



Water Industry Act 1991

1991 CHAPTER 56

PART II

APPOINTMENT AND REGULATION OF UNDERTAKERS

CHAPTER III

PROTECTION OF CUSTOMERS ETC..

Provisions with respect to competition

31 Functions of Director with respect to competition.

- (1) ^{F1}
- [^{F2}(2) The functions to which subsection (2A) below applies shall be concurrent functions of the Director and the OFT.
- (2A) This subsection applies to the functions of the OFT under Part 4 of the 2002 Act (other than sections 166 and 171) so far as relating to commercial activities connected with the supply of water or the provision of sewerage services.]
- [^{F3}(3) The Director shall be entitled to exercise, concurrently with the OFT, the functions of the OFT under the provisions of Part 1 of the Competition Act 1998 (other than sections 31D(1) to (6), 38(1) to (6) and 51), so far as relating to —
- (a) agreements, decisions or concerted practices of the kind mentioned in section 2(1) of that Act,
 - (b) conduct of the kind mentioned in section 18(1) of that Act,
 - (c) agreements, decisions or concerted practices of the kind mentioned in Article 81(1) of the treaty establishing the [^{F4}European Union], or
 - (d) conduct which amounts to abuse of the kind mentioned in Article 82 of the treaty establishing the [^{F4}European Union],

Status: Point in time view as at 15/01/2012. This version of this provision has been superseded.
Changes to legislation: Water Industry Act 1991, Section 31 is up to date with all changes known to be in force on or before 20 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

which relate to commercial activities connected with the supply of water or securing a supply of water or with the provision or securing of sewerage services.]

[^{F5}(4) So far as necessary for the purposes of, or in connection with, subsections (2) and (2A) above, references in Part 4 of the 2002 Act to the OFT (including references in provisions of that Act applied by that Part) shall be construed as including references to the Director (except in sections 166 and 171 of that Act and in any other provision of that Act where the context otherwise requires).]

^{F6}[(4A) So far as necessary for the purposes of, or in connection with, the provisions of subsection (3) above, references in Part I of the Competition Act 1998 to [^{F7}the OFT] are to be read as including a reference to the Director ([^{F8}except in sections 31D(1) to (6), 38(1) to (6)] , 51, 52(6) and (8) and 54 of that Act and in any other provision of that Act where the context otherwise requires).]

[^{F9}(5) Before the OFT or the Director first exercises in relation to any matter functions which are exercisable concurrently by virtue of subsection (2) above, that person shall consult the other.

(6) Neither the OFT nor the Director shall exercise in relation to any matter functions which are exercisable concurrently by virtue of subsection (2) above if functions which are so exercisable have been exercised in relation to that matter by the other.]

(7) It shall be the duty of the Director, for the purpose of assisting the [^{F10}Competition Commission] in carrying out an investigation on a reference made to them by the Director by virtue of subsection (2) ^{F11}. . . above, to give to the Commission—

- (a) any information which is in his possession and which relates to matters falling within the scope of the investigation, and which is either requested by the Commission for that purpose or is information which in his opinion it would be appropriate for that purpose to give to the Commission without any such request; and
- (b) any other assistance which the Commission may require, and which it is within his power to give, in relation to any such matters;

and the Commission shall, for the purposes of carrying out any such investigation, take into account any information given to them for that purpose under this subsection.

(8) If any question arises as to whether subsection (2) or (3) above ^{F12}. . . applies to any particular case, that question shall be referred to and determined by the Secretary of State; and no objection shall be taken to anything done under—

- (a) [^{F13}Part 4 of the 2002 Act]; or
- ^{F14}[(b) Part I of the Competition Act 1998 ([^{F15}other than sections 31D(1) to (6), 38(1) to (6)] and 51),]

by or in relation to the Director on the ground that it should have been done by or in relation to [^{F16}the OFT] .

[^{F17}(8A) Section 117 of the 2002 Act (offences of supplying false or misleading information) as applied by section 180 of that Act shall have effect so far as relating to functions exercisable by the Director by virtue of subsection (2) above as if the references in section 117(1)(a) and (2) to the OFT included references to the Director.]

(9) ^{F18}.....

Status: Point in time view as at 15/01/2012. This version of this provision has been superseded.
Changes to legislation: Water Industry Act 1991, Section 31 is up to date with all changes known to be in force on or before 20 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

- F1** S. 31(1) ceases to have effect (1.4.2003) by [Enterprise Act 2002 \(c. 40\)](#), ss. 278, 279, Sch. 25 para. (8) (a), Sch. 26; [S.I. 2003/766](#), [art. 2](#), Sch. (with transitional and transitory provisions in art. 3)
- F2** S. 31(2)(2A) substituted (20.6.2003) for s. 31(2) by [Enterprise Act 2002 \(c. 40\)](#), ss. 168(9), 279, [Sch. 9 para. 19\(2\)](#); [S.I. 2003/1397](#), {art. 2(1)}, Sch.
- F3** S. 31(3) substituted (1.5.2004) by [The Competition Act 1998 and Other Enactments \(Amendment\) Regulations 2004 \(S.I. 2004/1261\)](#), reg. 5, [Sch. 2 para.4\(2\)\(a\)](#)
- F4** Words in Act substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), arts. 2, 3, 4 (with art. 3(2)(3), 4(2), 6(4)(5))
- F5** S. 31(4) substituted (20.6.2003) by [Enterprise Act 2002 \(c. 40\)](#), ss. 168(9), 279, [Sch. 9 para. 19\(3\)](#); [S.I. 2003/1397](#), {art. 2(1)}, Sch.
- F6** S. 31(4A) inserted (26.11.1998 for specified purposes and otherwise 1.3.2000) by 1998 c. 41, s. 54(3), [Sch. 10 Pt. II para. 5\(5\)\(8\)](#) (with s. 73); [S.I. 1997/2750](#), [art. 2\(1\)](#); [S.I. 2000/344](#), [art. 2 Sch.](#)
- F7** Words in s. 31(4A) substituted (1.4.2003) by [Enterprise Act 2002 \(c. 40\)](#), ss. 278, 279, [Sch. 25 para. 25\(8\)\(c\)](#); [S.I. 2003/766](#), [art. 2](#), Sch. (with transitional and transitory provisions in art. 3)
- F8** Words in s. 31(4A) substituted (1.5.2004) by [The Competition Act 1998 and Other Enactments \(Amendment\) Regulations 2004 \(S.I. 2004/1261\)](#), [reg. 5](#), Sch. 2 para. 4(2)(b)
- F9** S. 31(5)(6) substituted (20.6.2003) by [Enterprise Act 2002 \(c. 40\)](#), ss. 168(9), 279, [Sch. 9 para. 19\(4\)](#); [S.I. 2003/1397](#), art. 2(1), Sch.
- F10** Words in s. 31(7) substituted (1.4.1999) by [S.I. 1999/506](#), [art. 30\(b\)](#)
- F11** Words in s. 31(7) repealed (26.11.1998 for specified purposes and otherwise 1.3.2000) by 1998 c. 41, ss. 54(3), 74(3), Sch. 10 Pt. II para. 5(5)(11), [Sch. 14 Pt. I](#) (with s. 73); [S.I. 1998/2750](#), [art. 2\(1\)](#); [S.I. 2000/344](#), [art. 2 Sch.](#)
- F12** Words in s. 31(8) repealed (20.6.2003) by [Enterprise Act 2002 \(c. 40\)](#), ss. 168(1), 178, 179, Sch. 9 para. 19(5)(a), [Sch. 26](#); [S.I. 2003/1397](#), [art. 2\(1\)](#), Sch. (with savings in art. 10)
- F13** Words in s. 31(8) substituted (20.6.2003) by [Enterprise Act 2002 \(c. 40\)](#), ss. 168(9), 279, [Sch. 9 para. 19\(5\)\(b\)](#); [S.I. 2003/1397](#), art. 2(1), Sch.
- F14** S. 31(8)(b) substituted (26.11.1998 for specified purposes and otherwise 1.3.2000) by 1998 c. 41, s. 54(3), [Sch. 10 Pt. II para. 5\(5\)\(12\)](#) (with s. 73); [S.I. 1998/2750](#), [art. 2\(1\)](#); [S.I. 2000/344](#), [art. 2 Sch.](#)
- F15** Words in s. 31(8)(b) substituted (1.5.2004) by [The Competition Act 1998 and Other Enactments \(Amendment\) Regulations 2004 \(S.I. 2004/1261\)](#), reg. 5, [Sch. 2 para. 4\(2\)\(c\)](#)
- F16** Words in s. 31(8) substituted (1.4.2003) by [Enterprise Act 2002 \(c. 40\)](#), ss. 278, 279, [Sch. 25 para. 25\(8\)\(d\)](#); [S.I. 2003/766](#), [art. 2](#), Sch. (with transitional and transitory provisions in art. 3)
- F17** S. 31(8A) substituted (20.6.2003) by [Enterprise Act 2002 \(c. 40\)](#), ss. 168(9), 279, [Sch. 9 para. 19\(6\)](#); [S.I. 2003/1397](#), art. 2(1), Sch.
- F18** S. 31(9) repealed (20.6.2003) by [Enterprise Act 2002 \(c. 40\)](#), ss. 168(1), 278, 279, Sch. 9 para. 19(7), [Sch. 26](#); [S.I. 2003/1397](#), [art. 2\(1\)](#), Sch. (with savings in art. 10)

Modifications etc. (not altering text)

- C1** S. 31(3) restricted (26.11.1998 for specified purposes and otherwise 1.3.2000) by 1998 c. 41, s. 54(3), [Sch. 10 para. 5\(1\)](#) (with s. 73); [S.I. 1998/2750](#), [art. 2\(1\)](#); [S.I. 2000/344](#), [art. 2 Sch.](#)
S. 31(3) amended (1.3.2000) by 1998 c. 41, ss. 54, 66(5), [Sch. 10 Pt. I para. 5\(1\)](#) (with s. 73); [S.I. 2000/344](#), [art. 2 Sch.](#)

Status:

Point in time view as at 15/01/2012. This version of this provision has been superseded.

Changes to legislation:

Water Industry Act 1991, Section 31 is up to date with all changes known to be in force on or before 20 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.