



Enterprise Act 2002

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 [^{F1}CMA of] such fees as may be prescribed by the order in connection with the exercise by the Secretary of State, the [^{F2}CMA and OFCOM] of their functions under or by virtue of this Part, ^{F3} . . . 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; [^{F4} or]
 - (b) ^{F5}
 - (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 [^{F6}CMA] in relation to a possible reference under section 22 [^{F7}, 33, 68B or 68C] 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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- (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 [^{F6}CMA] 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 [^{F6}CMA];
 - (c) for the amount of any fee to be calculated by reference to matters which may include—
 - (i) ^{F8}
 - (ii) ^{F9} . . . , 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 [^{F6}CMA] 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 [^{F10}CMA] 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 [^{F11}CMA in] respect of the exercise by him, the [^{F12}CMA and OFCOM] of their

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respective functions under or by virtue of this Part ^{F13} . . . and sections 32 to 34 of, and Schedule 4ZA to, the Act of 1991.

(9) Fees paid to the Secretary of State or the [^{F14}CMA] under this section shall be paid into the Consolidated Fund.

(10) ^{F15}

Textual Amendments

- F1** Words in s. 121(1) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 5 para. 156\(2\)\(a\)](#) (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F2** Words in s. 121(1) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 5 para. 156\(2\)\(b\)](#) (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F3** 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)
- F4** 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)
- F5** 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)
- F6** Word in s. 121(3)(4) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 5 para. 156\(3\)](#) (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F7** Words in s. 121(3)(a) substituted (26.10.2023) by [Energy Act 2023 \(c. 52\)](#), s. 334(2)(j), [Sch. 16 para. 30](#)
- F8** 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)
- F9** 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)
- F10** Word in s. 121(7) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 5 para. 156\(3\)](#) (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F11** Words in s. 121(8) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 5 para. 156\(4\)\(a\)](#) (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F12** Words in s. 121(8) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 5 para. 156\(4\)\(b\)](#) (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F13** 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)
- F14** Word in s. 121(9) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 5 para. 156\(5\)](#) (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F15** 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)

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.)

Changes to legislation:

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