



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

33 Exclusion of small mergers from duty to make merger reference.

- (1) The Secretary of State shall not make a merger reference under section 32 above in respect of any actual or prospective merger of two or more water enterprises if it appears to him—
- (a) that the value of the assets taken over does not exceed or, as the case may be, would not exceed the amount for the time being specified in section 64(1)(b) of the 1973 Act (condition of merger reference relating to amount of assets taken over); or
 - (b) that the only water enterprises already belonging to the person making the take over are enterprises each of which has assets the value of which does not exceed or, as the case may be, would not exceed that amount.
- (2) In relation to a merger of two or more water enterprises—
- (a) the value of the assets taken over shall, for the purposes of subsection (1) above, be determined in accordance with section 67 of the 1973 Act by reference only to assets employed in or appropriated to a water enterprise; and
 - (b) the value of the assets of a water enterprise belonging to the person making the take over shall be taken for those purposes to be the value of such assets employed in or appropriated to that enterprise as by virtue of the exceptions in

Status: Point in time view as at 01/01/1996. This version of this provision has been superseded.

Changes to legislation: Water Industry Act 1991, Section 33 is up to date with all changes known to be in force on or before 16 September 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)

paragraph (a) of subsection (2) of that section are disregarded in determining the value of the assets taken over;

and paragraph (b) of that subsection shall apply for determining the value of the assets referred to in paragraph (b) above as it applies in relation to the assets taken over.

(3) For the purposes of this section and of any determination in accordance with this section—

- (a) the assets treated as employed in or appropriated to a water enterprise carried on by a company holding an appointment under Chapter I of this Part shall include all the assets for the time being of that company;
- (b) every water enterprise any of whose assets fall to be disregarded as mentioned in subsection (2)(b) above shall be treated as belonging to the person making the take over;
- (c) the enterprises mentioned in paragraph (b) above shall be treated as separate enterprises in so far as they are carried on by different companies holding appointments under Chapter I of this Part; and
- (d) subsections (3) and (4) of section 67 of the 1973 Act (assets treated as appropriated to an enterprise and mergers over a period) shall apply as they apply for the purposes of, and of any determination in accordance with, subsection (2) of that section.

(4) If the Secretary of State considers that it is appropriate—

- (a) for subsection (1) above to have effect with a reference in paragraph (a) to a different amount; or
- (b) for the condition set out in that paragraph to be modified in any other respect, he may, in relation to mergers after the coming into force of the regulations, by regulations make such modifications of that paragraph and, for that purpose, of the other provisions of this section as may be prescribed.

Modifications etc. (not altering text)

C1 S. 33(1)(a) amended (9.2.1994) by [S.I. 1994/73, reg. 2](#)

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