

## SCHEDULES

### SCHEDULE 15

Section 57

#### MINOR AND CONSEQUENTIAL AMENDMENTS: PART 4

##### *Civil Aviation Act 1982 (c. 16)*

- 1 In Schedule 1 to the Civil Aviation Act 1982 (constitution etc. of the Authority), in paragraph 15—
- (a) the existing text becomes sub-paragraph (1), and
  - (b) after that sub-paragraph insert—
    - “(2) The power in sub-paragraph (1) is subject to provision in rules made under section 51 of the Competition Act 1998 by virtue of paragraph 1A of Schedule 9 to that Act in respect of the exercise of a function under Part 1 of that Act.”

##### *Gas Act 1986 (c. 44)*

- 2 In section 36A of the Gas Act 1986 (functions with respect to competition), in subsections (3), (3A) and (7)(b), after “38(1) to (6)” (in each place where it occurs) insert “, 40B(1) to (4)”.

##### *Electricity Act 1989 (c. 29)*

- 3 In section 43 of the Electricity Act 1989 (functions with respect to competition), in subsections (3), (3A) and (6)(b), after “38(1) to (6)” (in each place where it occurs) insert “, 40B(1) to (4)”.

##### *Water Industry Act 1991 (c. 56)*

- 4 The Water Industry Act 1991 is amended as follows.
- 5 In section 31 (functions with respect to competition), in subsections (3), (4A) and (8)(b), after “38(1) to (6)” (in each place where it occurs) insert “, 40B(1) to (4)”.
- 6 In Schedule 1A (constitution etc. of the Authority), in paragraph 10, after sub-paragraph (2) insert—
  - “(3) Sub-paragraph (1) is subject to provision in rules made under section 51 of the Competition Act 1998 by virtue of paragraph 1A of Schedule 9 to that Act in respect of the exercise of a function under Part 1 of that Act.”

##### *Railways Act 1993 (c. 43)*

- 7 In section 67 of the Railways Act 1993 (functions with respect to competition), in subsections (3), (3A) and (8)(b), after “38(1) to (6)” (in each place where it occurs) insert “, 40B(1) to (4)”.

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### *Competition Act 1998 (c. 41)*

- 8 The Competition Act 1998 is amended as follows.
- 9 In section 26 (powers when conducting investigations), in subsection (3)(b), for “42 to” substitute “43 and”.
- 10 In section 38 (guidance on level of penalties), in subsection (9), for “an appeal tribunal” substitute “the Tribunal”.
- 11 In section 54 (regulators), in subsection (1)—
- (a) omit paragraph (c), and
  - (b) for paragraph (f) substitute—  
“ (f) the Northern Ireland Authority for Utility Regulation;”.
- 12 (1) Schedule 1 (exclusions: mergers and concentrations) is amended as follows.
- (2) In paragraph 5—
- (a) omit “to the Competition Commission” (in each place where it occurs), and
  - (b) for “the Commission” (in each place where it occurs) substitute “the CMA”.

### *Utilities Act 2000 (c. 27)*

- 13 In Schedule 1 to the Utilities Act 2000 (constitution etc. of the Authority), in paragraph 9, after sub-paragraph (2) insert—
- “(2A) Sub-paragraph (1) is subject to provision in rules made under section 51 of the Competition Act 1998 by virtue of paragraph 1A of Schedule 9 to that Act in respect of the exercise of a function under Part 1 of that Act.”

### *Transport Act 2000 (c. 38)*

- 14 In section 86 of the Transport Act 2000 (functions with respect to competition), in subsections (3), (4)(b) and (7)(b), after “38(1) to (6)” (in each place where it occurs) insert “, 40B(1) to (4)”.

### *Enterprise Act 2002 (c. 40)*

- 15 The Enterprise Act 2002 is amended as follows.
- 16 (1) Section 25 (extension of time-limits) is amended as follows.
- (2) In subsection (2), for the words from “has failed” to the end of the subsection substitute “has failed (with or without a reasonable excuse) to comply with any requirement of a notice under section 109”.
- (3) For subsection (3) substitute—
- “(3) An extension under subsection (2) shall come into force when notice of the extension is given and end—
- (a) when the person concerned provides the information or documents to the satisfaction of the CMA or (as the case may be) appears as a witness in accordance with the requirements of the CMA; or
  - (b) if earlier, the CMA cancels the extension.”
- 17 Omit section 31 (information powers in relation to completed mergers).

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- 18 (1) Section 32 (supplementary provision for purposes of sections 25 and 31) is amended as follows.
- (2) Omit subsections (1) to (3).
- (3) In subsection (4), omit “or subsection (3)(a) above”.
- (4) In the heading, for “sections 25 and 31” substitute “section 25”.
- 19 (1) Section 34A (duty where case referred by European Commission) is amended as follows.
- (2) For subsection (5) substitute—
- “(5) The CMA may extend the preliminary assessment period if it considers that any of the persons carrying on the enterprises concerned has failed (whether with or without reasonable excuse) to comply with any requirement of a notice under section 109.”
- (3) For subsection (6) substitute—
- “(6) An extension under subsection (5) shall come into force when published under section 107.
- (6A) An extension under subsection (5) shall continue in force until—
- (a) the person concerned provides the information or documents to the satisfaction of the CMA or (as the case may be) appears as a witness in accordance with the requirements of the CMA; or
- (b) the CMA publishes its decision to cancel the extension.”
- (4) Omit subsection (7).
- 20 Omit section 34B (power to request information in referred cases).
- 21 (1) Section 42 (intervention by Secretary of State in certain public interest cases) is amended as follows.
- (2) In subsection (1), in paragraph (d)(i)—
- (a) for “section 22(3)(a) or (e)” substitute “section 22(3)(za), (a) or (e)”, and
- (b) for “33(3)(a) or (e)” substitute “33(3)(za), (a) or (e)”.
- (3) In subsection (5), for “to 32” substitute “to 30”.
- (4) In subsection (6), in the words before paragraph (a), for “to 32” substitute “to 30”.
- (5) In that subsection, in paragraph (b), for “sections 25(1) to (3), (6) and (8) and 31” substitute “section 25(1) to (3), (6) and (8)”.
- (6) In that subsection, in paragraph (h)—
- (a) omit “, and the power to request information under section 31(1) as so applied”, and
- (b) after “existing time-limits” insert “by virtue of section 24 (as so applied)”.
- (7) In that subsection, in paragraph (i), after “existing time-limits” insert “by virtue of section 24 (as so applied)”.
- (8) In that subsection, omit paragraph (j).
- (9) In that subsection, in paragraph (k), for “to 32” substitute “to 30”.

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- (10) In that subsection, omit paragraph (l) and the word “and” immediately preceding it.
- 22 In section 46 (references under section 45: supplementary), in subsection (1)(a), omit “or 96(3)”.
- 23 (1) Section 46B (extension of preliminary assessment period) is amended as follows.
- (2) For subsection (1) substitute—
- “(1) The CMA may extend the preliminary assessment period for the purposes of section 46A if it considers that any of the persons carrying on the enterprises concerned has failed (whether with or without reasonable excuse) to comply with any requirement of a notice under section 109.”
- (3) Omit subsection (2).
- (4) For subsection (3) substitute—
- “(3) An extension under subsection (1) shall come into force when published under section 107.
- (3A) An extension under subsection (1) shall continue in force until—
- (a) the person concerned provides the information or documents to the satisfaction of the CMA or (as the case may be) appears as a witness in accordance with the requirements of the CMA; or
- (b) the CMA publishes its decision to cancel the extension.”
- (5) Omit subsection (4).
- 24 Omit section 46C (power to request information in referred cases).
- 25 (1) Section 49 (variation of references under section 45) is amended as follows.
- (2) In subsection (2), omit “1,”.
- (3) In subsection (3), omit “1,”.
- (4) In subsection (4) —
- (a) omit “any undertaking accepted under paragraph 1 of Schedule 7, or”, and
- (b) for “that Schedule” substitute “Schedule 7”.
- (5) In subsection (5)—
- (a) omit “undertaking or” (in each place where it occurs),
- (b) omit “, accepted or” (in each place where it occurs), and
- (c) omit “, superseded, released”.
- 26 (1) Section 59 (intervention by Secretary of State in special public interest cases) is amended as follows.
- (2) In subsection (5), for “to 32” substitute “to 30”.
- (3) In subsection (6), in the words before paragraph (a), for “to 32” substitute “to 30”.
- (4) In that subsection, in paragraph (c), for “sections 25(1) to (3), (6) and (8) and 31” substitute “section 25(1) to (3), (6) and (8)”.
- (5) In that subsection, in paragraph (g), omit “, and the power to request information under section 31(1) as so applied,”.

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- (6) In that subsection, omit paragraph (h).
- (7) In that subsection, in paragraph (i), for “to 32” substitute “to 30”.
- (8) In that subsection, omit paragraph (j) and the word “and” immediately preceding it.
- 27 (1) Section 64 (cancellation and variation of references under section 62) is amended as follows.
  - (2) In subsection (3), omit “1,”.
  - (3) In subsection (4)—
    - (a) omit “any undertaking accepted under paragraph 1 of Schedule 7, or”, and
    - (b) for “that Schedule” substitute “Schedule 7”.
  - (4) In subsection (5)—
    - (a) omit “undertaking or” (in each place where it occurs),
    - (b) omit “, accepted or” (in each place where it occurs), and
    - (c) omit “, superseded, released”.
- 28 (1) Section 67 (intervention to protect legitimate interests) is amended as follows.
  - (2) In subsection (7), for “to 32” substitute “to 30”.
  - (3) In subsection (8), in the words before paragraph (a), for “to 32” substitute “to 30”.
  - (4) In that subsection, in paragraph (d), for “sections 25, 31 and 32” substitute “section 25”.
- 29 In section 68 (scheme for protecting legitimate interests), in subsection (4)(a), for “to 32” substitute “to 30”.
- 30 In section 77 (restrictions on certain share dealings: completed mergers), in subsection (1)(b), omit “71 or”.
- 31 In section 78 (restrictions on certain share dealings: anticipated mergers), in subsection (1)(b), for “section 81” substitute “section 72 or 81”.
- 32 In section 89 (subject matter of undertakings), in subsection (2)—
  - (a) omit “71,”, and
  - (b) omit “1,”.
- 33 (1) Section 93 (further role of OFT in relation to undertakings and orders) is amended as follows.
  - (2) In subsection (1), in paragraph (b), omit “1,”.
  - (3) In subsection (2), omit “1,”.
  - (4) In subsection (4), omit “1,”.
- 34 In section 94 (rights to enforce undertakings and orders), in subsection (8), omit “1,”.
- 35 (1) Section 99 (functions in relation to merger notices) is amended as follows.
  - (2) Omit subsections (2) to (4).
  - (3) In subsection (5), in paragraph (c), for the words from “or any” to “as required” substitute “or the person who gave the merger notice has failed (with or without a

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reasonable excuse) to comply with any requirement of a notice under section 109 in relation to the case concerned”.

- 36 (1) Section 107 (further publicity requirements) is amended as follows.
- (2) In subsection (1), for paragraph (a) substitute—
- “(a) any decision made by it that the duty to make a reference under section 22 or 33 applies and any such reference made by it;
  - (aa) any decision made by it that the duty to make such a reference does not apply (other than a decision made by virtue of subsection (2)(b) of section 33);”.
- (3) In that subsection, after paragraph (aa) insert—
- “(ab) any notice given by it as mentioned in paragraph (b) of the definition of “initial period” in section 34ZA(3);
  - (ac) any extension by it under section 34ZB of the initial period;
  - (ad) any decision made by it to cancel an extension as mentioned in section 34ZB(7)(b);
  - (ae) any extension by it under section 34A of the preliminary assessment period;
  - (af) any decision made by it to cancel an extension as mentioned in section 34A(6A)(b);
  - (ag) any extension by it under section 46B of the preliminary assessment period;
  - (ah) any decision made by it to cancel an extension as mentioned in section 46B(3A)(b);”.
- (4) In that subsection, omit paragraph (d).
- (5) In that subsection, after paragraph (e) insert—
- “(ea) any notice given by it under section 73A(2)(b);
  - (eb) any extension by it under section 73A of the period for considering whether to accept an undertaking under section 73;
  - (ec) any decision made by it to cancel an extension as mentioned in section 73A(11)(b);”.
- (6) In that subsection, in paragraph (f), for “such an undertaking or order” substitute “an order mentioned in paragraph (e)”.
- (7) At the end of that subsection insert “; and
- (i) any notice given by it under section 96(2A).”
- (8) In subsection (2), after paragraph (e) insert—
- “(ea) any extension by it under section 41A of the period within which its duty under section 41(2) is to be discharged;
  - (eb) any decision made by it to cancel an extension as mentioned in section 41A(7)(b);”.
- (9) In subsection (3), omit paragraphs (h) and (i).
- 37 In section 130 (index of defined expressions), omit the entry for “Undertakings under paragraph 1 of Schedule 7”.

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- 38 (1) Schedule 7 (enforcement regime for public interest and special public interest cases) is amended as follows.
- (2) In paragraph 7, in sub-paragraph (1), for paragraph (b) substitute—
- “(b) no orders under paragraph 2 are in force in relation to the relevant merger situation concerned or (as the case may be) the special merger situation concerned.”
- (3) In paragraph 8, in sub-paragraph (1), for paragraph (b) substitute—
- “(b) no orders under paragraph 2 are in force in relation to the relevant merger situation concerned or (as the case may be) the special merger situation concerned.”
- 39 In Schedule 15 (enactments conferring functions for the purposes of which specified information may be disclosed), at the end insert—
- “The Health and Social Care Act 2012.”

#### *Office of Communications Act 2002 (c. 11)*

- 40 In Schedule 1 to the Office of Communications Act 2002 (constitution etc. of the OFCOM), in paragraph 18—
- (a) the existing text becomes sub-paragraph (1), and
- (b) after that sub-paragraph insert—
- “(2) Sub-paragraph (1) is subject to provision in rules made under section 51 of the Competition Act 1998 by virtue of paragraph 1A of Schedule 9 to that Act in respect of the exercise of a function under Part 1 of that Act.”

#### *Railways and Transport Safety Act 2003 (c. 20)*

- 41 In Schedule 1 to the Rail and Transport Safety Act 2003 (constitution etc. of the Office of Rail Regulation), in paragraph 7—
- (a) the existing text becomes sub-paragraph (1), and
- (b) after that sub-paragraph insert—
- “(2) Sub-paragraph (1) is subject to provision in rules made under section 51 of the Competition Act 1998 by virtue of paragraph 1A of Schedule 9 to that Act in respect of the exercise of a function under Part 1 of that Act.”

#### *Communications Act 2003 (c. 21)*

- 42 The Communications Act 2003 is amended as follows.
- 43 (1) Section 192 (appeals against decisions by OFCOM etc) is amended as follows.
- (2) In subsection (1), after paragraph (d) insert—
- “(e) a decision by the CMA to which effect is given by an order made under section 193A.”
- (3) In subsection (6)(b), after “the Secretary of State” insert “, by the CMA”.
- 44 In section 193 (reference of price control matters), in subsection (10), after “this section” insert “and section 193A”.

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- 45 In section 195 (decisions of the Tribunal), in subsection (9), for “or the Secretary of State” (in each place it occurs) substitute “, the Secretary of State or the CMA”.
- 46 In section 371 (functions under the Competition Act 1998), in subsections (2) and (3)(a), after “38(1) to (6)” (in each place where it occurs) insert “, 40B(1) to (4)”.

*Health and Social Care Act 2012 (c. 7)*

- 47 The Health and Social Care 2012 is amended as follows.
- 48 In section 72 (functions under the Competition Act 1998), in subsections (2) and (3), after “38(1) to (6)” (in each place where it occurs) insert “, 40B(1) to (4)”.
- 49 In Schedule 8 (constitution etc. of Monitor), in paragraph 11, after sub-paragraph (2) insert—
- “(2A) Sub-paragraph (2) is subject to provision in rules made under section 51 of the Competition Act 1998 by virtue of paragraph 1A of Schedule 9 to that Act in respect of the exercise of a function under Part 1 of that Act.”

*Civil Aviation Act 2012 (c. 19)*

- 50 The Civil Aviation Act 2012 is amended as follows.
- 51 In section 62 (functions under Competition Act 1998), in subsections (2) and (4), after “38(1) to (6)” (in each place where it occurs) insert “, 40B(1) to (4)”.
- 52 In section 63 (Competition Act 1998: supplementary), in subsection (1), after “38(1) to (6)” insert “, 40B(1) to (4)”.

*Electricity (Northern Ireland) Order 1992 (SI 1992/231 (N.I. 1))*

- 53 In article 46 of the Electricity (Northern Ireland) Order 1992 (functions with respect to competition), in paragraphs (3), (3A) and (6)(b), after “38(1) to (6)” (in each place where it occurs) insert “, 40B(1) to (4)”.

*Gas (Northern Ireland) Order 1996 (SI 1996/275 (N.I. 2))*

- 54 In article 23 of the Gas (Northern Ireland) Order 1996 (functions with respect to competition), in paragraphs (3), (3A) and (6)(b), after “38(1) to (6)” (in each place where it occurs) insert “, 40B(1) to (4)”.

*Energy (Northern Ireland) Order 2003 (SI 2003/419 (N.I. 6))*

- 55 In Schedule 1 to the Energy (Northern Ireland) Order 2003 (constitution etc. of the Authority), in paragraph 9, after sub-paragraph (2) insert—
- “(2A) Sub-paragraph (1) is subject to provision in rules made under section 51 of the Competition Act 1998 by virtue of paragraph 1A of Schedule 9 to that Act in respect of the exercise of a function under Part 1 of that Act.”