



Enterprise and Regulatory Reform Act 2013

2013 CHAPTER 24

PART 4

COMPETITION REFORM

CHAPTER 2

MARKETS

Investigation powers

36 Investigation powers: markets

(1) Section 174 of the 2002 Act (investigation powers) is amended as follows.

(2) For subsections (1) and (2) substitute—

“(1) For the purposes of this section, the permitted purposes are the following—

- (a) assisting the CMA in carrying out its functions under section 5 in relation to a matter in a case where it has published a market study notice;
- (b) assisting the CMA in carrying out any functions, including enforcement functions, exercisable by it under or by virtue of this Part in connection with a matter that is or has been the subject of a reference under section 131 or 132 or possible reference under section 131;
- (c) assisting the CMA or the Secretary of State in carrying out any functions, including enforcement functions, of the CMA or (as the case may be) the Secretary of State under or by virtue of this Part in connection with a matter that is or has been the subject of a reference

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Changes to legislation: There are currently no known outstanding effects for the Enterprise and Regulatory Reform Act 2013, Section 36. (See end of Document for details)

under section 140A(6) or possible reference under section 140A(5) or (6).

- (2) The CMA may exercise any of the powers in subsections (3) to (5) for a permitted purpose.”
- (3) In subsection (6), after “shall” insert “—
- (a) specify the permitted purpose for which the notice is given, including the function or functions in question; and
 - (b)”.
- (4) After subsection (6) insert—
- “(6A) The CMA or any person nominated by it for the purpose may, for a permitted purpose, take evidence on oath and for that purpose may administer oaths.”
- (5) In subsection (7), for “the purpose mentioned in subsection (1)” substitute “ a permitted purpose ”.
- (6) After subsection (9) insert—
- “(9A) In subsection (1), “enforcement functions” means—
- (a) in relation to the CMA—
 - (i) functions conferred by virtue of section 164(2)(b) on the CMA by enforcement orders;
 - (ii) functions of the CMA in relation to the variation, supersession or release of enforcement undertakings or the variation or revocation of enforcement orders;
 - (iii) functions of the CMA under or by virtue of section 160 or 162 in relation to enforcement undertakings or enforcement orders;
 - (b) in relation to the Secretary of State—
 - (i) functions conferred by virtue of section 164(2)(b) on the Secretary of State by enforcement orders;
 - (ii) functions of the Secretary of State in relation to the variation, supersession or release of enforcement undertakings or the variation or revocation of enforcement orders;
 - (iii) functions of the Secretary of State under or by virtue of section 160 in relation to enforcement undertakings or enforcement orders.”
- (7) For the heading substitute “ Attendance of witnesses and production of documents etc. ”.
- (8) Schedule 11 (which makes provision about the enforcement of the powers under section 174 of the 2002 Act, as amended by this section, and which makes consequential amendments of that Act) has effect.

Commencement Information

- I1** S. 36 partly in force; s. 36 in force for specified purposes at Royal Assent, see s. 103(1)(i)
- I2** S. 36 in force at 1.4.2014 in so far as not already in force by S.I. 2014/416, art. 2(1)(b) (with Sch.)

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