



Enterprise Act 2002 (repealed)

2002 CHAPTER 40

PART 3

MERGERS

CHAPTER 4

ENFORCEMENT

Other

[^{F1}94A Interim undertakings and orders under this Part: penalties

- (1) Where the appropriate authority considers that a person has, without reasonable excuse, failed to comply with an interim measure, it may impose a penalty of such fixed amount as it considers appropriate.
- (2) A penalty imposed under subsection (1) shall not exceed 5% of the total value of the turnover (both in and outside the United Kingdom) of the enterprises owned or controlled by the person on whom it is imposed.
- (3) For the purposes of subsection (2), the Secretary of State may by order make provision for determining—
 - (a) when an enterprise is to be treated as controlled by a person; and
 - (b) the turnover (both in and outside the United Kingdom) of an enterprise.
- (4) An order under subsection (3)(b) may, in particular, make provision as to—
 - (a) the amounts which are, or which are not, to be treated as comprising an enterprise's turnover;
 - (b) the date or dates by reference to which an enterprise's turnover is to be determined.

Status: Point in time view as at 25/04/2013. This version of this provision has been superseded.

Changes to legislation: There are currently no known outstanding effects for the Enterprise Act 2002 (repealed), Section 94A. (See end of Document for details)

- (5) An order under subsection (3) may, in particular, make provision enabling the appropriate authority to determine matters of a description specified in the order (including any of the matters mentioned in paragraphs (a) and (b) of subsection (4)).
- (6) The Secretary of State may by order amend subsection (2) so as to alter the percentage for the time being mentioned there to any percentage not exceeding 5%.
- (7) Sections 112 to 115 apply in relation to a penalty imposed under subsection (1) as they apply in relation to a penalty of a fixed amount imposed under section 110(1), with the modification that any reference in those provisions to the CMA is to be read as a reference to the person who imposed the penalty under this section.
- (8) In this section—
- “interim measure” means—
- (a) an undertaking under section 80; or
 - (b) an order under section 72 or 81 or paragraph 2 of Schedule 7;
- “appropriate authority” means—
- (a) in relation to an interim measure which is an order made by the Secretary of State under paragraph 2 of Schedule 7, the Secretary of State;
 - (b) in relation to any other interim measure, the CMA.]

Textual Amendments

- F1** Ss. 94A, 94B inserted (25.4.2013 for specified purposes) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), **ss. 31(1)**, 103(1)(i)(3)

Status:

Point in time view as at 25/04/2013. This version of this provision has been superseded.

Changes to legislation:

There are currently no known outstanding effects for the Enterprise Act 2002 (repealed), Section 94A.