

## SCHEDULE

Regulation 2(b)

### APPLICABLE TURNOVER

#### Interpretation

[<sup>F1</sup>1. In this Schedule “aid means a measure which—

- (a) fulfils the conditions set out in Article 1.1 of the Agreement on Subsidies and Countervailing Measures contained in Annex 1A to the WTO Agreement, and
- (b) is specific within the meaning of Article 2 of that Agreement, irrespective of whether the recipient deals in goods or services.]

**F1** Sch. para. 1 substituted (31.12.2020) by The State Aid (Revocations and Amendments) (EU Exit) Regulations 2020 (S.I. 2020/1470), reg. 1(2), Sch. 2 para. 6(2) (with Sch. 3)

2. Save in paragraphs 4 to 9, the provisions of this Schedule shall be interpreted in accordance with accounting principles and practices that are generally accepted in the United Kingdom.

#### Commencement Information

**I1** Sch. para. 2 in force at 29.12.2004, see reg. 1

3. The applicable turnover of a water enterprise shall be limited to the amounts derived from the sale of products and the provision of services falling within the appointed business of the water enterprise to businesses or consumers in England and Wales after deduction of sales rebates, value added tax and other taxes directly related to turnover.

#### Commencement Information

**I2** Sch. para. 3 in force at 29.12.2004, see reg. 1

4. Subject to paragraphs 8 and 9, where two or more water enterprises which are under common ownership or control are being taken over the applicable turnover shall be calculated by adding together the applicable turnover of each of the water enterprises under common ownership or control.

#### Commencement Information

**I3** Sch. para. 4 in force at 29.12.2004, see reg. 1

5. For the purposes of paragraphs 4 and 7 to 9, water enterprises shall in particular be treated as being under common control if they are—

- (a) water enterprises of interconnected bodies corporate;
- (b) water enterprises carried on by two or more bodies corporate of which one and the same person or group of persons has control; or
- (c) a water enterprise carried on by a body corporate and a water enterprise carried on by a person or group of persons having control of that body corporate.

**Changes to legislation:** There are currently no known outstanding effects for the *The Water Mergers (Determination of Turnover) Regulations 2004, APPLICABLE TURNOVER*. (See end of Document for details)

**Commencement Information**

**I4** Sch. para. 5 in force at 29.12.2004, see reg. 1

6. A person or group of persons able, directly or indirectly, to control or materially influence the policy of a body corporate, or the policy of any person in carrying on a water enterprise but without having a controlling interest in that body corporate or in that enterprise, may for the purpose of paragraph 4, be treated by the [F<sup>2</sup>CMA] as having control of it.

**F2** Word in Sch. para. 6 substituted (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) \(No. 2\) Order 2014 \(S.I. 2014/549\)](#), art. 1(1), [Sch. 1 para. 23\(3\)](#) (with art. 3)

**Commencement Information**

**I5** Sch. para. 6 in force at 29.12.2004, see reg. 1

7. Section 127 of the Enterprise Act 2002 shall apply to the determination of whether water enterprises are under common control for the purposes of paragraphs 5 and 6 as it applies, for the purposes specified in section 127, to section 26 of that Act.

**Commencement Information**

**I6** Sch. para. 7 in force at 29.12.2004, see reg. 1

8. Subject to paragraph 9, applicable turnover shall not include amounts derived from the sale of products or the provision of services between the appointed businesses of water enterprises under common ownership or control.

**Commencement Information**

**I7** Sch. para. 8 in force at 29.12.2004, see reg. 1

9. Where, as a result of the merger situation, one or more water enterprises ceases or will cease to be under common ownership or control with the water enterprise being taken over, the [F<sup>3</sup>CMA] may treat amounts derived from the sale of products or the provision of services between the water enterprise being taken over and any water enterprises ceasing to be under common ownership or control with that water enterprise as applicable turnover. If such sale of products or provision of services has not resulted in any turnover or the [F<sup>3</sup>CMA] considers that the turnover attributed to them does not reflect open market value, the [F<sup>3</sup>CMA] may attribute such value to them as it considers appropriate and include them in the calculation of applicable turnover.

**F3** Word in Sch. para. 9 substituted (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) \(No. 2\) Order 2014 \(S.I. 2014/549\)](#), art. 1(1), [Sch. 1 para. 23\(3\)](#) (with art. 3)

**Commencement Information**

**I8** Sch. para. 9 in force at 29.12.2004, see reg. 1

10. Paragraphs 4 to 9 above shall have no application when determining turnover for the purposes of section 33(1)(b) of the Act.

**Changes to legislation:** There are currently no known outstanding effects for the The Water Mergers (Determination of Turnover) Regulations 2004, APPLICABLE TURNOVER. (See end of Document for details)

---

**Commencement Information**

**I9** [Sch. para. 10](#) in force at 29.12.2004, see [reg. 1](#)

**Aid granted to businesses**

**11.** Any aid granted by a public body to the appointed business of a water enterprise shall be included in the calculation of turnover if the business is itself the recipient of the aid and if the aid is directly linked to the sale of products or the provision of services by the business and is therefore reflected in the price.

---

**Commencement Information**

**I10** [Sch. para. 11](#) in force at 29.12.2004, see [reg. 1](#)

**Changes to legislation:**

There are currently no known outstanding effects for the The Water Mergers (Determination of Turnover) Regulations 2004, APPLICABLE TURNOVER.