

SCHEDULE

AMENDMENTS, REPEALS AND REVOCATIONS

Water Appointment (Competition Commission) Regulations 1999

36.—(1) The Water Appointment (Competition Commission) Regulations 1999⁽¹⁾ are amended as follows.

(2) In regulation 3 (interpretation), for the words in paragraph (a) are substituted the words “the 2002 Act” means the Enterprise Act 2002.

(3) For regulations 7 and 8 there is substituted—

“Time limits

7.—(1) Every determination reference shall specify a period (not longer than six months beginning with the date of the reference) within which a report on the determination reference is to be made.

(2) A report of the Commission on a determination reference shall not have effect (and no action shall be taken in relation to it) unless the report is made before the end of the period specified in the determination reference or such further period (if any) as may be allowed by the Director under paragraph (3) below.

(3) The Director may, if he has received representations on the subject from the Commission and is satisfied that there are special reasons why the report cannot be made within the period specified in the determination reference, extend that period by no more than six months.

(4) No more than one extension is possible under paragraph (3) above in relation to the same determination reference.

(5) The Director shall, in the case of an extension made by him under paragraph (3) above—

- (a) publish that extension in such manner as he considers appropriate for the purpose of bringing it to the attention of persons likely to be affected by it; and
- (b) send a copy of what has been published by him under sub-paragraph (a) above to the company whose appointment is mentioned in the determination reference.

Powers of investigation

8.—(1) The following sections of Part 3 of the 2002 Act shall apply, with the modifications mentioned in paragraphs (2) and (3) below, for the purposes of a determination reference as they apply for the purposes of references under that Part—

- (a) section 109 (attendance of witnesses and production of documents etc.);
- (b) section 110 (enforcement of powers under section 109: general);
- (c) section 111 (penalties);
- (d) section 112 (penalties: main procedural requirements);
- (e) section 113 (payments and interest by instalments);
- (f) section 114 (appeals in relation to penalties);
- (g) section 115 (recovery of penalties); and
- (h) section 116 (statement of policy).

(2) Section 110 shall, in its application by virtue of paragraph (1) above, have effect as if—

(1) [S.I. 1999/3088](#).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (a) subsection (2) were omitted; and
 - (b) in subsection (9) the words from “or section” to “section 65(3)” were omitted.
- (3) Section 111(5)(b)(ii) shall, in its application by virtue of paragraph (1) above, have effect as if—
- (a) for the words “published (or, in the case of a report under section 50 or 65, given)” there were substituted “made”;
 - (b) for the words “published (or given)”, in both places where they appear, there were substituted “made”; and
 - (c) the words “by this Part” were omitted.
- (4) Provisions of Part 3 of the 2002 Act which have effect for the purposes of sections 109 to 116 of that Act (including, in particular, provisions relating to offences and the making of orders) shall, for the purposes of the application of those sections by virtue of paragraph (1) above, have effect in relation to those sections as applied by virtue of that paragraph.”.
- (4) After regulation 10 (reports on determination references) there is inserted—
- “**10A** A conclusion contained in a report of the Commission is to be disregarded if the conclusion is not that of at least two-thirds of the members of the group constituted in connection with the determination reference concerned in pursuance of paragraph 15 of Schedule 7 to the Competition Act 1998.”.
- (5) For regulation 11(1) there is substituted—
- “(1) For the purposes of the law relating to defamation, absolute privilege attaches to any report made by the Commission on a determination reference.
- (1A) In making any report on a determination reference the Commission must have regard to the following considerations before disclosing any information.
- (1B) The first consideration is the need to exclude from disclosure (so far as practicable) any information whose disclosure the Commission thinks is contrary to the public interest.
- (1C) The second consideration is the need to exclude from disclosure (so far as practicable)—
- (a) commercial information whose disclosure the Commission thinks might significantly harm the legitimate business interests of the undertaking to which it relates, or
 - (b) information relating to the private affairs of an individual whose disclosure the Commission thinks might significantly harm the individual’s interests.
- (1D) The third consideration is the extent to which the disclosure of the information mentioned in paragraph (1C)(a) or (b) above is necessary for the purposes of the report.”.