



Enterprise Act 2002 (repealed)

2002 CHAPTER 40

PART 3

MERGERS

CHAPTER 5

SUPPLEMENTARY

Investigation powers

112 Penalties: main procedural requirements

- (1) As soon as practicable after imposing a penalty under section 110(1) or (3), the Commission shall give notice of the penalty.
- (2) The notice shall state—
 - (a) that the Commission has imposed a penalty on the person concerned;
 - (b) whether the penalty is of a fixed amount, of an amount calculated by reference to a daily rate or of both a fixed amount and an amount calculated by reference to a daily rate;
 - (c) the amount or amounts concerned and, in the case of an amount calculated by reference to a daily rate, the day on which the amount first starts to accumulate and the day or days on which it might cease to accumulate;
 - (d) the failure or (as the case may be) the obstruction or delay which the Commission considers gave it the power to impose the penalty;
 - (e) any other facts which the Commission considers justify the imposition of a penalty and the amount or amounts of the penalty;
 - (f) the manner in which, and place at which, the penalty is required to be paid to the Commission;

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- (g) the date or dates, no earlier than the end of the relevant period beginning with the date of service of the notice on the person concerned, by which the penalty or (as the case may be) different portions of it are required to be paid;
 - (h) that the penalty or (as the case may be) different portions of it may be paid earlier than the date or dates by which it or they are required to be paid; and
 - (i) that the person concerned has the right to apply under subsection (3) below or to appeal under section 114 and the main details of those rights.
- (3) The person against whom the penalty was imposed may, within 14 days of the date of service on him of a notice under subsection (1), apply to the Commission for it to specify a different date or (as the case may be) different dates by which the penalty or (as the case may be) different portions of it are to be paid.
- (4) A notice under this section shall be given by—
- (a) serving a copy of the notice on the person on whom the penalty was imposed; and
 - (b) publishing the notice.
- (5) In this section “relevant period” means the period of 28 days mentioned in subsection (3) of section 114 or, if another period is specified by the Secretary of State under that subsection, that period.

Modifications etc. (not altering text)

- C1** S. 112 applied (20.6.2003) by S.I. 1992/231 (N.I. 1), art. 15B(1)(4)(5) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 28(3)**; S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8))
- C2** S. 112 applied (20.6.2003) by 1991 c. 56, s. 14B(1)(4)(5) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 25(5)**; S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8))
- C3** S. 112 applied (20.6.2003) by 1990 c. 42, Sch. 4 para. 4A(1)(4)(5) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 24(9)(e)**; S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8))
- C4** S. 112 applied (20.6.2003) by 1989 c. 29, s. 56CB(1)(5)(6) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 20(12)**; S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8))
- C5** S. 112 applied (20.6.2003) by 1989 c. 29, s. 14A(11F)(11I)(11J) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 20(6)(a)**; S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8))
- C6** S. 112 applied (20.6.2003) by 1989 c. 29, s. 12B(1)(4)(5) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 20(4)**; S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8))
- C7** S. 112 applied (20.6.2003) by 1986 c. 44, s. 41EB(1)(5)(6) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 15(12)**; S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8))
- C8** S. 112 applied (20.6.2003) by 1986 c. 44, s. 26A(11F)(11I)(11J) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 15(6)(a)**; S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8))
- C9** S. 112 applied (20.6.2003) by 1986 c. 44, s. 24B(1)(4)(5) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 15(4)**; S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8))
- C10** S. 112 applied (20.6.2003) by 1986 c. 31, s. 44B(1)(4)(5) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 14(3)**; S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8))
- C11** S. 112 applied (20.6.2003) by 1984 c. 12, s. 13B(1)(4)(5) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 13(4)**; S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8))
- C12** S. 112 applied (20.6.2003) by 2000 c. 38, s. 18(6)(10)(11) (as substituted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 44(5)**; S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8))
- C13** S. 112 applied (20.6.2003) by 2000 c. 38, s. 12B(1)(5)(6) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 44(3)**; S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8))
- C14** S. 112 applied (20.6.2003) by 2000 c. 26, s. 19A(6)(10)(11) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 42(4)**; S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8))

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- C15** S. 112 applied (20.6.2003) by 2000 c. 26, s. 15B(1)(5)(6) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 42(2)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8))
- C16** S. 112 applied (20.6.2003) by S.I. 1996/275 (N.I. 2), art. 15B(1)(4)(5) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 36(3)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8))
- C17** S. 112 applied (20.6.2003) by S.I. 1994/426 (N.I. 1), s. 35B(1)(4)(5) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 33(3)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8))
- C18** S. 112 applied (20.6.2003) by 1993 c. 43, Sch. 4A para. 15(2D)(2H)(2I) (as substituted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 30(15)(c)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8))
- C19** S. 112 applied (20.6.2003) by 1993 c. 43, Sch. 4A para. 10A(1)(5)(6) (as substituted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 30(15)(a)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8))
- C20** S. 112 applied (20.6.2003) by 2000 c. 8, Sch. 14 para. 2A(1)(5)(6) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 40(20)(b)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8))
- C21** S. 112 applied (20.6.2003) by 1993 c. 43, s. 15C(2D)(2H)(2I) (as substituted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 30(6)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8))
- C22** S. 112 applied (20.6.2003) by 1993 c. 43, s. 13B(1)(5)(6) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 30(4)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8))
- C23** S. 112 applied (20.6.2003) by 1980 c. 21, s. 11B(1) (as inserted by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 10(3)**); S.I. 2003/1397, **art. 2(1)**, Sch. (with art. 8))
S. 112 applied (1.10.2005) by 1991 c. 56, s. 17M(1) (as inserted by Water Act 2003 (c. 37), ss. 56, 105(3), **Sch. 4 para. 2**; S.I. 2005/2714, **art. 2(h)** (with Sch. para. 5))
S. 112 applied (1.10.2005) by 1991 c. 56, s. 17Q(6) (as inserted by Water Act 2003 (c. 37), ss. 56, 105(3), **Sch. 4 para. 2**; S.I. 2005/2714, **art. 2(h)** (with Sch. para. 5))
S. 112 applied (S.) (11.11.2005) by The Water Services etc. (Scotland) Act 2005 (Consequential Provisions and Modifications) Order 2005 (S.I. 2005/3172), **arts. 5, 10(3)-(7)**
S. 112 applied (N.I.) (1.4.2007) by The Water and Sewerage Services (Northern Ireland) Order 2006 (S.I. 2006/3336 (N.I. 21)), arts. 1(2)(3), **23(1)(d), 27(6)(d)** (with arts. 8(9), 121, 307); S.R. 2007/194, **art. 2(2)**, Sch. 1 Pt. 2 (with Sch. 2)
- C24** S. 112 applied (with modifications) (20.6.2003) by The Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003 (S.I. 2003/1592), art. 15, **Sch. 3 para. 1(1)(r)** (as amended (1.4.2014) by The Enterprise Act 2002 (Protection of Legitimate Interests) (Amendment) Order 2014 (S.I. 2014/891), arts. 1, **18(1)-(17)** (with arts. 20-23))
S. 112 applied (with modifications) (20.6.2003) by S.I. 1999/3088, reg. 8 (as substituted by The Enterprise Act 2002 (Consequential and Supplemental Provisions) Order 2003 (S.I. 2003/1398), art. 2, **Sch. para. 36(3)**)
S. 112 applied (with modifications) (N.I.) (2.3.2004) by The Energy (Northern Ireland) Order (S.I. 2003/419 (N.I. 6)), arts. 39(2), 40(2), Sch. 2 para. 5(1)(d)(5)(6); S.R. 2004/71, **art. 2**, Sch.
S. 112 applied (with modifications) (N.I.) (2.3.2004) by S.I. 1992/231 (N.I. 1), art. 17A(14)(d)(17)(18) (as inserted by The Energy (Northern Ireland) Order (S.I. 2003/419 (N.I. 6)), art. 36(2); S.R. 2004/71, **art. 2**, Sch.))
S. 112 applied (with modifications) (N.I.) (2.3.2004) by S.I. 1996/275 (N.I. 2), art. 17A(17)(d)(20)(21) (as inserted by The Energy (Northern Ireland) Order (S.I. 2003/419 (N.I. 6)), art. 37(2); S.I. 2004/71, **art. 2**, Sch.))
S. 112 applied (with modifications) (1.10.2004) by 1991 c. 56, s. 16B(6)(d)-(10) (as inserted by Water Act 2003 (c. 37), ss. 55(4), 105(3); S.I. 2004/2528, **art. 2(h)** (with art. 4, Sch.))
- C25** Ss. 109-115 applied (with modifications) (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 60(9), 211(2) (with ss. 29, 192, 193); S.I. 2009/3250, art. 2(c)(i) (as amended (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 1(1), Sch. 1 para. 177 (with art. 3, Sch. 2 para. 2))

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Textual Amendments applied to the whole legislation

- F1** Act: for the words "solicitor of the Supreme Court of Northern Ireland" wherever they occur there is substituted (prosp.) the words "solicitor of the Court of Judicature of Northern Ireland" by virtue of [Constitutional Reform Act 2005 \(c. 4\), ss. 59, 148\(1\), Sch. 11 para. 5](#) [Editorial Note: this amendment will be carried through into the text of the Act at the same time as any other effects on the Act for the year in which the relevant commencement order (or first such order) is made]

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