



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

34 References with respect to water enterprise mergers.

- (1) Subject to subsections (2) to (4) below, the 1973 Act shall have effect in relation to any reference under section 32 above as if—
 - (a) any such merger of two or more water enterprises as is required to be the subject of such a reference were a merger situation qualifying for investigation; and
 - (b) a reference under that section were made under section 64 of that Act or, as the case may be, under section 75 of that Act (references in anticipation of a merger).
- (2) Nothing in subsection (1) above shall have the effect in relation to any reference under section 32 above of applying—
 - (a) so much of Part V of the 1973 Act as requires the [^{F1}Competition Commission]to consider any of the matters set out in subsection (1) of section 64 of that Act; or
 - (b) the provisions of sections 69(2) to (4) and 75(3) of that Act (power to restrict matters referred).
- (3) In determining on a reference under section 32 above whether any matter operates, or may be expected to operate, against the public interest the [^{F1} Competition Commission]—

Status: Point in time view as at 01/04/1999. This version of this provision has been superseded.

Changes to legislation: Water Industry Act 1991, Section 34 is up to date with all changes known to be in force on or before 02 July 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)

[^{F2}(a) shall have regard to the desirability of giving effect to the principle that the Director's ability, in carrying out his functions by virtue of this Act, to make comparisons between different water enterprises should not be prejudiced; and]

(b) shall have regard to the desirability of achieving any other purpose so far only as they are satisfied—

(i) that that other purpose can be achieved in a manner that does not conflict with that principle; or

(ii) that the achievement of that other purpose is of substantially greater significance in relation to the public interest than that principle and cannot be brought about except in a manner that conflicts with that principle.

(4) No order shall be made under Part V of the 1973 Act in consequence of any merger reference made under section 32 above in respect of an actual merger unless the reference was made within the period of six months beginning with whichever is the later of—

(a) the day on which the merger took place; and

(b) the day on which the material facts about the transactions which resulted in the merger first came to the notice of the Secretary of State or the Director General of Fair Trading or were made public within the meaning of section 64 of the 1973 Act;

and if on such a reference the [^{F1}Competition Commission]are satisfied that the reference was not made within that period their report on the reference shall state that fact and nothing else.

Textual Amendments

F1 Words in s. 34(2)(a)(3)(4) substituted (1.4.1999) by S.I. 1999/506, art. 30(b)

F2 S. 34(3)(a) substituted (1.7.1992) by Competition and Service (Utilities) Act 1992 (c. 43), s. 39(1)(3); Competition and Service (Utilities) Act 1992 (Commencement No. 1) Order 1992, art. 3, Sch. Pt. I

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