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STATUTORY INSTRUMENTS

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**2003 No. 1397**

**The Enterprise Act 2002 (Commencement No. 3, Transitional and Transitory Provisions and Savings) Order 2003**

**Exception for mergers of water or sewerage undertakers; transitory provisions etc. relating to such mergers**

3.—(1) Where the Schedule to this Order states that any amendment, repeal or revocation comes into force for all purposes subject to this paragraph, it does not come into force for purposes relating to—

- (a) the making by the Secretary of State of references under section 32 of the Water Industry Act 1991<sup>(1)</sup> (duty to refer merger of water or sewerage undertakings), or
- (b) any references so made.

(2) The modifications in paragraphs (3) to (5) apply until the coming into force of section 70 and Schedule 6 (which are to replace sections 32 to 35 of the Water Industry Act 1991).

(3) Section 35(4) of the Water Industry Act 1991 shall have effect as if for the words from “the Secretary of State” to “the 1973 Act” there were substituted “the OFT or the Secretary of State, in a case in which, or to any extent to which, the Secretary of State is not required to make a reference under section 32 above, to make a reference under Part 3 of the 2002 Act”.

(4) Paragraph 5 of Schedule 1 to the Competition Act 1998<sup>(2)</sup> shall have effect as if in paragraph (d) for “OFT” there were substituted “Secretary of State”.

(5) Section 121 shall have effect as if the following were omitted—

- (a) in subsection (1) the words from “and sections 32” to the end;
- (b) subsection (3)(d); and
- (c) in subsection (8) the words from “and sections 32” to the end.

(6) Paragraph 13 of Schedule 24 shall not apply in any case in which the Secretary of State is required to make a reference under section 32 of the Water Industry Act 1991.

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(1) 1991 c. 56.

(2) 1998 c. 41.