



# Enterprise Act 2002

## 2002 CHAPTER 40

### <sup>F1</sup>PART 3

#### MERGERS

### CHAPTER 5

#### SUPPLEMENTARY

#### *Investigation powers*

#### <sup>F1</sup>112 Penalties: main procedural requirements

- (1) As soon as practicable after imposing a penalty under section 110(1) or (3), the <sup>F2</sup>CMA shall give notice of the penalty.
- (2) The notice shall state—
  - (a) that the <sup>F2</sup>CMA 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 <sup>F2</sup>CMA considers gave it the power to impose the penalty;
  - (e) any other facts which the <sup>F2</sup>CMA 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 <sup>F2</sup>CMA;

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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 [F<sup>2</sup>CMA] 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.]

#### Textual Amendments

- F1** Ss. 110A, 110B inserted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), ss. 29(11), 103(3); S.I. 2014/416, art. 2(1)(b) (with Sch.) (with savings in The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) (No. 2) Order 2014 (S.I. 2014/549), art. 1(1), **Sch. 1 para. 6** (with art. 3))
- F2** Word in s. 112(1)-(3) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (2013 c. 24), s. 26(3), Sch. 5 para. 146 (with s. 28); S.I. 2014/416, art. 2(1)(d) Sch.

#### Modifications etc. (not altering text)

- C1** Pt. 3 modified (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 4 para. 56**; S.I. 2014/416, art. 2(1)(c) (with Sch.)
- C2** 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))
- C3** 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))
- C4** 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))
- C5** 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))
- C6** 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))
- C7** 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))
- C8** 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))
- C9** 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))
- C10** 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))

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- C11** 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))
- C12** 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))
- C13** 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))
- C14** 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))
- C15** 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))
- C16** 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))
- C17** 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))
- C18** 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))
- C19** 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))
- C20** 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))
- C21** 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))
- C22** 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))
- C23** 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))
- C24** 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)
- C25** 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.))

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- 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.))
- C26** 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))
- C27** S. 112 applied (15.1.2012) by The Postal Services (Appeals to the Competition Commission) (Investigations and Extension of Time Limits) Order 2011 (S.I. 2011/2749), arts. 1, **3(d)** (as amended (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) (No. 2) Order 2014 (S.I. 2014/549), art. 1(1), **Sch. 1 para. 45(3)** (with art. 3))
- C28** S. 112 applied (with modifications) (1.11.2012) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 10 para. 10(1)(d)(2)(8)(12)**; S.I. 2012/2657, art. 2(2)
- C29** Ss. 110-115 modified by S.I. 2003/1592, art. 5A(f) (as inserted (1.4.2014) by The Enterprise Act 2002 (Protection of Legitimate Interests) (Amendment) Order 2014 (S.I. 2014/891), arts. 1, 7 (with arts. 20-23))
- C30** Ss. 112-115 applied by 1998 c. 41, s. 40A(9) (as inserted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), **ss. 40(2)**, 103(3); S.I. 2014/416, art. 2(1)(b) (with Sch.))
- C31** Ss. 111-115 applied (with modifications) by 2007 c. 29, s. 60(9) (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))
- C32** Ss. 112-115 applied (14.6.2021) by United Kingdom Internal Market Act 2020 (c. 27), **ss. 43(11)**, 59(3) (with s. 55(2)); S.I. 2021/706, reg. 2

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