
STATUTORY INSTRUMENTS

2007 No. 461

COMPETITION

**The Competition Commission (Water
Industry) Penalties Order 2007**

Made - - - - *19th February 2007*
Laid before Parliament *22nd February 2007*
Coming into force - - *1st April 2007*

The Secretary of State has consulted, as required by section 111(8) of the Enterprise Act 2002⁽¹⁾, the Competition Commission and such other persons as he considers appropriate.

He makes the following Order in exercise of the powers conferred by section 111(4) and (6) of the Enterprise Act 2002, as applied by—

- (a) section 16B(6), including that section as applied by section 12(3B), of the Water Industry Act 1991⁽²⁾,
- (b) sections 17M(1) and 17Q(6) of that Act, and
- (c) paragraph 1 of Schedule 4ZA to that Act:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Competition Commission (Water Industry) Penalties Order 2007 and shall come into force on 1st April 2007.

(2) In this Order—

“the 2002 Act” means the Enterprise Act 2002; and

“the relevant provisions” means—

- (a) section 16B(6), including that section as applied by section 12(3B), of the Water Industry Act 1991;
- (b) sections 17M(1) and 17Q(6) of that Act; and

(1) 2002 c. 40.

(2) 1991 c. 56; sections 12(3B) and 16B were inserted by sections 54 and 55 of the Water Act 2003 (c. 37) respectively; sections 17M and 17Q were inserted by section 56 of, and by paragraphs 1 and 2 of Schedule 4 to, that Act; Schedule 4ZA was inserted by section 70 of, and Schedule 6 to, the Enterprise Act 2002. Section 16B, and that section as applied by section 12(3B), sections 17M and 17Q and paragraph 1 of Schedule 4ZA apply, with modifications, the power to make orders under section 111 of the Enterprise Act 2002 and certain other provisions of Part 3 of that Act for the purposes of references to or investigations by the Competition Commission for the purposes of the exercise of its functions under sections 12, 16A, 17K, 17P and 32 of the Water Industry Act 1991.

(c) paragraph 1 of Schedule 4ZA to that Act.

The specified amounts

2.—(1) For the purposes of section 111(4)(a) of the 2002 Act as applied by the relevant provisions, the fixed amount specified is £20,000.

(2) For the purposes of section 111(4)(b) of the 2002 Act as applied by the relevant provisions, the amount per day specified is £5,000.

(3) For the purposes of section 111(4)(c) of the 2002 Act as applied by the relevant provisions, the fixed amount specified is £20,000 and the amount per day specified is £5,000.

(4) For the purposes of section 111(6) of the 2002 Act as applied by the relevant provisions, the amount specified is £20,000.

Ian Pearson
Minister of State,
Department for Environment, Food and Rural
Affairs

19th February 2007

EXPLANATORY NOTE

(This note is not part of the Order)

The Water Industry Act 1991 (“the 1991 Act”), as amended by Part 3 of the Enterprise Act 2002 (“the 2002 Act”) and Part 2 of the Water Act 2003, applies certain provisions in Part 3 of the 2002 Act for the purposes of certain references to or investigations by the Competition Commission (“the Commission”) in relation to the water industry. In this note, references to the 2002 Act are to that Act as applied by the 1991 Act.

This Order specifies the maximum amounts that the Commission” may impose as a penalty under section 110(1) or (3) of the 2002 Act. Penalties may be imposed where a person has failed, without reasonable excuse, to comply with a notice under section 109 of that Act (attendance of witnesses and production of documents etc.) or where a person has intentionally obstructed or delayed another person in the exercise of his powers under section 109(6) of that Act.

A penalty imposed under section 110(1) of the 2002 Act may be a fixed amount, an amount calculated by reference to a daily rate, or a combination of the two. Where the penalty comprises a fixed amount, the maximum fixed amount is £20,000. Where the penalty comprises an amount calculated by reference to a daily rate, the maximum rate at which the penalty may increase is £5,000 per day.

A penalty imposed under section 110(3) of the 2002 Act must be a fixed amount. The maximum amount of such a penalty is £20,000.

No regulatory impact assessment has been prepared in respect of this Order. A regulatory impact assessment in respect of the Water Act 2003 was prepared and placed in the library of each House of Parliament during the passage of the Water Bill. This included an assessment of Part 2 of the Water Act 2003. Copies can be obtained from Water Supply and Regulation Division, Department for Environment, Food and Rural Affairs, 55 Whitehall, London SW1A 2EY or from the Department’s website at www.defra.gov.uk/environment/water/legislation.