



Enterprise Act 2002

2002 CHAPTER 40

PART 3

MERGERS

CHAPTER 2

PUBLIC INTEREST CASES

Reports on references

49 Variation of references under section 45

- (1) The [^{F1}CMA] may, if it considers that doing so is justified by the facts (including events occurring on or after the making of the reference concerned), treat—
- (a) a reference made under subsection (2) or (3) of section 45 as if it had been made under subsection (4) or (as the case may be) (5) of that section; or
 - (b) a reference made under subsection (4) or (5) of section 45 as if it had been made under subsection (2) or (as the case may be) (3) of that section;
- and, in such cases, references in this Part to references under those enactments shall, so far as may be necessary, be construed accordingly.
- (2) Where, by virtue of subsection (1), the [^{F1}CMA] treats a reference made under subsection (2) or (3) of section 45 as if it had been made under subsection (4) or (as the case may be) (5) of that section, paragraphs ^{F2}... 2, 7 and 8 of Schedule 7 shall, in particular, apply as if the reference had been made under subsection (4) or (as the case may be) (5) of that section instead of under subsection (2) or (3) of that section.
- (3) Where, by virtue of subsection (1), the [^{F1}CMA] treats a reference made under subsection (4) or (5) of section 45 as if it had been made under subsection (2) or (as the case may be) (3) of that section, paragraphs ^{F3}... 2, 7 and 8 of Schedule 7 shall, in particular, apply as if the reference had been made under subsection (2) or (as the case may be) (3) of that section instead of under subsection (4) or (5) of that section.

Changes to legislation: There are currently no known outstanding effects for the Enterprise Act 2002, Section 49. (See end of Document for details)

- (4) Subsection (5) applies in relation to ^{F4}... any order made under paragraph 2 of [^{F5}Schedule 7], which is in force immediately before the [^{F1}CMA], by virtue of subsection (1), treats a reference as mentioned in subsection (1).
- (5) The ^{F6}... order shall, so far as applicable, continue in force as if—
- (a) in the case of an ^{F6}... order which relates to a reference under subsection (2) or (3) of section 45 ^{F7}... made in relation to a reference made under subsection (4) or (as the case may be) (5) of that section; and
 - (b) in the case of an ^{F6}... order which relates to a reference made under subsection (4) or (5) of that section ^{F7}... made in relation to a reference made under subsection (2) or (as the case may be) (3) of that section;
- and the ^{F6}... order concerned may be varied ^{F8}... or revoked accordingly.
- (6) The Secretary of State may at any time vary a reference under section 45.
- (7) The Secretary of State shall consult the [^{F1}CMA] before varying any such reference.
- (8) Subsection (7) shall not apply if the [^{F1}CMA] has requested the variation concerned.
- (9) No variation by the Secretary of State under this section shall be capable of altering the public interest consideration or considerations specified in the reference or the period permitted by section 51 within which the report of the [^{F1}CMA] under section 50 is to be prepared and given to the Secretary of State.

Textual Amendments

- F1** Word in s. 49(1)-(4)(7)-(9) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 26(3), Sch. 5 para. 91 (with s. 28); [S.I. 2014/416](#), art. 2(1)(d) (with Sch.)
- F2** Word in s. 49(2) omitted (1.4.2014) by virtue of [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 15 para. 25\(2\)](#); [S.I. 2014/416](#), art. 2(1)(f) (with Sch.)
- F3** Word in s. 49(3) omitted (1.4.2014) by virtue of [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 15 para. 25\(3\)](#); [S.I. 2014/416](#), art. 2(1)(f) (with Sch.)
- F4** Words in s. 49(4) omitted (1.4.2014) by virtue of [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 15 para. 25\(4\)\(a\)](#); [S.I. 2014/416](#), art. 2(1)(f) (with Sch.)
- F5** Words in s. 49(4) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 15 para. 25\(4\)\(b\)](#); [S.I. 2014/416](#), art. 2(1)(f) (with Sch.)
- F6** Words in s. 49(5) omitted (1.4.2014) by virtue of [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 15 para. 25\(5\)\(a\)](#); [S.I. 2014/416](#), art. 2(1)(f) (with Sch.)
- F7** Words in s. 49(5) omitted (1.4.2014) by virtue of [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 15 para. 25\(5\)\(b\)](#); [S.I. 2014/416](#), art. 2(1)(f) (with Sch.)
- F8** Words in s. 49(5) omitted (1.4.2014) by virtue of [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 15 para. 25\(5\)\(c\)](#); [S.I. 2014/416](#), art. 2(1)(f) (with Sch.)

Changes to legislation:

There are currently no known outstanding effects for the Enterprise Act 2002, Section 49.