



Enterprise Act 2002

2002 CHAPTER 40

PART 3

MERGERS

CHAPTER 4

ENFORCEMENT

Powers exercisable before references under ^{F1}section 22, 33, 68B or 68C]

^{F1}73A Time-limits for consideration of undertakings

- (1) A party concerned who wishes to offer an undertaking to the CMA for the purposes of section 73(2) [^{F2}or (3B)] must do so before the end of the period of 5 working days beginning with—
 - (a) the day after the CMA gives the person the notice required by section 34ZA(1)
 - (b); ^{F3}...
 - ^{F3}(b)
- (2) If an undertaking is offered for [^{F4}the purposes of section 73(2) or (3B)], the CMA shall, before the end of the period of 10 working days beginning with the day mentioned in subsection (1)—
 - (a) decide whether there are reasonable grounds for believing that the undertaking or a modified version of it might be accepted by the CMA under section 73(2), and
 - (b) if it considers that it might be, give notice to the person who offered the undertaking that it is considering it.
- (3) If such a notice is given, the CMA shall decide whether to accept the undertaking before the end of the period of 50 working days beginning with the day mentioned in subsection (1).

Changes to legislation: There are currently no known outstanding effects for the Enterprise Act 2002, Section 73A. (See end of Document for details)

- (4) The CMA may extend the period mentioned in subsection (3), by no more than 40 working days, if it considers that there are special reasons for doing so.
- (5) The CMA shall prepare and publish guidance in relation to the exercise of its power under subsection (4).
- (6) The CMA may revise any such guidance and, where it does so, shall publish the revised statement.
- (7) The CMA may extend the period mentioned in subsection (3) if it considers that a relevant person has failed (with or without reasonable excuse) to comply with any requirement of a notice given under section 109 in relation to the case in question.
- (8) In subsection (7), “relevant person” means—
- (a) any person carrying on any of the enterprises concerned;
 - (b) any person who (whether alone or as a member of a group) owns or has control of any such person; or
 - (c) any officer, employee or agent of any person mentioned in paragraph (a) or (b).
- (9) For the purposes of subsection (8), a person or group of persons able, directly or indirectly, to control or materially influence the policy of a body of persons corporate or unincorporate, but without having a controlling interest in that body of persons, may be treated as having control of it.
- (10) An extension under subsection (4) or (7) comes into force when published under section 107.
- (11) An extension under subsection (7) continues 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.
- (12) In this section and section 73B, “working day” means any day which is not—
- (a) a Saturday, a Sunday, Good Friday or Christmas Day, or
 - (b) a day which is a bank holiday in England and Wales.]

Textual Amendments

- F1** Ss. 73A, 73B 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. 8 para. 7**; S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F2** Words in s. 73A(1) inserted (26.10.2023) by [Energy Act 2023 \(c. 52\)](#), s. 334(2)(j), **Sch. 16 para. 13(2)**
- F3** S. 73A(1)(b) and word omitted (31.12.2020) by virtue of [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/93\)](#), regs. 1(1), **48** (with Sch. 4 paras. 24, 28) (as amended by S.I. 2020/1343, regs. 1(1), **35-59**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F4** Words in s. 73A(2) substituted (26.10.2023) by [Energy Act 2023 \(c. 52\)](#), s. 334(2)(j), **Sch. 16 para. 13(3)**

Modifications etc. (not altering text)

- C1** Pt. 3 modified (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), **Sch. 4 para. 56**; S.I. 2014/416, art. 2(1)(c) (with Sch.)

Changes to legislation:

There are currently no known outstanding effects for the Enterprise Act 2002, Section 73A.