 60(3A) (as inserted (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014 \(S.I. 2014/892\)](#), art. 1(1), **Sch. 1 para. 197(5)** (with art. 3))

Changes to legislation: There are currently no known outstanding effects for the Enterprise Act 2002, Section 174D. (See end of Document for details)

- C5** Pt. 4 certain functions made exercisable concurrently (1.4.2014) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\), s. 59\(1\)-\(5\)](#), 148(5); S.I. 2014/823, art.
- C6** Pt. 4 modified by 1991 c. 56, s. 31(4) (as amended (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014 \(S.I. 2014/892\)](#), art. 1(1), **Sch. 1 para. 84(5)(d)** (with art. 3))
- C7** Pt. 4 modified by 1989 c. 29, s. 43(2B) (as amended (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014 \(S.I. 2014/892\)](#), art. 1(1), **Sch. 1 para. 65(4)(d)** (with art. 3))
- C8** Pt. 4 modified by 1986 c. 44, s. 36A (as amended (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014 \(S.I. 2014/892\)](#), art. 1(1), **Sch. 1 para. 50(4)(d)** (with art. 3))
- C9** Pt. 4 modified by 1993 c. 43, s. 67(4)(d) (as amended (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014 \(S.I. 2014/892\)](#), art. 1(1), **Sch. 1 para. 105(4)(d)** (with art. 3))

Changes to legislation:

There are currently no known outstanding effects for the Enterprise Act 2002, Section 174D.