



# Enterprise Act 2002

## 2002 CHAPTER 40

### PART 3

#### MERGERS

### CHAPTER 5

#### SUPPLEMENTARY

#### *Investigation powers*

#### **109 Attendance of witnesses and production of documents etc.**

[<sup>F1</sup>(A1) For the purposes of this section, the permitted purposes are the following—

- (a) 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 or possible reference under section 22 or 33;
  - (b) 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 or possible reference under section 45 or 62.]
- (1) [<sup>F2</sup>The CMA may, for a permitted purpose,] give notice to any person requiring him—
    - (a) to attend at a time and place specified in the notice; and
    - (b) to give evidence to the [<sup>F3</sup>CMA] or a person nominated by the [<sup>F3</sup>CMA] for the purpose.
  - (2) [<sup>F4</sup>The CMA may, for a permitted purpose,] give notice to any person requiring him—
    - (a) to produce any documents which—

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- (i) are specified or described in the notice, or fall within a category of document which is specified or described in the notice; and
      - (ii) are in that person's custody or under his control; and
    - (b) to produce them at a time and place so specified and to a person so specified.
  - (3) [<sup>F5</sup>The CMA may, for a permitted purpose,] give notice to any person who carries on any business requiring him—
    - (a) to supply to [<sup>F6</sup>the CMA] such estimates, forecasts, returns or other information as may be specified or described in the notice; and
    - (b) to supply it at a time and place, and in a form and manner, so specified and to a person so specified.
  - (4) A notice under this section shall [<sup>F7</sup>—
    - (a) specify the permitted purpose for which the notice is given, including the function or functions in question; and
    - (b) include information about the possible consequences of not complying with the notice.
  - (5) [<sup>F8</sup>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.
  - (6) The person to whom any document is produced in accordance with a notice under this section may, [<sup>F9</sup>for a permitted purpose], copy the document so produced.
  - (7) No person shall be required under this section—
    - (a) to give any evidence or produce any documents which he could not be compelled to give or produce in civil proceedings before the court; or
    - (b) to supply any information which he could not be compelled to supply in evidence in such proceedings.
  - (8) No person shall be required, in compliance with a notice under this section, to go more than 10 miles from his place of residence unless his necessary travelling expenses are paid or offered to him.
- [<sup>F10</sup>(8A) In subsection (A1), “enforcement functions” means—
- (a) in relation to the CMA—
    - (i) functions conferred by virtue of section 87 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 75, 76, 83 or 92 in relation to enforcement undertakings or enforcement orders;
  - (b) in relation to the Secretary of State—
    - (i) functions conferred by virtue of section 87 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 paragraph 5, 6 or 10 of Schedule 7 in relation to enforcement undertakings or enforcement orders.]

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- (9) Any reference in this section to the production of a document includes a reference to the production of a legible and intelligible copy of information recorded otherwise than in legible form.
- (10) In this section “the court” means—
- (a) in relation to England and Wales or Northern Ireland, the High Court; and
  - (b) in relation to Scotland, the Court of Session.

#### Textual Amendments

- F1** S. 109(A1) inserted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), **ss. 29(2)**, 103(3); S.I. 2014/416, art. 2(1)(b) (with Sch.)
- F2** Words in s. 109(1) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), **ss. 29(3)**, 103(3); S.I. 2014/416, art. 2(1)(b) (with Sch.)
- F3** Word in s. 109(1)(b) substituted (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014 \(S.I. 2014/892\)](#), art. 1(1), **Sch. 1 para. 3** (with art. 3)
- F4** Words in s. 109(2) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), **ss. 29(4)**, 103(3); S.I. 2014/416, art. 2(1)(b) (with Sch.)
- F5** Words in s. 109(3) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), **ss. 29(5)**, 103(3); S.I. 2014/416, art. 2(1)(b) (with Sch.)
- F6** Words in s. 109(3)(a) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), **Sch. 5 para. 143** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F7** Words in s. 109(4) inserted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), **ss. 29(6)**, 103(3); S.I. 2014/416, art. 2(1)(b) (with Sch.)
- F8** Words in s. 109(5) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), **ss. 29(7)**, 103(3); S.I. 2014/416, art. 2(1)(b) (with Sch.)
- F9** Words in s. 109(6) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), **ss. 29(8)**, 103(3); S.I. 2014/416, art. 2(1)(b) (with Sch.)
- F10** S. 109(8A) inserted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), **ss. 29(9)**, 103(3); S.I. 2014/416, art. 2(1)(b) (with Sch.)

#### 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.)
- C2** S. 109 applied (20.6.2003) by 2000 c. 38, s. 18(6)(10)(11) (as substituted by [Enterprise Act 2002 \(c. 40\)](#), **ss. 278, 279, Sch. 25 para. 44(5)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C3** S. 109 applied (20.6.2003) by 2000 c. 38, s. 12(B)(1)(5)(6) (as inserted by [Enterprise Act 2002 \(c. 40\)](#), **ss. 278, 279, Sch. 25 para. 44(3)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C4** S. 109 applied (20.6.2003) by 2000 c. 26, s. 19A(6)(10)(11) (as inserted by [Enterprise Act 2002 \(c. 40\)](#), **ss. 278, 279, Sch. 25 para. 42(4)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C5** S. 109 applied (20.6.2003) by 2000 c. 26, s. 15B(1)(5)(6) (as inserted by [Enterprise Act 2002 \(c. 40\)](#), **ss. 278, 279, Sch. 25 para. 42(2)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C6** S. 109 applied (20.6.2003) by S.I. 1996/275 (N.I. 2), s. 15B(1)(4)(5) (as inserted by [Enterprise Act 2002 \(c. 40\)](#), **ss. 278, 279, Sch. 25 para. 36(3)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C7** S. 109 applied (20.6.2003) by S.I. 1994/426 (N.I. 1), s. 35(B)(1)(4)(5) as inserted by [Enterprise Act 2002 \(c. 40\)](#), **ss. 278, 279, Sch. 25 para. 33(3)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C8** S. 109 applied (20.6.2003) by 1993 c. 43, Sch. 4A para. 15(2D)(2H)(2I) (as substituted by [Enterprise Act 2002 \(c. 40\)](#), **ss. 278, 279, Sch. 25 para. 30(15)(c)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C9** S. 109 applied (20.6.2003) by 1993 c. 43, Sch. 4A para. 10A(1)(5)(6) (as substituted by [Enterprise Act 2002 \(c. 40\)](#), **ss. 278, 279, Sch. 25 para. 30(15)(a)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)

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- C10** S.109 applied (20.6.2003) by 1993 c. 43, s. 15C(2D)(2H)(2I) (as substituted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 30(6)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C11** S.109 applied (20.6.2003) by 1993 c. 43, s. 13B(1)(5)(6) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 30(4)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C12** S.109 applied (20.6.2003) by 2000 c. 8, Sch. 14 para. 2A(1)(5)(6) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 40(20)(b)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C13** S. 109 applied (20.6.2003) by S.I. 1992/231 (N.I. 1), art. 15B(1)(4)(5) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 28(3)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C14** S. 109 applied (20.6.2003) by 1991 c. 56, s. 14B(1)(4)(5) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 25(5)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C15** S. 109 applied (20.6.2003) by 1990 c. 42, Sch. 4 para. 4A(1)(4)(5) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 24(9)(e)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C16** S. 109 applied (20.6.2003) by 1989 c. 29, s. 56CB(1)(5)(6) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 20(12)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C17** S. 109 applied (20.6.2003) by 1989 c. 29, s. 14A(11F)(11I)(11J) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 20(6)(a)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C18** S. 109 applied (20.6.2003) by 1989 c. 29, s. 12B(1)(4)(5) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 20(4)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C19** S. 109 applied (20.6.2003) by 1986 c. 44, s. 41EB(1)(5)(6) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 15(12)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C20** S. 109 applied (20.6.2003) by 1986 c. 44, s. 26A(11F)(11I)(11J) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 15(6)(a)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C21** S. 109 applied (20.6.2003) by 1986 c. 44, s. 24B(1)(4)(5) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 15(4)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C22** S. 109 applied (20.6.2003) by 1986 c. 31, s. 44B(1)(4)(5) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 14(3)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C23** S. 109 applied (20.6.2003) by 1984 c. 12, s. 13B(1)(4)(5) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 13(4)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C24** S. 109 applied (20.6.2003) by 1980 c. 21, s. 11B(1) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 10(3)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)  
S. 109 applied (1.10.2005) by 1991 c. 56, s. 17M(1) (as inserted by Water Act 2003 (c. 37), ss. 56, 105(3), **Sch. 4 para. 2**); S.I. 2005/2714, **art. 2(h)** (with Sch. para. 5)  
S. 109 applied (1.10.2005) by 1991 c. 56, s. 17Q(6) (as inserted by Water Act 2003 (c. 37), ss. 56, 105(3), **Sch. 4 para. 2**); S.I. 2005/2714, **art. 2(h)** (with Sch. para. 5)  
S. 109 applied (S.) (11.11.2005) by The Water Services etc. (Scotland) Act 2005 (Consequential Provisions and Modifications) Order 2005 (S.I. 2005/3172), **arts. 5, 10(3)-(7)**  
S. 109 applied (N.I.) (1.4.2007) by The Water and Sewerage Services (Northern Ireland) Order 2006 (S.I. 2006/3336 (N.I. 21)), arts. 1(2)(3), **23(1)(a), 27(6)(a)** (with arts. 8(9), 121, 307); S.R. 2007/194, **art. 2(2)**, Sch. 1 Pt. 2 (with Sch. 2)
- C25** S. 109 applied (with modifications) (20.6.2003) by The Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003 (S.I. 2003/1592), art. 15, **Sch. 3 para. 1(1)(o)(15)** (as amended (1.4.2014) by The Enterprise Act 2002 (Protection of Legitimate Interests) (Amendment) Order 2014 (S.I. 2014/891), arts. 1, **18(1)-(17)** (with arts. 20-23))  
S. 109 applied (with modifications) (20.6.2003) by S.I. 1999/3088, reg. 8 (as substituted by The Enterprise Act 2002 (Consequential and Supplemental Provisions) Order 2003 (S.I. 2003/1398), art. 2, **Sch. para. 36(3)**)  
S. 109 applied (with modifications) (N.I.) (2.3.2004) by S.I. 1992/231 (N.I. 1), art. 17A(14)(a)(17)(18) (as inserted by The Energy (Northern Ireland) Order (S.I. 2003/419 (N.I. 6)), {art. 36(2)}; S.R. 2004/71, **art. 2**, Sch.)  
S. 109 applied (with modifications) (N.I.) (2.3.2004) by S.I. 1996/275 (N.I. 2), art. 17A(17)(a)(20)(21) (as inserted by The Energy (Northern Ireland) Order (S.I. 2003/419 (N.I. 6)), {art. 37(2)}; S.R. 2004/71, **art. 2**, Sch.)

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- S. 109 applied (with modifications) (N.I.) (2.3.2004) by The Energy (Northern Ireland) Order (S.I. 2003/419 (N.I. 6)), arts. 39(2), 40(2), {Sch. 2 para. 5(1)(a)(5)(6)}; S.R. 2004/71, **art. 2**, Sch.
- S. 109 applied (with modifications) (1.10.2004) by 1991 c. 56, s. 16B(6)(a)-(10) (as inserted by Water Act 2003 (c. 37), **ss. 55(4)**, 105(3); S.I. 2004/2528, **art. 2(h)** (with art. 4, Sch.))
- C26** Ss. 109-115 applied (with modifications) (1.1.2010) by Legal Services Act 2007 (c. 29), **ss. 60(9)**, 211(2) (with **ss. 29**, 192, 193); S.I. 2009/3250, **art. 2(c)(i)** (as amended (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), **art. 1(1)**, Sch. 1 para. 177 (with art. 3, Sch. 2 para. 2))
- C27** S. 109 applied (with modifications) (15.1.2012) by The Postal Services (Appeals to the Competition Commission) (Investigations and Extension of Time Limits) Order 2011 (S.I. 2011/2749), arts. 1, **3(a)**, 4 (as amended (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. 45(3)(4) (with art. 3))
- C28** S. 109 applied (with modifications) (1.11.2012) by Health and Social Care Act 2012 (c. 7), s. 306(4), Sch. 10 para. 10(1)(a)(12); S.I. 2012/2657, **art. 2(2)**
- C29** S. 109 applied (with modifications) by 1993 c. 43, s. 15C(2DA) (as inserted (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), **art. 1(1)**, **Sch. 1 para. 102(3)** (with art. 3, Sch. 2 para. 2))
- C30** S. 109 applied (with modifications) by 2000 c. 38, s. 18(6A) (as inserted (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), **art. 1(1)**, **Sch. 1 para. 151(3)** (with art. 3, Sch. 2 para. 2))
- C31** S. 109 applied (with modifications) by 2000 c. 38, s. 12B(1A) (as inserted (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), **art. 1(1)**, **Sch. 1 para. 150(3)** (with art. 3, Sch. 2 para. 2))
- C32** S. 109 applied (with modifications) by S.I. 2005/3172, **art. 10(3A)** (as inserted (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), **art. 1(1)**, **Sch. 1 para. 246(3)** (with art. 3, Sch. 2 para. 2))
- C33** S. 109 applied (with modifications) by S.I. 1996/275 (N.I. 2), **art. 17A(17A)** (as inserted (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), **art. 1(1)**, **Sch. 1 para. 219(3)** (with art. 3, Sch. 2 para. 2))
- C34** S. 109 applied (with modifications) by 1991 c. 56, s. 14B(1A) (as inserted (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), **art. 1(1)**, **Sch. 1 para. 75(3)** (with art. 3, Sch. 2 para. 2))
- C35** S. 109 applied (with modifications) by 1991 c. 56, s. 17M(1A) (as inserted (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), **art. 1(1)**, **Sch. 1 para. 78(3)** (with art. 3, Sch. 2 para. 2))
- C36** S. 109 applied (with modifications) by 1993 c. 43, s. 13B(1A) (as inserted (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), **art. 1(1)**, **Sch. 1 para. 101(3)** (with art. 3, Sch. 2 para. 2))
- C37** S. 109 applied (with modifications) by S.I. 1992/231 (N.I. 1), **art. 15B(1A)** (as inserted (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), **art. 1(1)**, **Sch. 1 para. 213(3)** (with art. 3, Sch. 2 para. 2))
- C38** S. 109 applied (with modifications) by S.I. 1992/231 (N.I. 1), **art. 17A(14A)** (as inserted (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), **art. 1(1)**, **Sch. 1 para. 214(3)** (with art. 3, Sch. 2 para. 2))
- C39** S. 109 applied (with modifications) by S.I. 2003/419 (N.I. 6), Sch. 2 para. 5(1A) (as inserted (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), **art. 1(1)**, **Sch. 1 para. 243(3)** (with art. 3, Sch. 2 para. 2))

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- C40** S. 109 applied (with modifications) by 1986 c. 44, s. 41EB(1A) (as inserted (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 1(1), **Sch. 1 para. 51(3)** (with art. 3, Sch. 2 para. 2))
- C41** S. 109 applied (with modifications) by S.I. 2005/3172, art. 5(1A) (as inserted (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 1(1), **Sch. 1 para. 245(3)** (with art. 3, Sch. 2 para. 2))
- C42** S. 109 applied (with modifications) by 1980 c. 21, s. 11B(1A) (as inserted (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 1(1), **Sch. 1 para. 36(3)** (with art. 3, Sch. 2 para. 2))
- C43** S. 109 applied (with modifications) by 1993 c. 43, Sch. 4A para. 10A(1A) (as inserted (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 1(1), **Sch. 1 para. 111(3)** (with art. 3, Sch. 2 para. 2))
- C44** S. 109 applied (with modifications) by 1989 c. 29, s. 56CB(1A) (as inserted (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 1(1), **Sch. 1 para. 68(3)** (with art. 3, Sch. 2 para. 2))
- C45** S. 109 modified by S.I. 2003/1592, art. 5A(e) (as inserted (1.4.2014) by The Enterprise Act 2002 (Protection of Legitimate Interests) (Amendment) Order 2014 (S.I. 2014/891), arts. 1, 7 (with arts. 20-23))
- C46** S. 109 applied (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. 2 para. 3** (with art. 3)
- C47** S. 109 applied (with modifications) by 1991 c. 56, s. 16B(6A) (as inserted (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 1(1), **Sch. 1 para. 76(3)** (with art. 3, Sch. 2 para. 2))
- C48** S. 109 applied (with modifications) by S.I. 1996/275 (N.I. 2), art. 15B(1A) (as inserted (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 1(1), **Sch. 1 para. 218(3)** (with art. 3, Sch. 2 para. 2))
- C49** Ss. 109-111 savings for effect of 2013 c. 24, s. 29 (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 1(1), **Sch. 2 para. 1** (with art. 3)
- C50** S. 109 applied (with modifications) by 1991 c. 56, s. 17Q(6A) (as inserted (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 1(1), **Sch. 1 para. 79(3)** (with art. 3, Sch. 2 para. 2))
- C51** S. 109 applied (with modifications) by S.I. 2006/3336 (N.I. 21), art. 27(6A) (as inserted (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 1(1), **Sch. 1 para. 251(3)** (with art. 3, Sch. 2 para. 2))
- C52** S. 109 applied (with modifications) by 1993 c. 43, Sch. 4A para. 15(2DA) (as inserted (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 1(1), **Sch. 1 para. 112(3)** (with art. 3, Sch. 2 para. 2))
- C53** S. 109 applied (with modifications) by 2012 c. 7, Sch. 10 para. 10(2A) (as inserted (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 1(1), **Sch. 1 para. 195(4)** (with art. 3, Sch. 2 para. 2))
- C54** S. 109 applied (with modifications) by S.I. 2006/3336 (N.I. 21), art. 23(1A) (as inserted (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 1(1), **Sch. 1 para. 250(3)** (with art. 3, Sch. 2 para. 2))
- C55** S. 109(A1) saving for the effect of 2013 c. 24, s. 29(2) (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. 6** (with art. 3)

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- C56** S. 109(1) saving for the effect of 2013 c. 24, s. 29(3) (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. 6** (with art. 3)
- C57** S. 109(2) saving for the effect of 2013 c. 24, s. 29(4) (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. 6** (with art. 3)
- C58** S. 109(3) saving for the effect of 2013 c. 24, s. 29(5) (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. 6** (with art. 3)
- C59** S. 109(4) saving for the effect of 2013 c. 24, s. 29(6) (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. 6** (with art. 3)
- C60** S. 109(5) saving for the effect of 2013 c. 24, s. 29(7) (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. 6** (with art. 3)
- C61** S. 109(6) saving for the effect of 2013 c. 24, s. 29(8) (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. 6** (with art. 3)
- C62** S. 109(8A) saving for the effect of 2013 c. 24, s. 29(9) (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. 6** (with art. 3)

## 110 Enforcement of powers under section 109: general

- (1) Where the [F11CMA] considers that a person has, without reasonable excuse, failed to comply with any requirement of a notice under section 109, it may impose a penalty in accordance with section 111.
- (2) The [F11CMA] may proceed (whether at the same time or at different times) under subsection (1) and section 39(4) or (as the case may be) 51(4) (including that enactment as applied by section 65(3)) in relation to the same failure.
- (3) Where the [F11CMA] considers that a person has intentionally obstructed or delayed another person in the exercise of his powers under section 109(6), it may impose a penalty in accordance with section 111.
- <sup>F12</sup>(4) .....
- (5) A person, subject to subsection (6), commits an offence if he intentionally alters, suppresses or destroys any document which he has been required to produce by a notice under section 109.
- (6) A person does not commit an offence under subsection (5) in relation to any act which constitutes a failure to comply with a notice under section 109 if the [F13CMA] has proceeded against that person under subsection (1) above in relation to that failure.
- (7) A person who commits an offence under subsection (5) shall be liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.
- (8) The [F14CMA] shall not proceed against a person under subsection (1) in relation to an act which constitutes an offence under subsection (5) if that person has been found guilty of that offence.

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- (9) In deciding whether and, if so, how to proceed under subsection (1) or (3) or section 39(4) or 51(4) (including that enactment as applied by section 65(3)), the [F15CMA] shall have regard to the statement of policy which was most recently published under section 116 at the time when the failure concerned or (as the case may be) the obstruction or delay concerned occurred.
- (10) The reference in this section to the production of a document includes a reference to the production of a legible and intelligible copy of information recorded otherwise than in legible form; and the reference to suppressing a document includes a reference to destroying the means of reproducing information recorded otherwise than in legible form.

#### Textual Amendments

- F11** Word in s. 110(1)-(3) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 144** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F12** S. 110(4) omitted (1.4.2014) by virtue of Enterprise and Regulatory Reform Act 2013 (c. 24), **ss. 29(10)**, 103(3); S.I. 2014/416, art. 2(1)(b) (with Sch.)
- F13** Word in s. 110(6) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 144** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F14** Word in s. 110(8) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 144** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F15** Word in s. 110(9) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 144** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

#### Modifications etc. (not altering text)

- C26** Ss. 109-115 applied (with modifications) (1.1.2010) by Legal Services Act 2007 (c. 29), **ss. 60(9)**, 211(2) (with **ss. 29**, 192, 193); S.I. 2009/3250, art. 2(c)(i) (as amended (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 1(1), Sch. 1 para. 177 (with art. 3, Sch. 2 para. 2))
- C49** Ss. 109-111 savings for effect of 2013 c. 24, s. 29 (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 1(1), **Sch. 2 para. 1** (with art. 3)
- C63** S. 110 applied (with modifications) (20.6.2003) by S.I. 1992/231 (N.I. 1), art. 15B(1)(2)(4)(5) (as inserted by Enterprise Act 2002 (c. 40), **ss. 278**, 279, **Sch. 25 para. 28(3)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C64** S. 110 applied (with modifications) (20.6.2003) by 1991 c. 56, s. 14B(1)(2)(4)(5) (as inserted by Enterprise Act 2002 (c. 40), **ss. 278**, 279, **Sch. 25 para. 25(5)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C65** S. 110 applied (with modifications) (20.6.2003) by 1990 c. 42, Sch. 4 para. 4A(1)(2)(4)(5) (as inserted by Enterprise Act 2002 (c. 40), **ss. 278**, 279, **Sch. 25 para. 24(9)(e)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C66** S. 110 applied (with modifications) (20.6.2003) by 1989 c. 29, s. 56CB(1)(2)(5)(6) (as inserted by Enterprise Act 2002 (c. 40), **ss. 278**, 279, **Sch. 25 para. 20(12)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C67** S. 110 applied (with modifications) (20.6.2003) by 1989 c. 29, s. 14A(11F)(11G)(11I)(11J) (as inserted by Enterprise Act 2002 (c. 40), **ss. 278**, 279, **Sch. 25 para. 20(6)(a)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C68** S. 110 applied (with modifications) (20.6.2003) by 1989 c. 29, s. 12B(1)(2)(4)(5) (as inserted by Enterprise Act 2002 (c. 40), **ss. 278**, 279, **Sch. 25 para. 20(4)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)



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- C69** S. 110 applied (with modifications) (20.6.2003) by 1986 c. 44, s. 41EB(1)(2)(5)(6) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 15(12)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C70** S. 110 applied (with modifications) (20.6.2003) by 1986 c. 44, s. 26A(11F)(11G)(11I)(11J) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 15(6)(a)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C71** S. 110 applied (with modifications) (20.6.2003) by 1986 c. 44, s. 24B(1)(2)(4)(5) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 15(4)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C72** S. 110 applied (with modifications) (20.6.2003) by 1986 c. 31, s. 44B(1)(2)(4)(5) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 14(3)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C73** S. 110 applied (with modifications) (20.6.2003) by 1984 c. 12, s. 13B(1)(2)(4)(5) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 13(4)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C74** S. 110 applied (with modifications) (20.6.2003) by 2000 c. 38, s. 18(6)(7)(10)(11) (as substituted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 44(5)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C75** S. 110 applied (with modifications) (20.6.2003) by 2000 c. 38, s. 12B(1)(2)(5)(6) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 44(3)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C76** S. 110 applied (with modifications) (20.6.2003) by 2000 c. 26, s. 19A(6)(7)(10)(11) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 42(4)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C77** S. 110 applied (with modifications) (20.6.2003) by 2000 c. 26, s. 15B(1)(2)(5)(6) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 42(2)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C78** S. 110 applied (with modifications) (20.6.2003) by S.I. 1996/275 (N.I. 2), art. 15B(1)(2)(4)(5) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 36(3)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C79** S. 110 applied (with modifications) (20.6.2003) by S.I. 1994/426 (N.I. 1), s. 35B(1)(2)(4)(5) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 33(3)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C80** S. 110 applied (with modifications) (20.6.2003) by 1993 c. 43, Sch. 4A para. 15(2D)(2E)(2H)(2I) (as substituted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 30(15)(c)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C81** S. 110 applied (with modifications) (20.6.2003) by 1993 c. 43, Sch. 4A para. 10A(1)(2)(5)(6) (as substituted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 30(15)(a)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C82** S. 110 applied (with modifications) (20.6.2003) by 1993 c. 43, s. 15C(2D)(2E)(2H)(2I) (as substituted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 30(6)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C83** S. 110 applied (with modifications) (20.6.2003) by 1993 c. 43, s. 13B(1)(2)(5)(6) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 30(4)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C84** S. 110 applied (with modifications) (20.6.2003) by 2000 c. 8, Sch. 14 para. 2A(1)(2)(5)(6) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 40(20)(b)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C85** S. 110 applied (with modifications) (20.6.2003) by 1980 c. 21, s. 11B(1)(2) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 10(3)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)  
S. 110 applied (with modifications) (20.6.2003) by The Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003 (S.I. 2003/1592), art. 15, **Sch. 3 para. 1(1)(p)(16)** (as amended (1.4.2014))

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- by The Enterprise Act 2002 (Protection of Legitimate Interests) (Amendment) Order 2014 (S.I. 2014/891), arts. 1, **18(1)-(17)** (with arts. 20-23))
- S. 110 applied (with modifications) (20.6.2003) by S.I. 1999/3088, reg. 8 (as substituted by The Enterprise Act 2002 (Consequential and Supplemental Provisions) Order 2003 (S.I. 2003/1398), art. 2, **Sch. para. 36(3)**)
- S. 110 applied (with modifications) (N.I.) (2.3.2004) by The Energy (Northern Ireland) Order (S.I. 2003/419 (N.I. 6)), arts. 39(2), 40(2), {Sch. 2 para. 5(1)(b)(2)(3)(5)(6)}; S.R. 2004/71, **art. 2, Sch.**
- S. 110 applied (with modifications) (N.I.) (2.3.2004) by S.I. 1996/275 (N.I. 2), art. 17A(17)(b)(18)(19)(20)(21) (as inserted by The Energy (Northern Ireland) Order (S.I. 2003/419 (N.I. 6)), {art. 37(2)}; S.R. 2004/71, **art. 2, Sch.**)
- S. 110 applied (with modifications) (N.I.) (2.3.2004) by S.I. 1992/231 (N.I. 1), art. 17A(14)(b)(15)(16)(17)(18) (as inserted by The Energy (Northern Ireland) Order (S.I. 2003/419 (N.I. 6)), {art. 36(2)}; S.R. 2004/71, **art. 2, Sch.**)
- S. 110 applied (with modifications) (1.10.2004) by 1991 c. 56, s. 16B(6)(b)-(10) (as inserted by Water Act 2003 (c. 37), **ss. 55(4), 105(3)**; S.I. 2004/2528, **art. 2(h)** (with art. 4, Sch.))
- S. 110 applied (with modifications) (1.10.2005) by 1991 c. 56, s. 17M(1)(2) (as inserted by Water Act 2003 (c. 37), **ss. 56, 105(3), Sch. 4 para. 2**; S.I. 2005/2714, **art. 2(h)** (with Sch. para. 5))
- S. 110 applied (with modifications) (1.10.2005) by 1991 c. 56, s. 17Q(6)(7) (as inserted by Water Act 2003 (c. 37), **ss. 56, 105(3), Sch. 4 para. 2**; S.I. 2005/2714, **art. 2(h)** (with Sch. para. 5))
- S. 110 applied (with modifications) (S.) (11.11.2005) by The Water Services etc. (Scotland) Act 2005 (Consequential Provisions and Modifications) Order 2005 (S.I. 2005/3172), **arts. 5, 10(3)-(7)**
- S. 110 applied (with modifications) (N.I.) (1.4.2007) by The Water and Sewerage Services (Northern Ireland) Order 2006 (S.I. 2006/3336 (N.I. 21)), arts. 1(2)(3), **23(1)(b)(2), 27(6)(b)(7)** (with arts. 8(9), 121, 307); S.R. 2007/194, **art. 2(2), Sch. 1 Pt. 2** (with Sch. 2)
- C86** S. 110 applied (with modifications) (15.1.2012) by The Postal Services (Appeals to the Competition Commission) (Investigations and Extension of Time Limits) Order 2011 (S.I. 2011/2749), arts. 1, **3(b), 4** (as amended (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. 45(3)(4) (with art. 3))
- C87** S. 110 applied (with modifications) (1.11.2012) by Health and Social Care Act 2012 (c. 7), s. 306(4), Sch. 10 para. 10(1)(b)(2)-(4)(**12**); S.I. 2012/2657, art. 2(2)
- C88** Ss. 110-115 modified by S.I. 2003/1592, art. 5A(f) (as inserted (1.4.2014) by The Enterprise Act 2002 (Protection of Legitimate Interests) (Amendment) Order 2014 (S.I. 2014/891), arts. 1, **7** (with arts. 20-23))
- C89** S. 110(4) saving for the effect of 2013 c. 24, s. 29(10) (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. 6** (with art. 3)

## [<sup>F16</sup>110A Restriction on powers to impose penalties under section 110

- (1) No penalty shall be imposed by virtue of section 110(1) or (3) if more than 4 weeks have passed since the day which is the relevant day in the case in question; but this subsection shall not apply in relation to any variation or substitution of the penalty which is permitted by virtue of this Part.
- (2) In the following provisions of this section, “the section 109 power” means the power under section 109 to which the failure or (as the case may be) the obstruction or delay in question relates.
- (3) Where the section 109 power is exercised in connection with an enforcement function (within the meaning of that section), the relevant day is the day when the enforcement undertaking concerned is superseded or released or (as the case may be) the enforcement order concerned is revoked.

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- (4) Except where subsection (3) applies, the relevant day is the day determined in accordance with the following provisions of this section.
- (5) Where the section 109 power is exercised for the purpose mentioned in section 109(A1)(a) in connection with a matter that is the subject of a possible reference under section 22 or 33, the relevant day is the day when the CMA finally decides whether to make the reference.
- (6) Where the section 109 power is exercised for the purpose mentioned in section 109(A1)(a) in connection with a matter that is the subject of a reference under section 22 or 33, the relevant day is the day when the reference is finally determined (see section 79).
- (7) Where the section 109 power is exercised for the purpose mentioned in section 109(A1)(b) in connection with a matter that is the subject of a possible reference under section 45 or 62, the relevant day is the day when the Secretary of State finally decides whether to make the reference.
- (8) Where the section 109 power is exercised for the purpose mentioned in section 109(A1)(b) in connection with a matter that is the subject of a reference under section 45 or 62, the relevant day is the day when the reference is finally determined.]

#### Textual Amendments

**F16** Ss. 110A, 110B inserted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), **ss. 29(11), 103(3)**; [S.I. 2014/416](#), art. 2(1)(b) (with Sch.) (with savings in [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. 6** (with art. 3))

#### Modifications etc. (not altering text)

- C90** S. 110A applied (with modifications) by 1980 c. 21, s. 11B(2A) (as inserted (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014 \(S.I. 2014/892\)](#), art. 1(1), **Sch. 1 para. 36(5)** (with art. 3, Sch. 2 para. 2))
- C91** S. 110A applied (with modifications) by 1980 c. 21, s. 11B(1)(ba) (as inserted (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014 \(S.I. 2014/892\)](#), art. 1(1), **Sch. 1 para. 36(2)(b)** (with art. 3, Sch. 2 para. 2))

#### [<sup>F16</sup>110B Section 110A: supplementary provision

- (1) For the purpose of section 110A(5), the CMA finally decides whether to make a reference under section 22 or 33 if—
  - (a) the CMA decides that the duty to make such a reference applies;
  - (b) the CMA accepts an undertaking under section 73;
  - (c) the CMA decides not to make such a reference (otherwise than because it has accepted an undertaking under section 73);
  - (d) the initial period for the purposes of section 34ZA expires without the CMA having complied with the duty under subsection (1) of that section;
  - (e) the preliminary assessment period for the purposes of section 34A expires without the CMA having complied with the duty under subsection (2) of that section;

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- (f) the period permitted by section 73A for the CMA to make a decision required by subsection (2)(a) or (3) of that section expires without the CMA having made the decision.
- (2) For the purpose of section 110A(5), the time when the CMA finally decides whether to make a reference under section 22 or 33 is—
- (a) in a case falling within subsection (1)(a), the making of the decision that the duty to make such a reference applies;
  - (b) in a case falling within subsection (1)(b), the acceptance of the undertaking;
  - (c) in a case falling within subsection (1)(c), the making of the decision not to make the reference;
  - (d) in a case falling within subsection (1)(d), the expiry of the initial period;
  - (e) in a case falling within subsection (1)(e), the expiry of the preliminary assessment period;
  - (f) in a case falling within subsection (1)(f), the expiry of the period in question.
- (3) For the purpose of section 110A(7), the Secretary of State finally decides whether to make a reference under section 45 or 62 if—
- (a) the Secretary of State makes such a reference;
  - (b) the Secretary of State accepts an undertaking under paragraph 3 of Schedule 7;
  - (c) the Secretary of State decides not to make such a reference (otherwise than because of the acceptance of an undertaking under paragraph 3 of Schedule 7);
  - (d) the preliminary assessment period for the purposes of section 46A expires without the CMA having complied with the duty under subsection (2) of that section.
- (4) For the purpose of section 110A(7), the time when the Secretary of State finally decides whether to make a reference under section 45 or 62 is—
- (a) in a case falling within subsection (3)(a), the making of the reference;
  - (b) in a case falling within subsection (3)(b), the acceptance of the undertaking;
  - (c) in a case falling within subsection (3)(c), the making of the decision not to make the reference;
  - (d) in a case falling within subsection (3)(d), the expiry of the preliminary assessment period.
- (5) Paragraph 7(8) to (10) of Schedule 7 applies for deciding if and when a reference under section 45(2) or (3) or 62(2) is finally determined for the purpose of section 110A(8) as it applies for deciding those questions for the purpose of paragraph 7 of Schedule 7.
- (6) Paragraph 8(7) to (9) of Schedule 7 applies for deciding if and when a reference under section 45(4) or (5) or 62(3) is finally determined for the purpose of section 110A(8) as it applies for deciding those questions for the purpose of the definition of “relevant period” in paragraph 8(6) of that Schedule.

#### Textual Amendments

- F16** Ss. 110A, 110B inserted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), ss. **29(11)**, **103(3)**; S.I. 2014/416, art. 2(1)(b) (with Sch.) (with savings in [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. 6** (with art. 3))

*Status: Point in time view as at 01/04/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Enterprise Act 2002, Cross Heading: Investigation powers. (See end of Document for details)*

**Modifications etc. (not altering text)**

**C92** S. 110B saving for the effect of 2013 c. 24, s. 29(11) (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. 6** (with art. 3)

**111 Penalties**

- (1) A penalty imposed under section 110(1) or (3) shall be of such amount as the [<sup>F17</sup>CMA] considers appropriate.
- (2) The amount may, in the case of a penalty imposed under section 110(1), be a fixed amount, an amount calculated by reference to a daily rate or a combination of a fixed amount and an amount calculated by reference to a daily rate.
- (3) The amount shall, in the case of a penalty imposed under section 110(3), be a fixed amount.
- (4) No penalty imposed under section 110(1) shall—
  - (a) in the case of a fixed amount, exceed such amount as the Secretary of State may by order specify;
  - (b) in the case of an amount calculated by reference to a daily rate, exceed such amount per day as the Secretary of State may so specify; and
  - (c) in the case of a fixed amount and an amount calculated by reference to a daily rate, exceed such fixed amount and such amount per day as the Secretary of State may so specify.
- (5) In imposing a penalty by reference to a daily rate—
  - (a) no account shall be taken of any days before the service of the notice under section 112 on the person concerned; and
  - (b) unless the [<sup>F18</sup>CMA] determines an earlier date (whether before or after the penalty is imposed), the amount payable shall cease to accumulate at the beginning of—
    - (i) the day on which the requirement of the notice concerned under section 109 is satisfied <sup>F19</sup>...; or
    - (ii) if earlier, [<sup>F20</sup> the day which is the relevant day in the case in question for the purposes of section 110A].
- (6) No penalty imposed under section 110(3) shall exceed such amount as the Secretary of State may by order specify.
- (7) An order under subsection (4) or (6) shall not specify—
  - (a) in the case of a fixed amount, an amount exceeding £30,000;
  - (b) in the case of an amount calculated by reference to a daily rate, an amount per day exceeding £15,000; and
  - (c) in the case of a fixed amount and an amount calculated by reference to a daily rate, a fixed amount exceeding £30,000 and an amount per day exceeding £15,000.
- (8) Before making an order under subsection (4) or (6) the Secretary of State shall consult the [<sup>F21</sup>CMA] and such other persons as he considers appropriate.

*Status: Point in time view as at 01/04/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Enterprise Act 2002, Cross Heading: Investigation powers. (See end of Document for details)*

### Textual Amendments

- F16** Ss. 110A, 110B inserted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), **ss. 29(11)**, 103(3); S.I. 2014/416, art. 2(1)(b) (with Sch.) (with savings in 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. 6** (with art. 3))
- F17** Word in s. 111(1) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 145** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F18** Word in s. 111(5) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 145** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F19** Words in s. 111(5)(b)(i) omitted (1.4.2014) by virtue of Enterprise and Regulatory Reform Act 2013 (c. 24), **ss. 29(12)(a)**, 103(3); S.I. 2014/416, art. 2(1)(b) (with Sch.)
- F20** Words in s. 111(5)(b)(ii) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), **ss. 29(12)(b)**, 103(3); S.I. 2014/416, art. 2(1)(b) (with Sch.)
- F21** Word in s. 111(8) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 145** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

### Modifications etc. (not altering text)

- C26** Ss. 109-115 applied (with modifications) (1.1.2010) by Legal Services Act 2007 (c. 29), **ss. 60(9)**, 211(2) (with **ss. 29**, 192, 193); S.I. 2009/3250, art. 2(c)(i) (as amended (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 1(1), Sch. 1 para. 177 (with art. 3, Sch. 2 para. 2))
- C49** Ss. 109-111 savings for effect of 2013 c. 24, s. 29 (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 1(1), **Sch. 2 para. 1** (with art. 3)
- C88** Ss. 110-115 modified by S.I. 2003/1592, art. 5A(f) (as inserted (1.4.2014) by The Enterprise Act 2002 (Protection of Legitimate Interests) (Amendment) Order 2014 (S.I. 2014/891), arts. 1, 7 (with arts. 20-23))
- C93** S. 111 applied (with modifications) (20.6.2003) by S.I. 1992/231 (N.I. 1), art. 15B(1)(3)-(5) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 28(3)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8) (as amended (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 1(1), **Sch. 1 para. 213(5)** (with art. 3, Sch. 2 para. 2))
- C94** S. 111 applied (with modifications) (20.6.2003) by 1991 c. 56, s. 14B(1)(3)-(5) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 25(5)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8) (as amended (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 1(1), **Sch. 1 para. 75(5)** (with art. 3, Sch. 2 para. 2))
- C95** S. 111 applied (with modifications) (20.6.2003) by 1990 c. 42, Sch. 4 para. 4A(1)(3)-(5) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 24(9)(e)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C96** S. 111 applied (with modifications) (20.6.2003) by 1989 c. 29, s. 56CB(1)(3)(5)(6) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 20(12)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8) (as amended (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 1(1), **Sch. 1 para. 68(5)** (with art. 3, Sch. 2 para. 2))
- C97** S. 111 applied (with modifications) (20.6.2003) by 1989 c. 29, s. 14A(11F)(11H)-(11J) (as inserted by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 20(6)(a)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C98** S. 111 applied (with modifications) (20.6.2003) by 1989 c. 29, s. 12B(1)(3)-(5) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 20(4)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)

*Status: Point in time view as at 01/04/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Enterprise Act 2002, Cross Heading: Investigation powers. (See end of Document for details)*

- C99** S. 111 applied (with modifications) (20.6.2003) by 1986 c. 44, s. 41EB(1)(3)(5)(6) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 15(12)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8) (as amended (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 1(1), **Sch. 1 para. 51(5)** (with art. 3, Sch. 2 para. 2))
- C100** S. 111 applied (with modifications) (20.6.2003) by 1986 c. 44, s. 26A(11F)(11H)-(11J) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 15(6)(a)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C101** S. 111 applied (with modifications) (20.6.2003) by 1986 c. 44, s. 24B(1)(3)-(5) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 15(4)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C102** S. 111 applied (with modifications) (20.6.2003) by 1986 c. 31, s. 44B(1)(3)-(5) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 14(3)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C103** S. 111 applied (with modifications) (20.6.2003) by 1984 c. 12, s. 13B(1)(3)-(5) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 13(4)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C104** S. 111 applied (with modifications) (20.6.2003) by 2000 c. 38, s. 18(6)(8)(10)(11) (as substituted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 44(5)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C105** S. 111 applied (with modifications) (20.6.2003) by 2000 c. 38, s. 12B(1)(3)(5)(6) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 44(3)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8) (as amended (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 1(1), **Sch. 1 para. 150(5)** (with art. 3, Sch. 2 para. 2))
- C106** S. 111 applied (with modifications) (20.6.2003) by 2000 c. 26, s. 19A(6)(8)(10)(11) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 42(4)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C107** S. 111 applied (with modifications) (20.6.2003) by 2000 c. 26, s. 15B(1)(3)(5)(6) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 42(2)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C108** S. 111 applied (with modifications) (20.6.2003) by S.I. 1996/275 (N.I. 2), art. 15B(1)(3)-(5) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 36(3)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8) (as amended (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 1(1), **Sch. 1 para. 218(5)** (with art. 3, Sch. 2 para. 2))
- C109** S. 111 applied (with modifications) (20.6.2003) by S.I. 1994/426 (N.I. 1), s. 35B(1)(3)(4)(5) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 33(3)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8))
- C110** S. 111 applied (with modifications) (20.6.2003) by 1993 c. 43, Sch. 4A para 15(2D)(2F)(2H)(2I) (as substituted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 30(15)(c)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C111** S. 111 applied (with modifications) (20.6.2003) by 1993 c. 43, Sch. 4A para. 10A(1)(3)(5)(6) (as substituted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 30(15)(a)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8) (as amended (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 1(1), **Sch. 1 para. 111(5)** (with art. 3, Sch. 2 para. 2))
- C112** S. 111 applied (with modifications) (20.6.2003) by 1993 c. 43, s. 15C(2D)(2F)(2H)(2I) (as substituted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 30(6)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C113** S.111 applied (with modifications) (20.6.2003) by 2000 c. 8, Sch. 14 para. 2A(1)(3)(5)(6) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 40(20)(b)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)

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- C114** S. 111 applied (with modifications) (20.6.2003) by 1980 c. 21, s. 11B(1)(3) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 10(3)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8) (as amended (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 1(1), **Sch. 1 para. 36(6)** (with art. 3, Sch. 2 para. 2))
- C115** S. 111 applied (with modifications) (20.6.2003) by 1993 c. 43, s. 13B(1)(3)(5)(6) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 30(4)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8) (as amended (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 1(1), **Sch. 1 para. 101(5)** (with art. 3, Sch. 2 para. 2))
- S. 111 applied (with modifications) (20.6.2003) by The Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003 (S.I. 2003/1592), art. 15, **Sch. 3 para. 1(1)(q)(17)** (as amended (1.4.2014) by The Enterprise Act 2002 (Protection of Legitimate Interests) (Amendment) Order 2014 (S.I. 2014/891), arts. 1, **18(1)-(17)** (with arts. 20-23))
- S. 111 applied (with modifications) (20.6.2003) by S.I. 1999/3088, reg. 8 (as substituted by The Enterprise Act 2002 (Consequential and Supplemental Provisions) Order 2003 (S.I. 2003/1398), art. 2, **Sch. para. 36(3)**)
- S. 111 applied (with modifications) (N.I.) (2.3.2004) by The Energy (Northern Ireland) Order (S.I. 2003/419 (N.I. 6)), arts. 39(2), 40(2), {Sch. 2 para. 5(1)(c)(2)(3)(5)(6)}; S.R. 2004/71, **art. 2**, Sch. (as amended (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 1(1), **Sch. 1 para. 243(5)** (with art. 3, Sch. 2 para. 2))
- S. 111 applied (with modifications) (N.I.) (2.3.2004) by S.I. 1996/275 (N.I. 2), art. 17A(17)(c)(18)(19)(20)(21) (as inserted by The Energy (Northern Ireland) Order (S.I. 2003/419 (N.I. 6)), {art. 37(2)}; S.R. 2004/71, **art. 2**, Sch.)
- S. 111 applied (with modifications) (N.I.) (2.3.2004) by S.I. 1992/231 (N.I. 1), art. 17A(14)(c)(15)(16)(17)(18) (as inserted by The Energy (Northern Ireland) Order (S.I. 2003/419 (N.I. 6)), {art. 36(2)}; S.R. 2004/71, **art. 2**, Sch.)
- S. 111 applied (with modifications) (1.10.2004) by 1991 c. 56, s. 16B(6)(c)-(10) (as inserted by Water Act 2003 (c. 37), ss. 55(4), 105(3); S.I. 2004/2528, **art. 2(h)** (with art. 4, Sch.))
- S. 111 applied (with modifications) (1.10.2005) by 1991 c. 56, s. 17M(1)(3) (as inserted by Water Act 2003 (c. 37), ss. 56, 105(3), **Sch. 4 para. 2**; S.I. 2005/2714, **art. 2(h)** (with Sch. para. 5)) (as amended (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 1(1), **Sch. 1 para. 78(5)** (with art. 3, Sch. 2 para. 2))
- S. 111 applied (with modifications) (1.10.2005) by 1991 c. 56, s. 17Q(6)(8) (as inserted by Water Act 2003 (c. 37), ss. 56, 105(3), **Sch. 4 para. 2**; S.I. 2005/2714, **art. 2(h)** (with Sch. para. 5))
- S. 111 applied (with modifications) (S.) (11.11.2005) by The Water Services etc. (Scotland) Act 2005 (Consequential Provisions and Modifications) Order 2005 (S.I. 2005/3172), **arts. 5, 10(3)-(7)**
- S. 111 applied (with modifications) (N.I.) (1.4.2007) by The Water and Sewerage Services (Northern Ireland) Order 2006 (S.I. 2006/3336 (N.I. 21)), arts. 1(2)(3), **23(1)(c)(3), 27(6)(c)(8)** (with arts. 8(9), 121, 307); S.R. 2007/194, **art. 2(2)**, Sch. 1 Pt. 2 (with Sch. 2) (as amended (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 1(1), **Sch. 1 para. 250(5)** (with art. 3, Sch. 2 para. 2))
- C116** S. 111 applied (with modifications) (15.1.2012) by The Postal Services (Appeals to the Competition Commission) (Investigations and Extension of Time Limits) Order 2011 (S.I. 2011/2749), arts. 1, **3(c)**, 4 (as amended (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. 45(3)(4) (with art. 3))
- C117** S. 111 applied (with modifications) (1.11.2012) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 10 para. 10(1)(c)(2)(5)-(7)(12)**; S.I. 2012/2657, art. 2(2) (as amended (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 1(1), **Sch. 1 para. 195(8)** (with art. 3, Sch. 2 para. 2))



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- C118** Ss. 111-115 applied (with modifications) by 2007 c. 29, s. 60(9) (as amended (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 1(1), **Sch. 1 para. 177** (with art. 3, Sch. 2 para. 2))
- C119** S. 111(5)(6)(i) saving for the effect of 2013 c. 24, s. 29(12)(a) (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. 6** (with art. 3)
- C120** S. 111(5)(6)(ii) saving for the effect of 2013 c. 24, s. 29(12)(b) (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. 6** (with art. 3)

## 112 Penalties: main procedural requirements

- (1) As soon as practicable after imposing a penalty under section 110(1) or (3), the [F<sup>22</sup>CMA] shall give notice of the penalty.
- (2) The notice shall state—
  - (a) that the [F<sup>22</sup>CMA] has imposed a penalty on the person concerned;
  - (b) whether the penalty is of a fixed amount, of an amount calculated by reference to a daily rate or of both a fixed amount and an amount calculated by reference to a daily rate;
  - (c) the amount or amounts concerned and, in the case of an amount calculated by reference to a daily rate, the day on which the amount first starts to accumulate and the day or days on which it might cease to accumulate;
  - (d) the failure or (as the case may be) the obstruction or delay which the [F<sup>22</sup>CMA] considers gave it the power to impose the penalty;
  - (e) any other facts which the [F<sup>22</sup>CMA] considers justify the imposition of a penalty and the amount or amounts of the penalty;
  - (f) the manner in which, and place at which, the penalty is required to be paid to the [F<sup>22</sup>CMA];
  - (g) the date or dates, no earlier than the end of the relevant period beginning with the date of service of the notice on the person concerned, by which the penalty or (as the case may be) different portions of it are required to be paid;
  - (h) that the penalty or (as the case may be) different portions of it may be paid earlier than the date or dates by which it or they are required to be paid; and
  - (i) that the person concerned has the right to apply under subsection (3) below or to appeal under section 114 and the main details of those rights.
- (3) The person against whom the penalty was imposed may, within 14 days of the date of service on him of a notice under subsection (1), apply to the [F<sup>22</sup>CMA] for it to specify a different date or (as the case may be) different dates by which the penalty or (as the case may be) different portions of it are to be paid.
- (4) A notice under this section shall be given by—
  - (a) serving a copy of the notice on the person on whom the penalty was imposed; and
  - (b) publishing the notice.
- (5) In this section “relevant period” means the period of 28 days mentioned in subsection (3) of section 114 or, if another period is specified by the Secretary of State under that subsection, that period.

*Status: Point in time view as at 01/04/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Enterprise Act 2002, Cross Heading: Investigation powers. (See end of Document for details)*

### Textual Amendments

- F16** Ss. 110A, 110B inserted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), **ss. 29(11)**, 103(3); S.I. 2014/416, **art. 2(1)(b)** (with Sch.) (with savings in 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. 6** (with art. 3))
- F22** Word in s. 112(1)-(3) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (2013 c. 24), s. 26(3), **Sch. 5 para. 146** (with s. 28); S.I. 2014/416, **art. 2(1)(d) Sch.**

### Modifications etc. (not altering text)

- C26** Ss. 109-115 applied (with modifications) (1.1.2010) by Legal Services Act 2007 (c. 29), **ss. 60(9)**, 211(2) (with **ss. 29**, 192, 193); S.I. 2009/3250, **art. 2(c)(i)** (as amended (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), **art. 1(1)**, Sch. 1 para. 177 (with art. 3, Sch. 2 para. 2))
- C88** Ss. 110-115 modified by S.I. 2003/1592, **art. 5A(f)** (as inserted (1.4.2014) by The Enterprise Act 2002 (Protection of Legitimate Interests) (Amendment) Order 2014 (S.I. 2014/891), **arts. 1, 7** (with arts. 20-23))
- C118** Ss. 111-115 applied (with modifications) by 2007 c. 29, s. 60(9) (as amended (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), **art. 1(1)**, **Sch. 1 para. 177** (with art. 3, Sch. 2 para. 2))
- C121** S. 112 applied (20.6.2003) by S.I. 1992/231 (N.I. 1), **art. 15B(1)(4)(5)** (as inserted by Enterprise Act 2002 (c. 40), **ss. 278, 279**, **Sch. 25 para. 28(3)**; S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8))
- C122** S. 112 applied (20.6.2003) by 1991 c. 56, s. 14B(1)(4)(5) (as inserted by Enterprise Act 2002 (c. 40), **ss. 278, 279**, **Sch. 25 para. 25(5)**; S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8))
- C123** S. 112 applied (20.6.2003) by 1990 c. 42, Sch. 4 para. 4A(1)(4)(5) (as inserted by Enterprise Act 2002 (c. 40), **ss. 278, 279**, **Sch. 25 para. 24(9)(e)**; S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8))
- C124** S. 112 applied (20.6.2003) by 1989 c. 29, s. 56CB(1)(5)(6) (as inserted by Enterprise Act 2002 (c. 40), **ss. 278, 279**, **Sch. 25 para. 20(12)**; S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8))
- C125** S. 112 applied (20.6.2003) by 1989 c. 29, s. 14A(11F)(11I)(11J) (as inserted by Enterprise Act 2002 (c. 40), **ss. 278, 279**, **Sch. 25 para. 20(6)(a)**; S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8))
- C126** S. 112 applied (20.6.2003) by 1989 c. 29, s. 12B(1)(4)(5) (as inserted by Enterprise Act 2002 (c. 40), **ss. 278, 279**, **Sch. 25 para. 20(4)**; S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8))
- C127** S. 112 applied (20.6.2003) by 1986 c. 44, s. 41EB(1)(5)(6) (as inserted by Enterprise Act 2002 (c. 40), **ss. 278, 279**, **Sch. 25 para. 15(12)**; S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8))
- C128** S. 112 applied (20.6.2003) by 1986 c. 44, s. 26A(11F)(11I)(11J) (as inserted by Enterprise Act 2002 (c. 40), **ss. 278, 279**, **Sch. 25 para. 15(6)(a)**; S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8))
- C129** S. 112 applied (20.6.2003) by 1986 c. 44, s. 24B(1)(4)(5) (as inserted by Enterprise Act 2002 (c. 40), **ss. 278, 279**, **Sch. 25 para. 15(4)**; S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8))
- C130** S. 112 applied (20.6.2003) by 1986 c. 31, s. 44B(1)(4)(5) (as inserted by Enterprise Act 2002 (c. 40), **ss. 278, 279**, **Sch. 25 para. 14(3)**; S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8))
- C131** S. 112 applied (20.6.2003) by 1984 c. 12, s. 13B(1)(4)(5) (as inserted by Enterprise Act 2002 (c. 40), **ss. 278, 279**, **Sch. 25 para. 13(4)**; S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8))
- C132** S. 112 applied (20.6.2003) by 2000 c. 38, s. 18(6)(10)(11) (as substituted by Enterprise Act 2002 (c. 40), **ss. 278, 279**, **Sch. 25 para. 44(5)**; S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8))
- C133** S. 112 applied (20.6.2003) by 2000 c. 38, s. 12B(1)(5)(6) (as inserted by Enterprise Act 2002 (c. 40), **ss. 278, 279**, **Sch. 25 para. 44(3)**; S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8))
- C134** S. 112 applied (20.6.2003) by 2000 c. 26, s. 19A(6)(10)(11) (as inserted by Enterprise Act 2002 (c. 40), **ss. 278, 279**, **Sch. 25 para. 42(4)**; S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8))
- C135** S. 112 applied (20.6.2003) by 2000 c. 26, s. 15B(1)(5)(6) (as inserted by Enterprise Act 2002 (c. 40), **ss. 278, 279**, **Sch. 25 para. 42(2)**; S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8))
- C136** S. 112 applied (20.6.2003) by S.I. 1996/275 (N.I. 2), **art. 15B(1)(4)(5)** (as inserted by Enterprise Act 2002 (c. 40), **ss. 278, 279**, **Sch. 25 para. 36(3)**; S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8))

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- C137** S. 112 applied (20.6.2003) by S.I. 1994/426 (N.I. 1), s. 35B(1)(4)(5) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 33(3)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8))
- C138** S. 112 applied (20.6.2003) by 1993 c. 43, Sch. 4A para. 15(2D)(2H)(2I) (as substituted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 30(15)(c)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8))
- C139** S. 112 applied (20.6.2003) by 1993 c. 43, Sch. 4A para. 10A(1)(5)(6) (as substituted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 30(15)(a)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8))
- C140** S. 112 applied (20.6.2003) by 2000 c. 8, Sch. 14 para. 2A(1)(5)(6) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 40(20)(b)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8))
- C141** S. 112 applied (20.6.2003) by 1993 c. 43, s. 15C(2D)(2H)(2I) (as substituted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 30(6)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8))
- C142** S. 112 applied (20.6.2003) by 1993 c. 43, s. 13B(1)(5)(6) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 30(4)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8))
- C143** S. 112 applied (20.6.2003) by 1980 c. 21, s. 11B(1) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 10(3)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8))
- S. 112 applied (1.10.2005) by 1991 c. 56, s. 17M(1) (as inserted by Water Act 2003 (c. 37), ss. 56, 105(3), **Sch. 4 para. 2**; S.I. 2005/2714, **art. 2(h)** (with Sch. para. 5))
- S. 112 applied (1.10.2005) by 1991 c. 56, s. 17Q(6) (as inserted by Water Act 2003 (c. 37), ss. 56, 105(3), **Sch. 4 para. 2**; S.I. 2005/2714, **art. 2(h)** (with Sch. para. 5))
- S. 112 applied (S.) (11.11.2005) by The Water Services etc. (Scotland) Act 2005 (Consequential Provisions and Modifications) Order 2005 (S.I. 2005/3172), **arts. 5, 10(3)-(7)**
- S. 112 applied (N.I.) (1.4.2007) by The Water and Sewerage Services (Northern Ireland) Order 2006 (S.I. 2006/3336 (N.I. 21)), arts. 1(2)(3), **23(1)(d)**, **27(6)(d)** (with arts. 8(9), 121, 307); S.R. 2007/194, **art. 2(2)**, Sch. 1 Pt. 2 (with Sch. 2)
- C144** S. 112 applied (with modifications) (20.6.2003) by The Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003 (S.I. 2003/1592), art. 15, **Sch. 3 para. 1(1)(r)** (as amended (1.4.2014) by The Enterprise Act 2002 (Protection of Legitimate Interests) (Amendment) Order 2014 (S.I. 2014/891), arts. 1, **18(1)-(17)** (with arts. 20-23))
- S. 112 applied (with modifications) (20.6.2003) by S.I. 1999/3088, reg. 8 (as substituted by The Enterprise Act 2002 (Consequential and Supplemental Provisions) Order 2003 (S.I. 2003/1398), art. 2, **Sch. para. 36(3)**)
- S. 112 applied (with modifications) (N.I.) (2.3.2004) by The Energy (Northern Ireland) Order (S.I. 2003/419 (N.I. 6)), arts. 39(2), 40(2), Sch. 2 para. 5(1)(d)(5)(6); S.R. 2004/71, **art. 2**, Sch.
- S. 112 applied (with modifications) (N.I.) (2.3.2004) by S.I. 1992/231 (N.I. 1), art. 17A(14)(d)(17)(18) (as inserted by The Energy (Northern Ireland) Order (S.I. 2003/419 (N.I. 6)), art. 36(2); S.R. 2004/71, **art. 2**, Sch.))
- S. 112 applied (with modifications) (N.I.) (2.3.2004) by S.I. 1996/275 (N.I. 2), art. 17A(17)(d)(20)(21) (as inserted by The Energy (Northern Ireland) Order (S.I. 2003/419 (N.I. 6)), art. 37(2); S.I. 2004/71, **art. 2**, Sch.))
- S. 112 applied (with modifications) (1.10.2004) by 1991 c. 56, s. 16B(6)(d)-(10) (as inserted by Water Act 2003 (c. 37), ss. 55(4), 105(3); S.I. 2004/2528, **art. 2(h)** (with art. 4, Sch.))
- C145** S. 112 applied (15.1.2012) by The Postal Services (Appeals to the Competition Commission) (Investigations and Extension of Time Limits) Order 2011 (S.I. 2011/2749), arts. 1, **3(d)** (as amended (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. 45(3)** (with art. 3))
- C146** S. 112 applied (with modifications) (1.11.2012) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 10 para. 10(1)(d)(2)(8)(12)**; S.I. 2012/2657, art. 2(2)
- C147** Ss. 112-115 applied by 1998 c. 41, s. 40A(9) (as inserted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), ss. 40(2), 103(3); S.I. 2014/416, art. 2(1)(b) (with Sch.))

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### 113 Payments and interest by instalments

- (1) If the whole or any portion of a penalty is not paid by the date by which it is required to be paid, the unpaid balance from time to time shall carry interest at the rate for the time being specified in section 17 of the Judgments Act 1838 (c. 110).
- (2) Where an application has been made under section 112(3), the penalty shall not be required to be paid until the application has been determined, withdrawn or otherwise dealt with.
- (3) If a portion of a penalty has not been paid by the date required for it, the [<sup>F23</sup>CMA] may, where it considers it appropriate to do so, require so much of the penalty as has not already been paid (and is capable of being paid immediately) to be paid immediately.
- (4) Any sums received by the [<sup>F23</sup>CMA] in or towards the payment of a penalty, or interest on a penalty, shall be paid into the Consolidated Fund.

#### Textual Amendments

- F16** Ss. 110A, 110B inserted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), ss. 29(11), 103(3); S.I. 2014/416, art. 2(1)(b) (with Sch.) (with savings in 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. 6 (with art. 3))
- F23** Word in s. 113(3)(4) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 5 para. 147 (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

#### Modifications etc. (not altering text)

- C26** Ss. 109-115 applied (with modifications) (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 60(9), 211(2) (with ss. 29, 192, 193); S.I. 2009/3250, art. 2(c)(i) (as amended (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 1(1), Sch. 1 para. 177 (with art. 3, Sch. 2 para. 2))
- C88** Ss. 110-115 modified by S.I. 2003/1592, art. 5A(f) (as inserted (1.4.2014) by The Enterprise Act 2002 (Protection of Legitimate Interests) (Amendment) Order 2014 (S.I. 2014/891), arts. 1, 7 (with arts. 20-23))
- C118** Ss. 111-115 applied (with modifications) by 2007 c. 29, s. 60(9) (as amended (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 1(1), Sch. 1 para. 177 (with art. 3, Sch. 2 para. 2))
- C147** Ss. 112-115 applied by 1998 c. 41, s. 40A(9) (as inserted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), ss. 40(2), 103(3); S.I. 2014/416, art. 2(1)(b) (with Sch.))
- C148** S. 113 applied (20.6.2003) by 1986 c. 44, s. 41EB(1)(5)(6) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, Sch. 25 para. 15(12)); S.I. 2003/1397, art. 2(1), Sch. (with art. 8)
- C149** S. 113 applied (20.6.2003) by 1986 c. 44, s. 26A(11F)(11I)(11J) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, Sch. 25 para. 15(6)(a)); S.I. 2003/1397, art. 2(1), Sch. (with art. 8)
- C150** S. 113 applied (20.6.2003) by 1986 c. 44, s. 24B(1)(4)(5) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, Sch. 25 para. 15(4)); S.I. 2003/1397, art. 2(1), Sch. (with art. 8)
- C151** S. 113 applied (20.6.2003) by 1986 c. 31, s. 44B(1)(4)(5) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, Sch. 25 para. 14(3)); S.I. 2003/1397, art. 2(1), Sch. (with art. 8)
- C152** S. 113 applied (20.6.2003) by 1984 c. 12, s. 13B(1)(4)(5) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, Sch. 25 para. 13(4)); S.I. 2003/1397, art. 2(1), Sch. (with art. 8)
- C153** S. 113 applied (20.6.2003) by S.I. 1992/231 (N.I. 1), art. 15B(1)(4)(5) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, Sch. 25 para. 28(3)); S.I. 2003/1397, art. 2(1), Sch. (with art. 8)
- C154** S. 113 applied (20.6.2003) by 1991 c. 56, s. 14B(1)(4)(5) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, Sch. 25 para. 25(5)); S.I. 2003/1397, art. 2(1), Sch. (with art. 8)

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- C155** S. 113 applied (20.6.2003) by 1990 c. 42, Sch. 4 para. 4A(1)(4)(5) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 24(9)(e)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C156** S. 113 applied (20.6.2003) by 1989 c. 29, s. 56CB(1)(5)(6) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 20(12)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C157** S. 113 applied (20.6.2003) by 1989 c. 29, s. 14A(11F)(11I)(11J) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 20(6)(a)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C158** S. 113 applied (20.6.2003) by 1989 c. 29, s. 12B(1)(4)(5) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 20(4)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C159** S. 113 applied (20.6.2003) by 2000 c. 38, s. 18(6)(10)(11) (as substituted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 44(5)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C160** S. 113 applied (20.6.2003) by 2000 c. 38, s. 12B(1)(5)(6) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 44(3)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C161** S. 113 applied (20.6.2003) by 2000 c. 26, s. 19A(6)(10)(11) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 42(4)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C162** S. 113 applied (20.6.2003) by 2000 c. 26, s. 15B(1)(5)(6) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 42(2)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C163** S. 113 applied (20.6.2003) by S.I. 1996/275 (N.I. 2), art. 15B(1)(4)(5) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 36(3)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C164** S. 113 applied (20.6.2003) by S.I. 1994/426 (N.I. 1), s. 35B(1)(4)(5) as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 33(3)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C165** S. 113 applied (20.6.2003) by 1993 c. 43, Sch. 4A para. 15(2D)(2H)(2I) (as substituted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 30(15)(c)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C166** S. 113 applied (20.6.2003) by 1993 c. 43, Sch. 4A para. 10A(1)(5)(6) (as substituted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 30(15)(a)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C167** S. 113 applied (20.6.2003) by 1993 c. 43, s. 15C(2D)(2H)(2I) (as substituted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 30(6)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C168** S. 113 applied (20.6.2003) by 1993 c. 43, s. 13B(1)(5)(6) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 30(4)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C169** S. 113 applied (20.6.2003) by 2000 c. 8, Sch. 14 para. 2A(1)(5)(6) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 40(20)(b)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C170** S. 113 applied (20.6.2003) by 1980 c. 21, s. 11B(1)(2) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 10(3)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- S. 113 applied (1.10.2005) by 1991 c. 56, s. 17M(1) (as inserted by Water Act 2003 (c. 37), ss. 56, 105(3), **Sch. 4 para. 2**); S.I. 2005/2714, **art. 2(h)** (with Sch. para. 5)
- S. 113 applied (1.10.2005) by 1991 c. 56, s. 17Q(6) (as inserted by Water Act 2003 (c. 37), ss. 56, 105(3), **Sch. 4 para. 2**); S.I. 2005/2714, **art. 2(h)** (with Sch. para. 5)
- S. 113 applied (S.) (11.11.2005) by The Water Services etc. (Scotland) Act 2005 (Consequential Provisions and Modifications) Order 2005 (S.I. 2005/3172), **arts. 5, 10(3)-(7)**
- S. 113 applied (N.I.) (1.4.2007) by The Water and Sewerage Services (Northern Ireland) Order 2006 (S.I. 2006/3336 (N.I. 21)), arts. 1(2)(3), **23(1)(e), 27(6)(e)** (with arts. 8(9), 121, 307); S.R. 2007/194, **art. 2(2)**, Sch. 1 Pt. 2 (with Sch. 2)
- C171** S. 113 applied (with modifications) (20.6.2003) by The Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003 (S.I. 2003/1592), art. 15, **Sch. 3 para. 1(1)(s)** (as amended (1.4.2014) by The Enterprise Act 2002 (Protection of Legitimate Interests) (Amendment) Order 2014 (S.I. 2014/891), arts. 1, **18(1)-(17)** (with arts. 20-23))
- S. 113 applied (with modifications) (20.6.2003) by S.I. 1999/3088, reg. 8 (as substituted by The Enterprise Act 2002 (Consequential and Supplemental Provisions) Order 2003 (S.I. 2003/1398), art. 2, **Sch. para. 36(3)**)
- S. 113 applied (with modifications) (N.I.) (2.3.2004) by The Energy (Northern Ireland) Order (S.I. 2003/419 (N.I. 6)), arts. 39(2), 40(2), {Sch. 2 para. 5(1)(e)(5)(6)}; S.R. 2004/71, **art. 2**, Sch.
- S. 113 applied (with modifications) (N.I.) (2.3.2004) by S.I. 1992/231 (N.I. 1), art. 17A(14)(e)(17) (18) (as inserted by The Energy (Northern Ireland) Order (S.I. 2003/419 (N.I. 6)), {art. 36(2)}; S.R. 2004/71, **art. 2**, Sch.)

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S. 113 applied (with modifications) (N.I.) (2.3.2004) by S.I. 1996/275 (N.I. 2), art. 17A(17)(e)(20) (21) (as inserted by The Energy (Northern Ireland) Order (S.I. 2003/419 (N.I. 6)), {art. 37(2)}; S.R. 2004/71, art. 2, Sch.)

S. 113 applied (with modifications) (1.10.2004) by 1991 c. 56, s. 16B(6)(e)-(10) (as inserted by Water Act 2003 (c. 37), ss. 55(4), 105(3); S.I. 2004/2528, art. 2(h) (with art. 4, Sch.))

**C172** S. 113 applied (15.1.2012) by The Postal Services (Appeals to the Competition Commission) (Investigations and Extension of Time Limits) Order 2011 (S.I. 2011/2749), arts. 1, 3(e) (as amended (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. 45(3) (with art. 3))

**C173** S. 113 applied (with modifications) (1.11.2012) by Health and Social Care Act 2012 (c. 7), para. 10(2), (12), s. 306(4), Sch. 10 para. 10(1)(e); S.I. 2012/2657, art. 2(2)

## 114 Appeals in relation to penalties

- (1) This section applies if a person on whom a penalty is imposed under section 110(1) or (3) is aggrieved by—
  - (a) the imposition or nature of the penalty;
  - (b) the amount or amounts of the penalty; or
  - (c) the date by which the penalty is required to be paid or (as the case may be) the different dates by which portions of the penalty are required to be paid.
- (2) The person aggrieved may apply to the Competition Appeal Tribunal.
- (3) If a copy of the notice under section 112(1) was served on the person on whom the penalty was imposed, the application to the Competition Appeal Tribunal shall, subject to subsection (4), be made within—
  - (a) the period of 28 days starting with the day on which the copy was served on the person concerned; or
  - (b) such other period as the Secretary of State may by order specify.
- (4) If the application relates to a decision of the [F24CMA] on an application by the person on whom the penalty was imposed under section 112(3), the application to the Competition Appeal Tribunal shall be made within—
  - (a) the period of 28 days starting with the day on which the person concerned is notified of the decision; or
  - (b) such other period as the Secretary of State may by order specify.
- (5) On an application under this section, the Competition Appeal Tribunal may—
  - (a) quash the penalty;
  - (b) substitute a penalty of a different nature or of such lesser amount or amounts as the Competition Appeal Tribunal considers appropriate; or
  - (c) in a case falling within subsection (1)(c), substitute for the date or dates imposed by the [F24CMA] an alternative date or dates;
 

if it considers it appropriate to do so.
- (6) The Competition Appeal Tribunal shall not substitute a penalty of a different nature under subsection (5)(b) unless it considers that the person on whom the penalty is imposed will, or is likely to, pay less under the substituted penalty than he would have paid under the original penalty.
- (7) Where an application has been made under this section—

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- (a) the penalty shall not be required to be paid until the application has been determined, withdrawn or otherwise dealt with; and
  - (b) the [<sup>F25</sup>CMA] may agree to reduce the amount or amounts of the penalty in settlement of the application.
- (8) Where the Competition Appeal Tribunal substitutes a penalty of a different nature or of a lesser amount or amounts it may require the payment of interest on the substituted penalty at such rate or rates, and from such date or dates, as it considers appropriate.
- (9) Where the Competition Appeal Tribunal specifies as a date by which the penalty, or a portion of the penalty, is to be paid a date before the determination of the application under this section it may require the payment of interest on the penalty, or portion, from that date at such rate as it considers appropriate.
- (10) An appeal lies to the appropriate court—
- (a) on a point of law arising from a decision of the Tribunal in proceedings under this section; or
  - (b) from a decision of the Tribunal in such proceedings as to the amount or amounts of a penalty.
- (11) An appeal under subsection (10)—
- (a) may be brought by a party to the proceedings before the Tribunal; and
  - (b) requires the permission of the Tribunal or the appropriate court.
- (12) In this section “the appropriate court” means the Court of Appeal or, in the case of Tribunal proceedings in Scotland, the Court of Session.

#### Textual Amendments

- F16** Ss. 110A, 110B inserted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), **ss. 29(11), 103(3)**; S.I. 2014/416, art. 2(1)(b) (with Sch.) (with savings in [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. 6** (with art. 3))
- F24** Word in s. 114(4)(5) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), **Sch. 5 para. 148** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F25** Word in s. 114(7) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), **Sch. 5 para. 148** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

#### Modifications etc. (not altering text)

- C26** Ss. 109-115 applied (with modifications) (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), **ss. 60(9), 211(2)** (with **ss. 29, 192, 193**); S.I. 2009/3250, art. 2(c)(i) (as amended (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014 \(S.I. 2014/892\)](#), art. 1(1), Sch. 1 para. 177 (with art. 3, Sch. 2 para. 2))
- C88** Ss. 110-115 modified by S.I. 2003/1592, art. 5A(f) (as inserted (1.4.2014) by [The Enterprise Act 2002 \(Protection of Legitimate Interests\) \(Amendment\) Order 2014 \(S.I. 2014/891\)](#), arts. 1, 7 (with arts. 20-23))
- C118** Ss. 111-115 applied (with modifications) by 2007 c. 29, s. 60(9) (as amended (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014 \(S.I. 2014/892\)](#), art. 1(1), **Sch. 1 para. 177** (with art. 3, Sch. 2 para. 2))
- C147** Ss. 112-115 applied by 1998 c. 41, s. 40A(9) (as inserted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), **ss. 40(2), 103(3)**; S.I. 2014/416, art. 2(1)(b) (with Sch.))
- C174** S. 114 applied (20.6.2003) by S.I. 1992/231 (N.I. 1), art. 15B(1)(4)(5) (as inserted by [Enterprise Act 2002 \(c. 40\)](#), **ss. 278, 279, Sch. 25 para. 28(3)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)

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*Changes to legislation: There are currently no known outstanding effects for the Enterprise Act 2002, Cross Heading: Investigation powers. (See end of Document for details)*

- C175** S. 114 applied (20.6.2003) by 1991 c. 56, s. 14B(1)(4)(5) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 25(5)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C176** S. 114 applied (20.6.2003) by 1990 c. 42, Sch. 4 para. 4A(1)(4)(5) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 24(9)(e)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C177** S. 114 applied (20.6.2003) by 1989 c. 29, s. 56CB(1)(5)(6) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 20(12)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C178** S. 114 applied (20.6.2003) by 1989 c. 29, s. 14A(11F)(11I)(11J) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 20(6)(a)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C179** S. 114 applied (20.6.2003) by 1989 c. 29, s. 12B(1)(4)(5) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 20(4)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C180** S. 114 applied (20.6.2003) by 1986 c. 44, s. 41EB(1)(5)(6) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 15(12)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C181** S. 114 applied (20.6.2003) by 1986 c. 44, s. 26A(11F)(11I)(11J) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 15(6)(a)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C182** S. 114 applied (20.6.2003) by 1986 c. 44, s. 24B(1)(4)(5) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 15(4)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C183** S. 114 applied (20.6.2003) by 1986 c. 31, s. 44B(1)(4)(5) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 14(3)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C184** S. 114 applied (20.6.2003) by 1984 c. 12, s. 13B(1)(4)(5) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 13(4)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C185** S. 114 applied (20.6.2003) by 2000 c. 38, s. 18(6)(10)(11) (as substituted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 44(5)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C186** S. 114 applied (20.6.2003) by 2000 c. 38, s. 12B(1)(5)(6) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 44(3)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C187** S. 114 applied (20.6.2003) by 2000 c. 26, s. 19A(6)(10)(11) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 42(4)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C188** S. 114 applied (20.6.2003) by 2000 c. 26, s. 15B(1)(5)(6) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 42(2)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C189** S. 114 applied (20.6.2003) by S.I. 1996/275 (N.I. 2), art. 15B(1)(4)(5) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 36(3)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C190** S. 114 applied (20.6.2003) by S.I. 1994/426 (N.I. 1), art. 35B(1)(4)(5) as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 33(3)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C191** S. 114 applied (20.6.2003) by 1993 c. 43, Sch. 4A para 15(2D)(2H)(2I) (as substituted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 30(15)(c)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C192** S. 114 applied (20.6.2003) by 1993 c. 43, Sch. 4A para. 10A(1)(5)(6) (as substituted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 30(15)(a)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C193** S. 114 applied (20.6.2003) by 1993 c. 43, s. 15C(2D)(2H)(2I) (as substituted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 30(6)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C194** S.114 applied (20.6.2003) by 1993 c. 43, s. 13B(1)(5)(6) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 30(4)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C195** S. 114 applied (20.6.2003) by 2000 c. 8, Sch. 14 para. 2A(1)(5)(6) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 40(20)(b)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C196** S. 114 applied (20.6.2003) by 1980 c. 21, s. 11B(1) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 10(3)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- S. 114 applied (1.10.2005) by 1991 c. 56, s. 17M(1) (as inserted by Water Act 2003 (c. 37), ss. 56, 105(3), **Sch. 4 para. 2**); S.I. 2005/2714, **art. 2(h)** (with Sch. para. 5)
- S. 114 applied (1.10.2005) by 1991 c. 56, s. 17Q(6) (as inserted by Water Act 2003 (c. 37), ss. 56, 105(3), **Sch. 4 para. 2**); S.I. 2005/2714, **art. 2(h)** (with Sch. para. 5)
- S. 114 applied (S.) (11.11.2005) by The Water Services etc. (Scotland) Act 2005 (Consequential Provisions and Modifications) Order 2005 (S.I. 2005/3172), **arts. 5, 10(3)-(7)**
- S. 114 applied (N.I.) (1.4.2007) by The Water and Sewerage Services (Northern Ireland) Order 2006 (S.I. 2006/3336 (N.I. 21)), arts. 1(2)(3), **23(1)(f), 27(6)(f)** (with arts. 8(9), 121, 307); S.R. 2007/194, **art. 2(2)**, Sch. 1 Pt. 2 (with Sch. 2)



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- C197** S. 114 applied (with modifications) (20.6.2003) by The Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003 (S.I. 2003/1592), art. 15, **Sch. 3 para. 1(1)(t)** (as amended (1.4.2014) by The Enterprise Act 2002 (Protection of Legitimate Interests) (Amendment) Order 2014 (S.I. 2014/891), arts. 1, **18(1)-(17)** (with arts. 20-23))
- S. 114 applied (with modifications) (20.6.2003) by S.I. 1999/3088, reg. 8 (as substituted by The Enterprise Act 2002 (Consequential and Supplemental Provisions) Order 2003 (S.I. 2003/1398), art. 2, **Sch. para. 36(3)**)
- S. 114 applied (with modifications) (N.I.) (2.3.2004) by The Energy (Northern Ireland) Order (S.I. 2003/419 (N.I. 6)), arts. 39(2), 40(2), {Sch. 2 para. 5(1)(f)(5)(6)}; S.R. 2004/71, **art. 2, Sch.**
- S. 114 applied (with modifications) (N.I.) (2.3.2004) by S.I. 1992/231 (N.I. 1), art. 17A(14)(f)(17) (18) (as inserted by The Energy (Northern Ireland) Order (S.I. 2003/419 (N.I. 6)), {art. 36(2)}; S.R. 2004/71, **art. 2, Sch.**)
- S. 114 applied (with modifications) (N.I.) (2.3.2004) by S.I. 1996/275 (N.I. 2), art. 17A(17)(f)(20) (21) (as inserted by The Energy (Northern Ireland) Order (S.I. 2003/419 (N.I. 6)), {art. 37(2)}; S.R. 2004/71, **art. 2, Sch.**)
- S. 114 applied (with modifications) (1.10.2004) by 1991 c. 56, s. 16B(6)(f)-(10) (as inserted by Water Act 2003 (c. 37), **ss. 55(4), 105(3)**; S.I. 2004/2528, **art. 2(h)** (with art. 4, Sch.))
- C198** S. 114 applied (15.1.2012) by The Postal Services (Appeals to the Competition Commission) (Investigations and Extension of Time Limits) Order 2011 (S.I. 2011/2749), arts. 1, **3(f)** (as amended (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. 45(3)** (with art. 3))
- C199** S. 114 applied (with modifications) (1.11.2012) by Health and Social Care Act 2012 (c. 7), para. 10(2), (9), (12), s. 306(4), **Sch. 10 para. 10(1)(f)**; S.I. 2012/2657, art. 2(2)

## 115 Recovery of penalties

Where a penalty imposed under section 110(1) or (3), or any portion of such a penalty, has not been paid by the date on which it is required to be paid and—

- (a) no application relating to the penalty has been made under section 114 during the period within which such an application may be made, or
- (b) any such application which has been made has been determined, withdrawn or otherwise dealt with,

the [<sup>F26</sup>CMA] may recover from the person on whom the penalty was imposed any of the penalty and any interest which has not been paid; and in England and Wales and Northern Ireland such penalty and interest may be recovered as a civil debt due to the [<sup>F26</sup>CMA].

### Textual Amendments

- F16** Ss. 110A, 110B inserted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), **ss. 29(11), 103(3)**; S.I. 2014/416, art. 2(1)(b) (with Sch.) (with savings in 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. 6** (with art. 3))
- F26** Word in s. 115 substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 149** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

### Modifications etc. (not altering text)

- C26** Ss. 109-115 applied (with modifications) (1.1.2010) by Legal Services Act 2007 (c. 29), **ss. 60(9), 211(2)** (with **ss. 29, 192, 193**); S.I. 2009/3250, art. 2(c)(i) (as amended (1.4.2014) by The Enterprise

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- and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 1(1), Sch. 1 para. 177 (with art. 3, Sch. 2 para. 2))
- C88** Ss. 110-115 modified by S.I. 2003/1592, art. 5A(f) (as inserted (1.4.2014) by **The Enterprise Act 2002 (Protection of Legitimate Interests) (Amendment) Order 2014 (S.I. 2014/891)**, arts. 1, 7 (with arts. 20-23))
- C118** Ss. 111-115 applied (with modifications) by 2007 c. 29, s. 60(9) (as amended (1.4.2014) by **The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892)**, art. 1(1), **Sch. 1 para. 177** (with art. 3, Sch. 2 para. 2))
- C147** Ss. 112-115 applied by 1998 c. 41, s. 40A(9) (as inserted (1.4.2014) by **Enterprise and Regulatory Reform Act 2013 (c. 24)**, **ss. 40(2)**, 103(3); S.I. 2014/416, art. 2(1)(b) (with Sch.))
- C200** S. 115 applied (20.6.2003) by S.I. 1992/231 (N.I. 1), art. 15B(1)(4)(5) (as inserted by **Enterprise Act 2002 (c. 40)**, **ss. 278, 279**, **Sch. 25 para. 28(3)**; S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8))
- C201** S. 115 applied (20.6.2003) by 1991 c. 56, s. 14B(1)(4)(5) (as inserted by **Enterprise Act 2002 (c. 40)**, **ss. 278, 279**, **Sch. 25 para. 25(5)**; S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8))
- C202** S. 115 applied (20.6.2003) by 1990 c. 42, Sch. 4 para. 4A(1)(4)(5) (as inserted by **Enterprise Act 2002 (c. 40)**, **ss. 278, 279**, **Sch. 25 para. 24(9)(e)**; S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8))
- C203** S. 115 applied (20.6.2003) by 1989 c. 29, s. 56CB(1)(5)(6) (as inserted by **Enterprise Act 2002 (c. 40)**, **ss. 278, 279**, **Sch. 25 para. 20(12)**; S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8))
- C204** S. 115 applied (20.6.2003) by 1989 c. 29, s. 14A(11F)(11I)(11J) (as inserted by **Enterprise Act 2002 (c. 40)**, **ss. 278, 279**, **Sch. 25 para. 20(6)(a)**; S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8))
- C205** S. 115 applied (20.6.2003) by 1989 c. 29, s. 12B(1)(4)(5) (as inserted by **Enterprise Act 2002 (c. 40)**, **ss. 278, 279**, **Sch. 25 para. 20(4)**; S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8))
- C206** S. 115 applied (20.6.2003) by 1986 c. 44, s. 41EB(1)(5)(6) (as inserted by **Enterprise Act 2002 (c. 40)**, **ss. 278, 279**, **Sch. 25 para. 15(12)**; S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8))
- C207** S. 115 applied (20.6.2003) by 1986 c. 44, s. 26A(11F)(11I)(11J) (as inserted by **Enterprise Act 2002 (c. 40)**, **ss. 278, 279**, **Sch. 25 para. 15(6)(a)**; S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8))
- C208** S. 115 applied (20.6.2003) by 1986 c. 44, s. 24B(1)(4)(5) (as inserted by **Enterprise Act 2002 (c. 40)**, **ss. 278, 279**, **Sch. 25 para. 15(4)**; S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8))
- C209** S. 115 applied (20.6.2003) by 1986 c. 31, s. 44B(1)(4)(5) (as inserted by **Enterprise Act 2002 (c. 40)**, **ss. 278, 279**, **Sch. 25 para. 14(3)**; S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8))
- C210** S. 115 applied (20.6.2003) by 1984 c. 12, s. 13B(1)(4)(5) (as inserted by **Enterprise Act 2002 (c. 40)**, **ss. 278, 279**, **Sch. 25 para. 13(4)**; S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8))
- C211** S. 115 applied (20.6.2003) by 2000 c. 38, s. 18(6)(10)(11) (as substituted by **Enterprise Act 2002 (c. 40)**, **ss. 278, 279**, **Sch. 25 para. 44(5)**; S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8))
- C212** S. 115 applied (20.6.2003) by 2000 c. 38, s. 12B(1)(5)(6) (as inserted by **Enterprise Act 2002 (c. 40)**, **ss. 278, 279**, **Sch. 25 para. 44(3)**; S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8))
- C213** S. 115 applied (20.6.2003) by 2000 c. 26, s. 19A(6)(10)(11) (as inserted by **Enterprise Act 2002 (c. 40)**, **ss. 278, 279**, **Sch. 25 para. 42(4)**; S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8))
- C214** S. 115 applied (20.6.2003) by 2000 c. 26, s. 15B(1)(5)(6) (as inserted by **Enterprise Act 2002 (c. 40)**, **ss. 278, 279**, **Sch. 25 para. 42(2)**; S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8))
- C215** S. 115 applied (20.6.2003) by S.I. 1996/275 (N.I. 2), art. 15B(1)(4)(5) (as inserted by **Enterprise Act 2002 (c. 40)**, **ss. 278, 279**, **Sch. 25 para. 36(3)**; S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8))
- C216** S. 115 applied (20.6.2003) by S.I. 1994/426 (N.I. 1), art. 35B(1)(4)(5) (as inserted by **Enterprise Act 2002 (c. 40)**, **ss. 278, 279**, **Sch. 25 para. 33(3)**; S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8))
- C217** S. 115 applied (20.6.2003) by 1993 c. 43, Sch. 4A para 15(2D)(2H)(2I) (as substituted by **Enterprise Act 2002 (c. 40)**, **ss. 278, 279**, **Sch. 25 para. 30(15)(c)**; S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8))
- C218** S. 115 applied (20.6.2003) by 1993 c. 43, Sch. 4A para. 10A(1)(5)(6) (as substituted by **Enterprise Act 2002 (c. 40)**, **ss. 278, 279**, **Sch. 25 para. 30(15)(a)**; S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8))
- C219** S. 115 applied (20.6.2003) by 1993 c. 43, s. 15C(2D)(2H)(2I) (as substituted by **Enterprise Act 2002 (c. 40)**, **ss. 278, 279**, **Sch. 25 para. 30(6)**; S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8))
- C220** S. 115 applied (20.6.2003) by 1993 c. 43, s. 13B(1)(5)(6) (as inserted by **Enterprise Act 2002 (c. 40)**, **ss. 278, 279**, **Sch. 25 para. 30(4)**; S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8))

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*Changes to legislation: There are currently no known outstanding effects for the Enterprise Act 2002, Cross Heading: Investigation powers. (See end of Document for details)*

- C221** S. 115 applied (20.6.2003) by 2000 c. 8, Sch. 14 para. 2A(1)(5)(6) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 40(20)(b)**; S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8))
- C222** S. 115 applied (20.6.2003) by 1980 c. 21, s. 11B(1)(2) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 10(3)**; S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8))
- S. 115 applied (1.10.2005) by 1991 c. 56, s. 17M(1) (as inserted by Water Act 2003 (c. 37), ss. 56, 105(3), **Sch. 4 para. 2**; S.I. 2005/2714, **art. 2(h)** (with Sch. para. 5))
- S. 115 applied (1.10.2005) by 1991 c. 56, s. 17Q(6) (as inserted by Water Act 2003 (c. 37), ss. 56, 105(3), **Sch. 4 para. 2**; S.I. 2005/2714, **art. 2(h)** (with Sch. para. 5))
- S. 115 applied (S.) (11.11.2005) by The Water Services etc. (Scotland) Act 2005 (Consequential Provisions and Modifications) Order 2005 (S.I. 2005/3172), **arts. 5, 10(3)-(7)**
- S. 115 applied (N.I.) (1.4.2007) by The Water and Sewerage Services (Northern Ireland) Order 2006 (S.I. 2006/3336 (N.I. 21)), arts. 1(2)(3), **23(1)(g), 27(6)(g)** (with arts. 8(9), 121, 307); S.R. 2007/194, **art. 2(2)**, Sch. 1 Pt. 2 (with Sch. 2)
- C223** S. 115 applied (with modifications) (20.6.2003) by The Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003 (S.I. 2003/1592), art. 15, **Sch. 3 para. 1(1)(u)** (as amended (1.4.2014) by The Enterprise Act 2002 (Protection of Legitimate Interests) (Amendment) Order 2014 (S.I. 2014/891), arts. 1, **18(1)-(17)** (with arts. 20-23))
- S. 115 applied (with modifications) (20.6.2003) by S.I. 1999/3088, reg. 8 (as substituted by The Enterprise Act 2002 (Consequential and Supplemental Provisions) Order 2003 (S.I. 2003/1398), art. 2, **Sch. para. 36(3)**)
- S. 115 applied (with modifications) (N.I.) (2.3.2004) by The Energy (Northern Ireland) Order (S.I. 2003/419 (N.I. 6)), arts. 39(2), 40(2), Sch. 2 para. 5(1)(g)(5)(6); S.R. 2004/71, **art. 2**, Sch.
- S. 115 applied (with modifications) (N.I.) (2.3.2004) by S.I. 1992/231 (N.I. 1), art. 17A(14)(g)(17)(18) (as inserted by The Energy (Northern Ireland) Order (S.I. 2003/419 (N.I. 6)), art. 36(2); S.R. 2004/71, **art. 2**, Sch.)
- S. 115 applied (with modifications) (N.I.) (2.3.2004) by S.I. 1996/275 (N.I. 2), art. 17A(17)(g)(20)(21) (as inserted by The Energy (Northern Ireland) Order (S.I. 2003/419 (N.I. 6)), art. 37(2); S.R. 2004/71, **art. 2**, Sch.)
- S. 115 applied (with modifications) (1.10.2004) by 1991 c. 56, s. 16B(6)(g)-(10) (as inserted by Water Act 2003 (c. 37), ss. 55(4), 105(3); S.I. 2004/2528, **art. 2(h)** (with art. 4, Sch.))
- C224** S. 115 applied (15.1.2012) by The Postal Services (Appeals to the Competition Commission) (Investigations and Extension of Time Limits) Order 2011 (S.I. 2011/2749), arts. 1, **3(g)** (as amended (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. 45(3)** (with art. 3))
- C225** S. 115 applied (with modifications) (1.11.2012) by Health and Social Care Act 2012 (c. 7), para. 10(2), (10), (12), s. 306(4), **Sch. 10 para. 10(1)(g)**; S.I. 2012/2657, art. 2(2)

## 116 Statement of policy

- (1) The [<sup>F27</sup>CMA] shall prepare and publish a statement of policy in relation to the enforcement of notices under section 109.
- (2) The statement shall, in particular, include a statement about the considerations relevant to the determination of the nature and amount of any penalty imposed under section 110(1) or (3).
- (3) The [<sup>F28</sup>CMA] may revise its statement of policy and, where it does so, it shall publish the revised statement.
- (4) The [<sup>F29</sup>CMA] shall consult such persons as it considers appropriate when preparing or revising its statement of policy.

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*Changes to legislation: There are currently no known outstanding effects for the Enterprise Act 2002, Cross Heading: Investigation powers. (See end of Document for details)*

### Textual Amendments

- F16** Ss. 110A, 110B inserted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), **ss. 29(11)**, 103(3); S.I. 2014/416, art. 2(1)(b) (with Sch.) (with savings in 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. 6** (with art. 3))
- F27** Word in s. 116(1) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 150** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F28** Word in s. 116(3) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 150** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F29** Word in s. 116(4) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 150** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

### Modifications etc. (not altering text)

- C226** S. 116 applied (20.6.2003) by 1986 c. 31, s. 44B(1)(4)(5) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 14(3)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C227** S. 116 applied (20.6.2003) by S.I. 1992/231 (N.I. 1), art. 15B(1)(4)(5) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 28(3)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C228** S. 116 applied (20.6.2003) by 1991 c. 56, s. 14B(1)(4)(5) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 25(5)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C229** S. 116 applied (20.6.2003) by 1990 c. 42, Sch. 4 para. 4A(1)(4)(5) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 24(9)(e)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C230** S. 116 applied (20.6.2003) by 1989 c. 29, s. 56CB(1)(5)(6) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 20(12)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C231** S. 116 applied (20.6.2003) by 1989 c. 29, s. 14A(11F)(11I)(11J) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 20(6)(a)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C232** S. 116 applied (20.6.2003) by 1989 c. 29, s. 12B(1)(4)(5) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 20(4)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C233** S. 116 applied (20.6.2003) by 1986 c. 44, s. 41EB(1)(5)(6) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 15(12)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C234** S. 116 applied (20.6.2003) by 1986 c. 44, s. 26A(11F)(11I)(11J) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 15(6)(a)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C235** S. 116 applied (20.6.2003) by 1986 c. 44, s. 24B(1)(4)(5) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 15(4)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C236** S. 116 applied (20.6.2003) by 1984 c. 12, s. 13B(1)(4)(5) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 13(4)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C237** S. 116 applied (20.6.2003) by 2000 c. 38, s. 18(6)(10)(11) (as substituted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 44(5)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C238** S. 116 applied (20.6.2003) by 2000 c. 38, s. 12B(1)(5)(6) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 44(3)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C239** S. 116 applied (20.6.2003) by 2000 c. 26, s. 19A(6)(10)(11) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 42(4)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C240** S. 116 applied (20.6.2003) by 2000 c. 26, s. 15B(1)(5)(6) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 42(2)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C241** S. 116 applied (20.6.2003) by S.I. 1996/275 (N.I. 2), art. 15B(1)(4)(5) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 36(3)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C242** S. 116 applied (20.6.2003) by S.I. 1994/426 (N.I. 1), art. 35B(1)(4)(5) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 33(3)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C243** S. 116 applied (20.6.2003) by 1993 c. 43, Sch. 4A para. 10A(1)(5)(6) (as substituted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 30(15)(a)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C244** S. 116 applied (20.6.2003) by 1993 c. 43, s. 15C(2D)(2H)(2I) (as substituted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 30(6)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)

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- C245** S. 116 applied (20.6.2003) by 1993 c. 43, s. 13B(1)(5)(6) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 30(4)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C246** S. 116 applied (20.6.2003) by 2000 c. 8, Sch. 14 para. 2A(1)(5)(6) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 40(20)(b)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- C247** S. 116 applied (20.6.2003) by 1980 c. 21, s. 11B(1) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 10(3)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)
- S. 116 applied (1.10.2005) by 1991 c. 56, s. 17M(1) (as inserted by Water Act 2003 (c. 37), ss. 56, 105(3), **Sch. 4 para. 2**); S.I. 2005/2714, **art. 2(h)** (with Sch. para. 5)
- S. 116 applied (1.10.2005) by 1991 c. 56, s. 17Q(6) (as inserted by Water Act 2003 (c. 37), ss. 56, 105(3), **Sch. 4 para. 2**); S.I. 2005/2714, **art. 2(h)** (with Sch. para. 5)
- S. 116 applied (S.) (11.11.2005) by The Water Services etc. (Scotland) Act 2005 (Consequential Provisions and Modifications) Order 2005 (S.I. 2005/3172), **arts. 5, 10(3)-(7)**
- S. 116 applied (N.I.) (1.4.2007) by The Water and Sewerage Services (Northern Ireland) Order 2006 (S.I. 2006/3336 (N.I. 21)), arts. 1(2)(3), **23(1)(h), 27(6)(h)** (with arts. 8(9), 121, 307); S.R. 2007/194, **art. 2(2)**, Sch. 1 Pt. 2 (with Sch. 2)
- C248** S. 116 applied (with modifications) (20.6.2003) by The Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003 (S.I. 2003/1592), art. 15, **Sch. 3 para. 1(1)(v)** (as amended (1.4.2014) by The Enterprise Act 2002 (Protection of Legitimate Interests) (Amendment) Order 2014 (S.I. 2014/891), arts. 1, **18(1)-(17)** (with arts. 20-23))
- S. 116 applied (with modifications) (20.6.2003) by S.I. 1999/3088, reg. 8 (as substituted by The Enterprise Act 2002 (Consequential and Supplemental Provisions) Order 2003 (S.I. 2003/1398), art. 2, **Sch. para. 36(3)**)
- S. 116 applied (with modifications) (N.I.) (2.3.2004) by The Energy (Northern Ireland) Order (S.I. 2003/419 (N.I. 6)), arts. 39(2), 40(2), {Sch. 2 para. 5(1)(h)(5)(6)}; S.R. 2004/71, **art. 2**, Sch.
- S. 116 applied (with modifications) (N.I.) (2.3.2004) by S.I. 1992/231 (N.I. 1), art. 17A(14)(h)(17) (18) (as inserted by The Energy (Northern Ireland) Order (S.I. 2003/419 (N.I. 6)), {art. 36(2)}; S.R. 2004/71, **art. 2**, Sch.)
- S. 116 applied (with modifications) (N.I.) (2.3.2004) by S.I. 1996/275 (N.I. 2), art. 17A(17)(h)(20) (21) (as inserted by The Energy (Northern Ireland) Order (S.I. 2003/419 (N.I. 6)), {art. 37(2)}; S.R. 2004/71, **art. 2**, Sch.)
- S. 116 applied (with modifications) (1.10.2004) by 1991 c. 56, s. 16B(6)(a)-(10) (as inserted by Water Act 2003 (c. 37), ss. 55(4), 105(3); S.I. 2004/2528, **art. 2(h)** (with art. 4, Sch.))
- C249** S. 116 applied (15.1.2012) by The Postal Services (Appeals to the Competition Commission) (Investigations and Extension of Time Limits) Order 2011 (S.I. 2011/2749), arts. 1, **3(h)** (as amended (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. 45(3)** (with art. 3))
- C250** S. 116 applied (with modifications) (1.11.2012) by Health and Social Care Act 2012 (c. 7), s. 306(2) (4), **Sch. 10 para. 10(1)(h)(2)(11)(12)**; S.I. 2012/2657, art. 2(2)

## 117 False or misleading information

- (1) A person commits an offence if—
- he supplies any information to the [<sup>F30</sup>CMA, OFCOM] or the Secretary of State in connection with any of their functions under this Part;
  - the information is false or misleading in a material respect; and
  - he knows that it is false or misleading in a material respect or is reckless as to whether it is false or misleading in a material respect.
- (2) A person commits an offence if he—
- supplies any information to another person which he knows to be false or misleading in a material respect; or

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- (b) recklessly supplies any information to another person which is false or misleading in a material respect;  
knowing that the information is to be used for the purpose of supplying information to the [<sup>F30</sup>CMA, OFCOM] or the Secretary of State in connection with any of their functions under this Part.
- (3) A person who commits an offence under subsection (1) or (2) shall be liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.]

#### Textual Amendments

- F16** Ss. 110A, 110B inserted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), **ss. 29(11)**, 103(3); S.I. 2014/416, art. 2(1)(b) (with Sch.) (with savings in 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. 6** (with art. 3))
- F30** Words in s. 117(1)(2) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 151** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

#### Modifications etc. (not altering text)

- C251** S. 117 modified (20.6.2003) by S.I. 1996/275 (N.I. 2), art. 23(7) (as substituted by Enterprise Act 2002 (c. 40), s. 279, **Sch. 9 para. 22(5)**; S.I. 2003/1397, **art. 2(1)**, Sch.)
- C252** S. 117 modified (20.6.2003) by 1993 c. 43, s. 67(9) (as substituted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 9 para. 21(7)**; S.I. 2003/1397, **art. 2(1)**, Sch.)
- C253** S. 117 modified (20.6.2003) by S.I. 1992/231 (N.I. 1), art. 46(6A) (as substituted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 9 para. 20(5)**; S.I. 2003/1397, **art. 2(1)**, Sch.)
- C254** S. 117 modified (20.6.2003) by 1991 c. 56, s. 31(8A) (as substituted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 9 para. 19(6)**; S.I. 2003/1397, **art. 2(1)**, Sch.)
- C255** S. 117 modified (20.6.2003) by 1989 c. 29, s. 43(6A) (as substituted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 9 para. 18(5)**; S.I. 2003/1397, **art. 2(1)**, Sch.)
- C256** S. 117 modified (20.6.2003) by 1986 c. 44, s. 36A(8) (as substituted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 9 para. 17(6)**; S.I. 2003/1397, **art. 2(1)**, Sch.)
- C257** S. 117 modified (20.6.2003) by 1984 c. 12, s. 50(6A) (as substituted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 9 para. 16(5)**; S.I. 2003/1397, **art. 2(1)**, Sch.)  
S. 117 modified (N.I.) (1.4.2007) by The Water and Sewerage Services (Northern Ireland) Order 2006 (S.I. 2006/3336 (N.I. 21)), arts. 1(2)(3), **29(10)** (with arts. 8(9), 121, 307); S.R. 2007/194, **art. 2(2)**, Sch. 1 Pt. 2 (with Sch. 2)
- C258** S. 117 modified (25.7.2003 for certain purposes and 29.12.2003 for certain purposes) by Communications Act 2003 (c. 21), **ss. 370(10)**, 411 (with transitional provisions in Sch. 18); S.I. 2003/1900, arts. 1(2), **2(1)**, 3(1), Sch. 1 (with arts. 3-6 (as amended (8.12.2003) by S.I. 2003/3142, art. 1(3))); S.I. 2003/3142, **art. 3(2)**
- C259** S. 117 applied (with modifications) (20.6.2003) by 2000 c. 38, s. 18(9)-(11) (as substituted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 44(5)**; S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)) (as amended (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 94(4)(b)**; S.I. 2014/416, art. 2(1)(d) (with Sch.))
- C260** S. 117 applied (with modifications) (20.6.2003) by 2000 c. 38, s. 12B(4)-(6) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 44(3)**; S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)) (as amended (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 88(b)**; S.I. 2014/416, art. 2(1)(d) (with Sch.))

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- C261** S. 117 applied (with modifications) (20.6.2003) by 2000 c. 26, s. 19A(9)-(11) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 42(4)**; S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8))
- C262** S. 117 applied (with modifications) (20.6.2003) by 2000 c. 26, s. 15B(4)-(6) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 42(2)**; S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8))
- C263** S. 117 applied (with modifications) (20.6.2003) by 1993 c. 43, Sch. 4A para 15(2G)-(2I) (as substituted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 30(15)(c)**; S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)) (as amended (E.W.S.) (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 81(13)(c)(ii)**; S.I. 2014/416, art. 2(1)(d) (with Sch.))
- C264** S. 117 applied (with modifications) (20.6.2003) by 1993 c. 43, Sch. 4A para. 10A(4)-(6) (as substituted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 30(15)(a)**; S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)) (as amended (E.W.S.) (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 81(6)(b)**; S.I. 2014/416, art. 2(1)(d) (with Sch.))
- C265** S. 117 applied (with modifications) (20.6.2003) by 1993 c. 43, s. 15C(2G)-(2I) (as substituted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 30(6)**; S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)) (as amended (E.W.S.) (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 77(4)(b)**; S.I. 2014/416, art. 2(1)(d) (with Sch.))
- C266** S. 117 applied (with modifications) (20.6.2003) by 1993 c. 43, s. 13B(4)-(6) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 30(4)**; S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)) (as amended (E.W.S.) (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 72(1)(b)**; S.I. 2014/416, art. 2(1)(d) (with Sch.))
- C267** S. 117 applied (with modifications) (20.6.2003) by 1989 c. 29, s. 56CB(4)-(6) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 20(12)**; S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8))
- C268** S. 117 applied (with modifications) (20.6.2003) by 1986 c. 44, s. 41EB(4)-(6) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 15(12)**; S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8)) (as amended (E.W.S.) (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 26(b)**; S.I. 2014/416, art. 2(1)(d) (with Sch.))
- C269** S. 117 applied (with modifications) (20.6.2003) by 1980 c. 21, s. 11C(1) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 10(3)**; S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8))
- C270** S. 117 applied (with modifications) (20.6.2003) by 2000 c. 8, Sch. 14 para. 2A(4)-(6) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 40(20)(b)**; S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8))
- S. 117 applied (with modifications) (20.6.2003) by The Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003 (S.I. 2003/1592), art. 15, **Sch. 3 para. 1(1)(w)(18)** (as amended (1.4.2014) by The Enterprise Act 2002 (Protection of Legitimate Interests) (Amendment) Order 2014 (S.I. 2014/891), arts. 1, **18(1)-(17)** (with arts. 20-23))
- S. 117 applied (with modifications) (20.6.2003) by The Energy (Northern Ireland) Order (S.I. 2003/419 (N.I. 6)), art. 2, {Sch. 2 para. 5(4)(6)}; S.R. 2003/203, **art. 2**, Sch.
- S. 117 applied (with modifications) (S.) (11.11.2005) by The Water Services etc. (Scotland) Act 2005 (Consequential Provisions and Modifications) Order 2005 (S.I. 2005/3172), **arts. 5, 10(3)-(7)**
- C271** S. 117 applied (20.6.2003) by S.I. 1990/1715, reg. 5 (as inserted by The Enterprise Act 2002 (Consequential and Supplemental Provisions) Order 2003 (S.I. 2003/1398), art. 2, **Sch. para. 17(5)**)
- C272** S. 117 applied (25.7.2003 for certain purposes and 29.12.2003 for certain purposes) by Communications Act 2003 (c. 21), **ss. 193(8), 411(2)(3)** (with transitional provisions in Sch. 18); S.I. 2003/1900, arts. 1(2), **2(1)**, 3(1), Sch. 1 (with arts. 3-6 (as amended (8.12.2003) by S.I. 2003/3142, art. 1(3))); S.I. 2003/3142, **art. 3(2)**
- C273** S. 117 applied (with modifications) (15.1.2012) by The Postal Services (Appeals to the Competition Commission) (Investigations and Extension of Time Limits) Order 2011 (S.I. 2011/2749), arts. 1, **3(i)**, 4 (as amended (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. 45(3)(4) (with art. 3))

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**C274** S. 117 applied (with modifications) (1.11.2012) by Health and Social Care Act 2012 (c. 7), para. 10(2), (12), s. 306(4), **Sch. 10 para. 10(1)(i)**; S.I. 2012/2657, art. 2(2)

**C275** S. 117 modified (1.4.2013) by Health and Social Care Act 2012 (c. 7), **ss. 73(6)**, 306(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)



**Status:**

Point in time view as at 01/04/2014.

**Changes to legislation:**

There are currently no known outstanding effects for the Enterprise Act 2002, Cross Heading:  
Investigation powers.