



# Enterprise Act 2002 (repealed)

## 2002 CHAPTER 40

### PART 3

#### MERGERS

### CHAPTER 5

#### SUPPLEMENTARY

#### *Miscellaneous*

#### 121 Fees

- (1) The Secretary of State may by order require the payment to him or the OFT of such fees as may be prescribed by the order in connection with the exercise by the Secretary of State, the OFT [<sup>F1</sup>, OFCOM] and the Commission of their functions under or by virtue of this Part, <sup>F2</sup> . . . and sections 32 to 34 of, and Schedule 4ZA to, the Water Industry Act 1991 (c. 56).
- (2) An order under this section may, in particular, provide for fees to be payable—
  - (a) in respect of a merger notice; [<sup>F3</sup> or]
  - (b) <sup>F4</sup> .....
  - (c) on the occurrence of any event specified in the order.
- (3) The events that may be specified in an order under this section by virtue of subsection (2)(c) include, in particular—
  - (a) the decision by the OFT in relation to a possible reference under section 22 or 33 that it is or may be the case that a relevant merger situation has been created or (as the case may be) that arrangements are in progress or in contemplation which, if carried into effect, will result in the creation of a relevant merger situation;

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*Changes to legislation: There are currently no known outstanding effects for the Enterprise Act 2002 (repealed), Section 121. (See end of Document for details)*

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- (b) the decision by the Secretary of State in relation to a possible reference under section 45 that it is or may be the case that a relevant merger situation has been created or (as the case may be) that arrangements are in progress or in contemplation which, if carried into effect, will result in the creation of a relevant merger situation;
  - (c) the decision by the Secretary of State in relation to a possible reference under section 62 that—
    - (i) it is or may be the case that a special merger situation has been created or (as the case may be) that arrangements are in progress or in contemplation which, if carried into effect, will result in the creation of a special merger situation; and
    - (ii) one or more than one consideration mentioned in the special intervention notice is relevant to a consideration of the special merger situation concerned; and
  - (d) the decision by the OFT in relation to a possible reference under section 32 of the Act of 1991 that it is or may be the case that arrangements are in progress which, if carried into effect, will result in a merger of any two or more water enterprises or that such a merger has taken place otherwise than as a result of the carrying into effect of arrangements that have been the subject of a reference by virtue of paragraph (a) of that section.
- (4) An order under this section may, in particular, contain provision—
- (a) for ascertaining the persons by whom fees are payable;
  - (b) specifying whether any fee is payable to the Secretary of State or the OFT;
  - (c) for the amount of any fee to be calculated by reference to matters which may include—
    - (i) <sup>F5</sup> . . . . .
    - (ii) <sup>F6</sup> . . . , the value of the turnover of the enterprises concerned;
  - (d) as to the time when any fee is to be paid; and
  - (e) for the repayment by the Secretary of State or the OFT of the whole or part of any fee in specified circumstances.
- (5) For the purposes of subsection (4)(c)(ii) the turnover of an enterprise shall be determined in accordance with such provisions as may be specified in an order under this section.
- (6) Provision made by virtue of subsection (5) may, in particular, include provision—
- (a) as to the amounts which are, or which are not, to be treated as comprising an enterprise's turnover;
  - (b) as to the date or dates by reference to which an enterprise's turnover is to be determined;
  - (c) restricting the turnover to be taken into consideration to turnover which has a connection of a particular description with the United Kingdom.
- (7) An order under this section may, in particular, in connection with provisions of the kind mentioned in subsection (5) make provision enabling the Secretary of State or the OFT to determine matters of a description specified in the order (including any of the matters mentioned in paragraphs (a) to (c) of subsection (6)).
- (8) In determining the amount of any fees to be prescribed by an order under this section, the Secretary of State may take into account all costs incurred by him and by the OFT in respect of the exercise by him, the OFT [<sup>F7</sup>, OFCOM] and the Commission of their

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respective functions under or by virtue of this Part <sup>F8</sup> . . . and sections 32 to 34 of, and Schedule 4ZA to, the Act of 1991.

(9) Fees paid to the Secretary of State or the OFT under this section shall be paid into the Consolidated Fund.

(10) <sup>F9</sup> . . . . .

#### Textual Amendments

- F1** Word in s. 121(1) inserted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), ss. 389(1), 411(2)(3), [Sch. 16 para. 23\(2\)\(a\)](#) (with transitional provisions in [Sch. 18](#)); S.I. 2003/3142, [art. 3\(1\)](#), [Sch. 1](#) (subject to [arts. 3\(3\)](#), 11)
- F2** Words in s. 121(1) repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), ss. 389(1), 406, 411(2)(3), [Sch. 16 para. 23\(2\)\(b\)](#), [Sch. 19\(1\)](#) (with transitional provisions in [Sch. 18](#) and [Note 1 Sch. 19](#)); S.I. 2003/3142, [art. 3\(1\)](#), [Sch. 1](#) (subject to [arts. 3\(3\)](#), 11)
- F3** Word in s. 121(2)(a) inserted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), ss. 389(1), 411(2)(3), [Sch. 16 para. 23\(3\)\(a\)](#) (with transitional provisions in [Sch. 18](#)); S.I. 2003/3142, [art. 3\(1\)](#), [Sch. 1](#) (subject to [arts. 3\(3\)](#), 11)
- F4** S. 121(2)(b) and word repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), ss. 389(1), 406, 411(2)(3), [Sch. 16 para. 23\(3\)\(b\)](#), [Sch. 19\(1\)](#) (with transitional provisions in [Sch. 18](#) and [Sch. 19 Note 1](#)); S.I. 2003/3142, [art. 3\(1\)](#), [Sch. 1](#) (subject to [arts. 3\(3\)](#), 11)
- F5** S. 121(4)(c)(i) repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), ss. 389(1), 406, 411(2)(3), [Sch. 16 para. 23\(4\)\(a\)\(b\)](#), [Sch. 19\(1\)](#) (with transitional provisions in [Sch. 18](#) and [Sch. 19 Note 1](#)); S.I. 2003/3142, [art. 3\(1\)](#), [Sch. 1](#) (subject to [arts. 3\(3\)](#), 11)
- F6** Words in s. 121(4)(c)(ii) repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), ss. 389(1), 406, 411(2)(3), [Sch. 16 para. 23\(4\)\(c\)](#), [Sch. 19\(1\)](#) (with transitional provisions in [Sch. 18](#) and [Sch. 19 Note 1](#)); S.I. 2003/3142, [art. 3\(1\)](#), [Sch. 1](#) (subject to [arts. 3\(3\)](#), 11)
- F7** Word in s. 121(8) inserted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), ss. 389(1), 411(2)(3), [Sch. 16 para. 23\(5\)\(a\)](#) (with transitional provisions in [Sch. 18](#)); S.I. 2003/3142, [art. 3\(1\)](#), [Sch. 1](#) (subject to [arts. 3\(3\)](#), 11)
- F8** Words in s. 121(8) repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), ss. 389(1), 406, 411(2)(3), [Sch. 16 para. 23\(5\)\(b\)](#), [Sch. 19\(1\)](#) (with transitional provisions in [Sch. 18](#) and [Sch. 19 Note 1](#)); S.I. 2003/3142, [art. 3\(1\)](#), [Sch. 1](#) (subject to [arts. 3\(3\)](#), 11)
- F9** S. 121(10) repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), ss. 389(1), 406, 411(2)(3), [Sch. 16 para. 23\(6\)](#), [Sch. 19\(1\)](#) (with transitional provisions in [Sch. 18](#) and [Sch. 19 Note 1](#)); S.I. 2003/3142, [art. 3\(1\)](#), [Sch. 1](#) (subject to [arts. 3\(3\)](#), 11)

#### Textual Amendments applied to the whole legislation

- F1** Act: for the words "solicitor of the Supreme Court of Northern Ireland" wherever they occur there is substituted (prosp.) the words "solicitor of the Court of Judicature of Northern Ireland" by virtue of [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 59, 148(1), [Sch. 11 para. 5](#) [Editorial Note: this amendment will be carried through into the text of the Act at the same time as any other effects on the Act for the year in which the relevant commencement order (or first such order) is made]

**Status:**

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**Changes to legislation:**

There are currently no known outstanding effects for the Enterprise Act 2002 (repealed), Section 121.