

*Status: Point in time view as at 19/08/2003.*

*Changes to legislation: Courts and Legal Services Act 1990, SCHEDULE 4 is up to date with all changes known to be in force on or before 30 May 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## SCHEDULES

### [<sup>F1</sup>SCHEDULE 4

Section 29.]

#### AUTHORISED BODIES

##### Textual Amendments

- F1** Sch. 4 substituted (1.1.2000) by 1999 c. 22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

### <sup>F2</sup>PART I

#### DESIGNATION OF BODIES AND APPROVAL OF REGULATIONS AND RULES

##### Textual Amendments

- F2** Sch. 4 substituted (1.1.2000) by 1999 c. 22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

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

- C1** Sch. 4 Pt. I extended (27.9.1999) by 1999 c.22, ss. 105, 108(3), **Sch. 14 Pt. III para. 17(1)** (with Sch. 14 para. 7(2))

[<sup>F3F4</sup>Secretary of State]

##### Textual Amendments

- F3** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)
- F4** Sch. 4 substituted (1.1.2000) by 1999 c. 22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

- <sup>F51</sup> (1) If a professional or other body wishes to grant rights of audience or rights to conduct litigation to any of its members, it shall apply to the [<sup>F6</sup>Secretary of State] in writing for him—
- (a) to recommend to Her Majesty that an Order in Council be made designating the body as an authorised body for the purposes of section 27 (if it proposes to grant rights of audience) or section 28 (if it proposes to grant rights to conduct litigation); and
  - (b) to approve what the body proposes as qualification regulations and rules of conduct in relation to the proposed rights.

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- (2) An application under this paragraph shall be accompanied by—
- (a) a statement of the proposed rights;
  - (b) the proposed qualification regulations and rules of conduct; and
  - (c) such explanatory material (including material about the applicant's constitution and activities) as the applicant considers is likely to be needed for the purposes of this Part of this Schedule.
- (3) The applicant shall provide the [<sup>F6</sup>Secretary of State] with such additional information as he may reasonably require.
- (4) The [<sup>F6</sup>Secretary of State] shall send a copy of—
- (a) the application and accompanying material; and
  - (b) any information provided under sub-paragraph (3),
- to the Consultative Panel, the [<sup>F7</sup>OFT] and each of the designated judges.

#### Textual Amendments

- F5** Sch. 4 substituted (1.1.2000) by 1999 c.22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)
- F6** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)
- F7** Sch. 4: "OFT" substituted (1.4.2003) in each place for "Director" by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(a); S.I. 2003/766, **art. 2**, Sch. (with art. 3)

#### <sup>F8</sup>Advice of Consultative Panel

#### Textual Amendments

- F8** Sch. 4 substituted (1.1.2000) by 1999 c. 22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

- <sup>F9</sup>2 (1) The Consultative Panel shall consider whether the application should be granted.
- (2) The applicant shall provide the Consultative Panel with such additional information as it may reasonably require.
- (3) When the Consultative Panel has completed its consideration it shall give such advice to the [<sup>F10</sup>Secretary of State] as it thinks fit.
- (4) The Consultative Panel shall publish any advice given by it under this paragraph.

#### Textual Amendments

- F9** Sch. 4 substituted (1.1.2000) by 1999 c.22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)
- F10** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

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### *<sup>F11</sup>Advice of [<sup>F12</sup>Office of Fair Trading]*

#### Textual Amendments

- F11** Sch. 4 substituted (1.1.2000) by 1999 c. 22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)
- F12** Words in the cross-heading before Sch. 4 para. 3 substituted (1.4.2003) by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(b); S.I. 2003/766, **art. 2**, Sch. (with art. 3)

- F13** (1) The [<sup>F14</sup>OFT] shall consider whether granting the application would have, or be likely to have, any significant effect on competition.
- (2) The applicant shall provide the [<sup>F14</sup>OFT] with such additional information as [<sup>F15</sup>it] may reasonably require.
- (3) When the [<sup>F14</sup>OFT] has completed [<sup>F16</sup>its] consideration [<sup>F16</sup>it] shall give such advice to the [<sup>F17</sup>Secretary of State] as [<sup>F16</sup>it] thinks fit.
- (4) The [<sup>F14</sup>OFT] shall publish any advice given by [<sup>F18</sup>it] under this paragraph.
- (5) The [<sup>F14</sup>OFT] shall, so far as practicable, exclude from anything published under subparagraph (4) any matter which relates to the affairs of a particular person (other than the applicant) the publication of which would, or might in [<sup>F19</sup>its] opinion, seriously and prejudicially affect the interests of that person.
- (6) Section 46 shall apply in relation to the investigation of any matter with a view to its consideration under this paragraph as it applies in relation to the investigation of any matter under section 45.

#### Textual Amendments

- F13** Sch. 4 substituted (1.1.2000) by 1999 c.22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)
- F14** Sch. 4: "OFT" substituted (1.4.2003) in each place for "Director" by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(a); S.I. 2003/766, **art. 2**, Sch. (with art. 3)
- F15** Word in Sch. 4 para. 3(2) substituted (1.4.2003) by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(b)(i); S.I. 2003/766, **art. 2**, Sch. (with art. 3)
- F16** Words in Sch. 4 para. 3(3) substituted (1.4.2003) by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(b)(ii); S.I. 2003/766, **art. 2**, Sch. (with art. 3)
- F17** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)
- F18** Word in Sch. 4 para. 3(4) substituted (1.4.2003) by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(b)(iii); S.I. 2003/766, **art. 2**, Sch. (with art. 3)
- F19** Word in Sch. 4 para. 3(5) substituted (1.4.2003) by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(b)(iv); S.I. 2003/766, **art. 2**, Sch. (with art. 3)

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### *F20 Representations by applicant*

#### **Textual Amendments**

**F20** Sch. 4 substituted (1.1.2000) by 1999 c. 22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

- F214** (1) When the [<sup>F22</sup>Secretary of State] has received the advice of the Consultative Panel and the [<sup>F23</sup>OFT], he shall send a copy of the advice to the applicant.
- (2) The applicant shall be allowed a period of 28 days beginning with the day on which the copy is sent to him, or such other period as the applicant and the [<sup>F22</sup>Secretary of State] may agree, to make representations about the advice to the [<sup>F22</sup>Secretary of State].

#### **Textual Amendments**

**F21** Sch. 4 substituted (1.1.2000) by 1999 c.22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

**F22** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

**F23** Sch. 4: "OFT" substituted (1.4.2003) in each place for "Director" by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(a); S.I. 2003/766, **art. 2**, Sch. (with art. 3)

### *F24 Advice of designated judges*

#### **Textual Amendments**

**F24** Sch. 4 substituted (1.1.2000) by 1999 c. 22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

- F255** (1) The [<sup>F26</sup>Secretary of State] shall send to each of the designated judges a copy of—
- (a) the advice of the Consultative Panel and the [<sup>F27</sup>OFT]; and
  - (b) any representations made under paragraph 4(2).
- (2) Each of the designated judges shall then consider whether the application should be granted.
- (3) The applicant shall provide each of the designated judges with such additional information as he may reasonably require.
- (4) When each of the designated judges has completed his consideration he shall give such advice to the [<sup>F26</sup>Secretary of State] as he thinks fit.

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#### Textual Amendments

- F25** Sch. 4 substituted (1.1.2000) by 1999 c.22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)
- F26** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)
- F27** Sch. 4: "OFT" substituted (1.4.2003) in each place for "Director" by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(a); S.I. 2003/766, **art. 2**, Sch. (with art. 3)

*<sup>F28</sup>Decision by [<sup>F29</sup>Secretary of State]*

#### Textual Amendments

- F28** Sch. 4 substituted (1.1.2000) by 1999 c. 22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)
- F29** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

- <sup>F30</sup>6 (1) After considering—
- (a) the advice given by the Consultative Panel and any representations made about it;
  - (b) the advice given by the [<sup>F31</sup>OFT] and any representations made about it; and
  - (c) the advice given by each of the designated judges,
- the [<sup>F32</sup>Secretary of State] shall decide whether to grant the application.
- (2) When the [<sup>F32</sup>Secretary of State] has made his decision he shall notify the applicant of it.
- (3) If the [<sup>F32</sup>Secretary of State] has decided to refuse the application he shall also notify the applicant of the reasons for his decision.

#### Textual Amendments

- F30** Sch. 4 substituted (1.1.2000) by 1999 c.22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)
- F31** Sch. 4: "OFT" substituted (1.4.2003) in each place for "Director" by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(a); S.I. 2003/766, **art. 2**, Sch. (with art. 3)
- F32** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

*<sup>F33</sup>Effect of grant of application*

#### Textual Amendments

- F33** Sch. 4 substituted (1.1.2000) by 1999 c. 22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

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- <sup>F347</sup> Where the application is granted—
- (a) the [<sup>F35</sup>Secretary of State] may recommend to Her Majesty that an Order in Council be made designating the body as an authorised body for the purposes of section 27 (if it proposes to grant rights of audience) or section 28 (if it proposes to grant rights to conduct litigation); and
  - (b) the proposed regulations and rules are approved as qualification regulations and rules of conduct in relation to the proposed rights.

#### Textual Amendments

- F34** Sch. 4 substituted (1.1.2000) by 1999 c.22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)
- F35** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

### <sup>F36</sup>PART II

#### APPROVAL IN CASES OF ALTERED REGULATIONS, RULES OR RIGHTS

#### Textual Amendments

- F36** Sch. 4 substituted (1.1.2000) by 1999 c. 22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

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

- C2** Sch. 4 Pt. II extended (27.9.1999) by 1999 c. 22, ss. 105, 108(3), **Sch. 14 Pt. III para. 17(2)** (with Sch. 14 para. 7(2))

### <sup>F37</sup>Requirement of approval

#### Textual Amendments

- F37** Sch. 4 substituted (1.1.2000) by 1999 c. 22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

- <sup>F388</sup> (1) If an authorised body makes an alteration of its qualification regulations or rules of conduct, the alteration shall not have effect unless approved by the [<sup>F39</sup>Secretary of State].
- (2) If an authorised body makes an alteration of—
- (a) any rights of audience granted by it (including the grant of a new right of audience); or
  - (b) any rights to conduct litigation granted by it (including the grant of a new right to conduct litigation),
- the qualification regulations and rules of conduct of the body shall not have effect in relation to the rights as altered unless approved by the [<sup>F39</sup>Secretary of State].

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- (3) If a question arises whether approval is required by virtue of this paragraph it shall be for the [<sup>F39</sup>Secretary of State] to decide.

#### Textual Amendments

- F38** Sch. 4 substituted (1.1.2000) by 1999 c.22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)
- F39** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

*<sup>F40</sup>Application to [<sup>F41</sup>Secretary of State]*

#### Textual Amendments

- F40** Sch. 4 substituted (1.1.2000) by 1999 c. 22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)
- F41** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

- <sup>F42</sup>9 (1) An application by a body for the [<sup>F43</sup>Secretary of State] to approve—
- (a) an alteration of qualification regulations or rules of conduct; or
  - (b) qualification regulations or rules of conduct in relation to altered rights,
- shall be made in writing.
- (2) The application shall be accompanied by—
- (a) the qualification regulations and rules of conduct;
  - (b) a statement of the alteration of the regulations, rules or rights; and
  - (c) such explanatory material as the applicant considers is likely to be needed for the purposes of this Part of this Schedule.
- (3) The applicant shall provide the [<sup>F43</sup>Secretary of State] with such additional information as he may reasonably require.
- (4) The [<sup>F43</sup>Secretary of State] shall—
- (a) send a copy of the application and accompanying material and any information provided under sub-paragraph (3) to each of the designated judges; and
  - (b) consider whether it would be appropriate to seek the advice of either or both of the Consultative Panel and the [<sup>F44</sup>OFT].

#### Textual Amendments

- F42** Sch. 4 substituted (1.1.2000) by 1999 c.22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)
- F43** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)



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**F44** Sch. 4: "OFT" substituted (1.4.2003) in each place for "Director" by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(a); S.I. 2003/766, art. 2, Sch. (with art. 3)

#### *<sup>F45</sup>Early advice of designated judges*

##### **Textual Amendments**

**F45** Sch. 4 substituted (1.1.2000) by 1999 c. 22, s. 41, Sch. 5 para. 2 (with Sch. 14 para. 7(2)); S.I. 1999/3344, art. 2(a) (subject to art. 4, Sch. 2 of that S.I.)

- <sup>F46</sup>10 (1) If the [<sup>F47</sup>Secretary of State] considers that it would not be appropriate to seek the advice of the Consultative Panel or the [<sup>F48</sup>OFT], he—
- (a) shall inform each of the designated judges that that is his view; and
  - (b) may inform each of them of his provisional view as to whether or not the application should be granted.
- (2) If so informed, each of the designated judges shall consider whether the application should be granted.
- (3) The applicant shall provide each of the designated judges with such additional information as he may reasonably require.
- (4) When each of the designated judges has completed his consideration he shall give such advice to the [<sup>F47</sup>Secretary of State] as he thinks fit.
- (5) After considering the advice given by each of the designated judges, the [<sup>F47</sup>Secretary of State] shall consider again whether or not it would be appropriate to seek the advice of either or both of—
- (a) the Consultative Panel; and
  - (b) the [<sup>F48</sup>OFT],
- before deciding whether to grant the application.

##### **Textual Amendments**

**F46** Sch. 4 substituted (1.1.2000) by 1999 c.22, s. 41, Sch. 5 para. 2 (with Sch. 14 para. 7(2)); S.I. 1999/3344, art. 2(a) (subject to art. 4, Sch. 2 of that S.I.)

**F47** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, Sch. 2 para. 8(1)(d) (with arts. 6, 8)

**F48** Sch. 4: "OFT" substituted (1.4.2003) in each place for "Director" by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(a); S.I. 2003/766, art. 2, Sch. (with art. 3)

#### *<sup>F49</sup>Advice of Consultative Panel*

##### **Textual Amendments**

**F49** Sch. 4 substituted (1.1.2000) by 1999 c. 22, s. 41, Sch. 5 para. 2 (with Sch. 14 para. 7(2)); S.I. 1999/3344, art. 2(a) (subject to art. 4, Sch. 2 of that S.I.)



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- <sup>F50</sup>11 (1) If the [<sup>F51</sup>Secretary of State] decides (after considering the matter under paragraph 9(4)(b) or 10(5)) to seek the advice of the Consultative Panel, he shall send to the Consultative Panel a copy of—
- (a) the application and accompanying material; and
  - (b) any information provided under paragraph 9(3).
- (2) The Consultative Panel shall consider whether the application should be granted.
- (3) The applicant shall provide the Consultative Panel with such additional information as it may reasonably require.
- (4) When the Consultative Panel has completed its consideration it shall give such advice to the [<sup>F51</sup>Secretary of State] as it thinks fit.
- (5) The Consultative Panel shall publish any advice given by it under this paragraph.

#### Textual Amendments

- F50** Sch. 4 substituted (1.1.2000) by 1999 c.22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)
- F51** Words in Schs. 3-6 substituted (19.8.2003) by **The Secretary of State for Constitutional Affairs Order 2003** (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

<sup>F52</sup> *Advice of [<sup>F53</sup>Office of Fair Trading]*

#### Textual Amendments

- F52** Sch. 4 substituted (1.1.2000) by 1999 c. 22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)
- F53** Words in the cross-heading before Sch. 4 para. 12 substituted (1.4.2003) by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(c); S.I. 2003/766, **art. 2**, Sch. (with art. 3)

- <sup>F54</sup>12 (1) If the [<sup>F55</sup>Secretary of State] decides (after considering the matter under paragraph 9(4)(b) or 10(5)) to seek the advice of the [<sup>F56</sup>OFT], he shall send to the [<sup>F56</sup>OFT] a copy of—
- (a) the application and accompanying material; and
  - (b) any information provided under paragraph 9(3).
- (2) The [<sup>F56</sup>OFT] shall consider whether granting the application would have, or be likely to have, any significant effect on competition.
- (3) The applicant shall provide the [<sup>F56</sup>OFT] with such additional information as [<sup>F57</sup>it] may reasonably require.
- (4) When the [<sup>F56</sup>OFT] has completed [<sup>F58</sup>its] consideration [<sup>F58</sup>it] shall give such advice to the [<sup>F55</sup>Secretary of State] as [<sup>F58</sup>it] thinks fit.
- (5) The [<sup>F56</sup>OFT] shall publish any advice given by [<sup>F59</sup>it] under this paragraph.

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- (6) The [<sup>F56</sup>OFT] shall, so far as practicable, exclude from anything published under subparagraph (5) any matter which relates to the affairs of a particular person (other than the applicant) the publication of which would, or might in [<sup>F60</sup>its] opinion, seriously and prejudicially affect the interests of that person.
- (7) Section 46 shall apply in relation to the investigation of any matter with a view to its consideration under this paragraph as it applies in relation to the investigation of any matter under section 45.

#### Textual Amendments

- F54** Sch. 4 substituted (1.1.2000) by 1999 c.22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)
- F55** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)
- F56** Sch. 4: "OFT" substituted (1.4.2003) in each place for "Director" by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(a); S.I. 2003/766, **art. 2**, Sch. (with art. 3)
- F57** Word in Sch. 4 para. 12(3) substituted (1.4.2003) by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(c) (i); S.I. 2003/766, **art. 2**, Sch. (with art. 3)
- F58** Words in Sch. 4 para. 12(4) substituted (1.4.2003) by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(c) (ii); S.I. 2003/766, **art. 2**, Sch. (with art. 3)
- F59** Word in Sch. 4 para. 12(5) substituted (1.4.2003) by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(c) (iii); S.I. 2003/766, **art. 2**, Sch. (with art. 3)
- F60** Word in Sch. 4 para. 12(6) substituted (1.4.2003) by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(c) (iv); S.I. 2003/766, **art. 2**, Sch. (with art. 3)

#### <sup>F61</sup>Representations by applicant

#### Textual Amendments

- F61** Sch. 4 substituted (1.1.2000) by 1999 c. 22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

- <sup>F62</sup>13 (1) If the [<sup>F63</sup>Secretary of State] has sought the advice of the Consultative Panel or the [<sup>F64</sup>OFT] he shall, on receiving it, send a copy to the applicant.
- (2) The applicant shall be allowed a period of 28 days beginning with the day on which the copy is sent to him, or such other period as the applicant and the [<sup>F63</sup>Secretary of State] may agree, to make representations about the advice to the [<sup>F63</sup>Secretary of State].

#### Textual Amendments

- F62** Sch. 4 substituted (1.1.2000) by 1999 c.22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)
- F63** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

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**F64** Sch. 4: "OFT" substituted (1.4.2003) in each place for "Director" by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(a); S.I. 2003/766, art. 2, Sch. (with art. 3)

*F65 Advice or further advice of designated judges*

**Textual Amendments**

**F65** Sch. 4 substituted (1.1.2000) by 1999 c. 22, s. 41, Sch. 5 para. 2 (with Sch. 14 para. 7(2)); S.I. 1999/3344, art. 2(a) (subject to art. 4, Sch. 2 of that S.I.)

- <sup>F66</sup>14 (1) If the [<sup>F67</sup>Secretary of State] has sought the advice of the Consultative Panel or the [<sup>F68</sup>OFT] he shall, on receiving it, send to each of the designated judges a copy of—
- (a) the advice; and
  - (b) any representations made under paragraph 13(2).
- (2) Each of the designated judges shall then consider (or consider again) whether the application should be granted.
- (3) The applicant shall provide each of the designated judges with such additional information as he may reasonably require.
- (4) When each of the designated judges has completed his consideration he shall give such advice to the [<sup>F67</sup>Secretary of State] as he thinks fit.

**Textual Amendments**

**F66** Sch. 4 substituted (1.1.2000) by 1999 c.22, s. 41, Sch. 5 para. 2 (with Sch. 14 para. 7(2)); S.I. 1999/3344, art. 2(a) (subject to art. 4, Sch. 2 of that S.I.)

**F67** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, Sch. 2 para. 8(1)(d) (with arts. 6, 8)

**F68** Sch. 4: "OFT" substituted (1.4.2003) in each place for "Director" by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(a); S.I. 2003/766, art. 2, Sch. (with art. 3)

*F69 Decision by [<sup>F70</sup>Secretary of State]*

**Textual Amendments**

**F69** Sch. 4 substituted (1.1.2000) by 1999 c. 22, s. 41, Sch. 5 para. 2 (with Sch. 14 para. 7(2)); S.I. 1999/3344, art. 2(a) (subject to art. 4, Sch. 2 of that S.I.)

**F70** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, Sch. 2 para. 8(1)(d) (with arts. 6, 8)

- <sup>F71</sup>15 (1) After considering—
- (a) any advice given by the Consultative Panel and any representations made about it;
  - (b) any advice given by the [<sup>F72</sup>OFT] and any representations made about it; and

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- (c) the advice given by each of the designated judges (under paragraph 10 or 14 or both of those paragraphs),  
the [<sup>F73</sup>Secretary of State] shall decide whether to grant the application.
- (2) The [<sup>F73</sup>Secretary of State] may not refuse the application unless he has received advice from the Consultative Panel.
- (3) When the [<sup>F73</sup>Secretary of State] has made his decision he shall notify the applicant of it.
- (4) If the [<sup>F73</sup>Secretary of State] has decided to refuse the application he shall also notify the applicant of the reasons for his decision.

#### Textual Amendments

- F71** Sch. 4 substituted (1.1.2000) by 1999 c.22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)
- F72** Sch. 4: "OFT" substituted (1.4.2003) in each place for "Director" by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(a); S.I. 2003/766, **art. 2**, Sch. (with art. 3)
- F73** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

#### <sup>F74</sup>Effect of grant of application

#### Textual Amendments

- F74** Sch. 4 substituted (1.1.2000) by 1999 c. 22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

- <sup>F75</sup>16 Where the application is granted—
- (a) in a case within sub-paragraph (1) of paragraph 8, the alteration of the qualification regulations or rules of conduct is approved; and
- (b) in a case within sub-paragraph (2) of that paragraph, the qualification regulations or rules of conduct are approved in relation to the rights as altered.

#### Textual Amendments

- F75** Sch. 4 substituted (1.1.2000) by 1999 c.22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

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### <sup>F76</sup>PART III

#### ALTERATION OF REGULATIONS AND RULES BY ORDER

##### Textual Amendments

**F76** Sch. 4 substituted (1.1.2000) by 1999 c. 22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

#### <sup>F77</sup>*Notice to authorised body*

##### Textual Amendments

**F77** Sch. 4 substituted (1.1.2000) by 1999 c. 22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

- <sup>F78</sup>17 (1) If the [<sup>F79</sup>Secretary of State] considers—
- (a) that any of the qualification regulations of an authorised body may unduly restrict a right of audience or right to conduct litigation or the exercise of such a right, or
  - (b) that any of the rules of conduct of an authorised body may unduly restrict the exercise of such a right,
- he may give written notice to the body.
- (2) Before giving notice to an authorised body under sub-paragraph (1) the [<sup>F79</sup>Secretary of State] shall inform each of the designated judges that he intends to do so.

##### Textual Amendments

**F78** Sch. 4 substituted (1.1.2000) by 1999 c.22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

**F79** Words in **Schs. 3-6** substituted (19.8.2003) by **The Secretary of State for Constitutional Affairs Order 2003** (S.I. 2003/1887), **art. 9**, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

#### <sup>F80</sup>*Representations by authorised body*

##### Textual Amendments

**F80** Sch. 4 substituted (1.1.2000) by 1999 c. 22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

- <sup>F81</sup>18 (1) The notice shall invite the authorised body to make representations in writing to the [<sup>F82</sup>Secretary of State].
- (2) Any such representations must be made before the end of—

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- (a) the period of three months beginning with the date on which the notice was given; or
  - (b) such other period as the authorised body and the [<sup>F82</sup>Secretary of State] may agree.
- (3) When that period has expired the [<sup>F82</sup>Secretary of State] shall consider, in the light of any representations made under sub-paragraph (2), whether he proposes to make alterations of the qualification regulations or rules of conduct.
- (4) If the [<sup>F82</sup>Secretary of State] proposes to make alterations of the qualification regulations or rules of conduct he shall send a copy of—
- (a) the alterations which he proposes to make; and
  - (b) any representations made under sub-paragraph (2),
- to the Consultative Panel, the [<sup>F83</sup>OFT] and each of the designated judges.

#### Textual Amendments

- F81** Sch. 4 substituted (1.1.2000) by 1999 c.22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)
- F82** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)
- F83** Sch. 4: "OFT" substituted (1.4.2003) in each place for "Director" by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(a); S.I. 2003/766, **art. 2**, Sch. (with art. 3)

#### <sup>F84</sup>Advice of Consultative Panel

#### Textual Amendments

- F84** Sch. 4 substituted (1.1.2000) by 1999 c. 22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

- <sup>F85</sup>19 (1) The Consultative Panel shall consider whether the alterations should be made.
- (2) The [<sup>F86</sup>Secretary of State] and the authorised body shall provide the Consultative Panel with such additional information as it may reasonably require.
- (3) When the Consultative Panel has completed its consideration it shall give such advice to the [<sup>F86</sup>Secretary of State] as it thinks fit.
- (4) The Consultative Panel shall publish any advice given by it under this paragraph.

#### Textual Amendments

- F85** Sch. 4 substituted (1.1.2000) by 1999 c.22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)
- F86** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

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### <sup>F87</sup> Advice of [<sup>F88</sup> Office of Fair Trading]

#### Textual Amendments

- F87** Sch. 4 substituted (1.1.2000) by 1999 c. 22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)
- F88** Words in the cross-heading before Sch. 4 para. 20 substituted (1.4.2003) by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(d); S.I. 2003/766, **art. 2**, Sch. (with art. 3)

- <sup>F89</sup>20 (1) The [<sup>F90</sup>OFT] shall consider whether making the alterations would have, or be likely to have, any significant effect on competition.
- (2) The [<sup>F91</sup>Secretary of State] and the authorised body shall provide the [<sup>F90</sup>OFT] with such additional information as [<sup>F92</sup>it] may reasonably require.
- (3) When the [<sup>F90</sup>OFT] has completed [<sup>F93</sup>its] consideration [<sup>F93</sup>it] shall give such advice to the [<sup>F91</sup>Secretary of State] as [<sup>F93</sup>it] thinks fit.
- (4) The [<sup>F90</sup>OFT] shall publish any advice given by [<sup>F94</sup>it] under this paragraph.
- (5) The [<sup>F90</sup>OFT] shall, so far as practicable, exclude from anything published under subparagraph (4) any matter which relates to the affairs of a particular person (other than the authorised body) the publication of which would, or might in [<sup>F95</sup>its] opinion, seriously and prejudicially affect the interests of that person.
- (6) Section 46 shall apply in relation to the investigation of any matter with a view to its consideration under this paragraph as it applies in relation to the investigation of any matter under section 45.

#### Textual Amendments

- F89** Sch. 4 substituted (1.1.2000) by 1999 c.22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)
- F90** Sch. 4: "OFT" substituted (1.4.2003) in each place for "Director" by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(a); S.I. 2003/766, **art. 2**, Sch. (with art. 3)
- F91** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)
- F92** Words in Sch. 4 para. 20(2) substituted (1.4.2003) by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(d) (i); S.I. 2003/766, **art. 2**, Sch. (with art. 3)
- F93** Words in Sch. 4 para. 20(3) substituted (1.4.2003) by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(d) (ii); S.I. 2003/766, **art. 2**, Sch. (with art. 3)
- F94** Word in Sch. 4 para. 20(4) substituted (1.4.2003) by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(d) (iii); S.I. 2003/766, **art. 2**, Sch. (with art. 3)
- F95** Word in Sch. 4 para. 20(5) substituted (1.4.2003) by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(d) (iv); S.I. 2003/766, **art. 2**, Sch. (with art. 3)



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### <sup>F96</sup>Further representations by authorised body

#### Textual Amendments

**F96** Sch. 4 substituted (1.1.2000) by 1999 c. 22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

- <sup>F97</sup>21 (1) When the [<sup>F98</sup>Secretary of State] has received the advice of the Consultative Panel and the [<sup>F99</sup>OFT], he shall send a copy of the advice to the authorised body.
- (2) The authorised body shall be allowed a period of 28 days, beginning with the day on which the copy is sent to him, or such other period as the authorised body and the [<sup>F98</sup>Secretary of State] may agree, to make representations about the advice to the [<sup>F98</sup>Secretary of State].

#### Textual Amendments

**F97** Sch. 4 substituted (1.1.2000) by 1999 c. 22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

**F98** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

**F99** Sch. 4: "OFT" substituted (1.4.2003) in each place for "Director" by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(a); S.I. 2003/766, **art. 2**, Sch. (with art. 3)

### <sup>F100</sup>Advice of designated judges

#### Textual Amendments

**F100** Sch. 4 substituted (1.1.2000) by 1999 c. 22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

- <sup>F101</sup>22 (1) The [<sup>F102</sup>Secretary of State] shall send to each of the designated judges a copy of—
- (a) the advice of the Consultative Panel and the [<sup>F103</sup>OFT]; and
  - (b) any representations made under paragraph 21(2).
- (2) Each of the designated judges shall then consider whether the alterations should be made.
- (3) The [<sup>F102</sup>Secretary of State] and the authorised body shall provide each of the designated judges with such additional information as he may reasonably require.
- (4) When each of the designated judges has completed his consideration he shall give such advice to the [<sup>F102</sup>Secretary of State] as he thinks fit.

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#### Textual Amendments

- F101** Sch. 4 substituted (1.1.2000) by 1999 c.22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)
- F102** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)
- F103** Sch. 4: "OFT" substituted (1.4.2003) in each place for "Director" by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(a); S.I. 2003/766, **art. 2**, Sch. (with art. 3)

#### *F104* Decision by [*F105* Secretary of State]

#### Textual Amendments

- F104** Sch. 4 substituted (1.1.2000) by 1999 c. 22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)
- F105** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

- F106*23 (1) After considering—
- (a) the advice given by the Consultative Panel and any representations made about it;
  - (b) the advice given by the [*F107*OFT] and any representations made about it; and
  - (c) the advice given by each of the designated judges under paragraph 22,
- the [*F108*Secretary of State] shall decide whether to make the alterations.
- (2) When the [*F108*Secretary of State] has made his decision he shall notify the authorised body of it.
- (3) If the [*F108*Secretary of State] has decided to make the alterations he shall also notify the authorised body of the reasons for his decision.

#### Textual Amendments

- F106** Sch. 4 substituted (1.1.2000) by 1999 c.22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)
- F107** Sch. 4: "OFT" substituted (1.4.2003) in each place for "Director" by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(a); S.I. 2003/766, **art. 2**, Sch. (with art. 3)
- F108** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

#### *F109* Order effecting alterations

#### Textual Amendments

- F109** Sch. 4 substituted (1.1.2000) by 1999 c. 22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

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- <sup>F110</sup>24 If the [<sup>F111</sup>Secretary of State] has decided to make the alterations he may make an order giving effect to the alterations.

#### Textual Amendments

- F110** Sch. 4 substituted (1.1.2000) by 1999 c.22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)
- F111** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

### <sup>F112</sup>PART IV

#### REVOCATION OF DESIGNATION

#### Textual Amendments

- F112** Sch. 4 substituted (1.1.2000) by 1999 c. 22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

#### <sup>F113</sup>Order in Council

#### Textual Amendments

- F113** Sch. 4 substituted (1.1.2000) by 1999 c. 22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

- <sup>F114</sup>25 (1) Where an Order in Council has been made designating a body as an authorised body for the purposes of section 27, or for the purposes of section 28, the [<sup>F115</sup>Secretary of State] may recommend to Her Majesty that an Order in Council be made revoking that designation.
- (2) A recommendation may be made under sub-paragraph (1) only if—
- (a) the authorised body has made a written request to the [<sup>F115</sup>Secretary of State] asking for it to be made;
  - (b) the authorised body has agreed in writing to its being made; or
  - (c) the [<sup>F115</sup>Secretary of State] is satisfied that the circumstances at the time when he is considering whether to make the recommendation are such that, had that body then been applying to become an authorised body, its application would have failed.

#### Textual Amendments

- F114** Sch. 4 substituted (1.1.2000) by 1999 c.22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

*Status: Point in time view as at 19/08/2003.*

*Changes to legislation: Courts and Legal Services Act 1990, SCHEDULE 4 is up to date with all changes known to be in force on or before 30 May 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**F115** Words in Schs. 3-6 substituted (19.8.2003) by [The Secretary of State for Constitutional Affairs Order 2003 \(S.I. 2003/1887\)](#), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

*F116 Requirement to seek advice*

**Textual Amendments**

**F116** Sch. 4 substituted (1.1.2000) by [1999 c. 22, s. 41](#), **Sch. 5 para. 2** (with [Sch. 14 para. 7\(2\)](#)); [S.I. 1999/3344](#), **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

<sup>F117</sup>26 Where the [<sup>F118</sup>Secretary of State] considers that it may be appropriate for him to make a recommendation in reliance on paragraph 25(2)(c), he shall seek the advice of the Consultative Panel and the [<sup>F119</sup>OFT].

**Textual Amendments**

**F117** Sch. 4 substituted (1.1.2000) by [1999 c.22, s. 41](#), **Sch. 5 para. 2** (with [Sch. 14 para. 7\(2\)](#)); [S.I. 1999/3344](#), **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

**F118** Words in Schs. 3-6 substituted (19.8.2003) by [The Secretary of State for Constitutional Affairs Order 2003 \(S.I. 2003/1887\)](#), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

**F119** Sch. 4: "OFT" substituted (1.4.2003) in each place for "Director" by [2002 c. 40, ss. 278, 279](#), [Sch. 25 para. 23\(10\)\(a\)](#); [S.I. 2003/766](#), **art. 2**, Sch. (with art. 3)

*F120 Advice of Consultative Panel*

**Textual Amendments**

**F120** Sch. 4 substituted (1.1.2000) by [1999 c. 22, s. 41](#), **Sch. 5 para. 2** (with [Sch. 14 para. 7\(2\)](#)); [S.I. 1999/3344](#), **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

- <sup>F121</sup>27 (1) The Consultative Panel shall carry out such investigations with respect to the authorised body as it considers appropriate.
- (2) The [<sup>F122</sup>Secretary of State] and the authorised body shall provide the Consultative Panel with such additional information as it may reasonably require.
- (3) When the Consultative Panel has completed its investigations it shall—
- (a) advise the [<sup>F122</sup>Secretary of State] as to whether or not there appear to be grounds for making the recommendation; and
  - (b) if its advice is that there appear to be such grounds, advise the [<sup>F122</sup>Secretary of State] as to the transitional and incidental provision (if any) which it considers should be included in any Order made in pursuance of it.
- (4) The Consultative Panel shall publish any advice given by it under this paragraph.

*Status: Point in time view as at 19/08/2003.*

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#### Textual Amendments

- F121** Sch. 4 substituted (1.1.2000) by 1999 c.22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)
- F122** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

#### <sup>F123</sup> Advice of [<sup>F124</sup>Office of Fair Trading]

#### Textual Amendments

- F123** Sch. 4 substituted (1.1.2000) by 1999 c. 22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)
- F124** Words in the cross-heading before Sch. 4 para. 28 substituted (1.4.2003) by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(e); S.I. 2003/766, **art. 2**, Sch. (with art. 3)

- <sup>F125</sup>28 (1) The [<sup>F126</sup>OFT] shall consider whether revoking the designation would have, or be likely to have, any significant effect on competition.
- (2) The [<sup>F127</sup>Secretary of State] and the authorised body shall provide the [<sup>F126</sup>OFT] with such additional information as [<sup>F128</sup>it] may reasonably require.
- (3) When the [<sup>F126</sup>OFT] has completed [<sup>F129</sup>its] consideration sh all give such advice to the [<sup>F127</sup>Secretary of State] as [<sup>F129</sup>it] thinks fit.
- (4) The [<sup>F126</sup>OFT] shall publish any advice given by [<sup>F130</sup>it] under this paragraph.
- (5) The [<sup>F126</sup>OFT] shall, so far as practicable, exclude from anything published under subparagraph (4) any matter which relates to the affairs of a particular person (other than the authorised body) the publication of which would, or might in [<sup>F131</sup>its] opinion, seriously and prejudicially affect the interests of that person.
- (6) Section 46 shall apply in relation to the investigation of any matter with a view to its consideration under this paragraph as it applies in relation to the investigation of any matter under section 45.

#### Textual Amendments

- F125** Sch. 4 substituted (1.1.2000) by 1999 c.22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)
- F126** Sch. 4: "OFT" substituted (1.4.2003) in each place for "Director" by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(a); S.I. 2003/766, **art. 2**, Sch. (with art. 3)
- F127** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)
- F128** Word in Sch. 4 para. 28(2) substituted by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(e)(i); S.I. 2003/766, **art. 2**, Sch. (with art. 3)
- F129** Word in Sch. 4 para. 28(3) substituted (1.4.2003) by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(e)(ii); S.I. 2003/766, **art. 2**, Sch. (with art. 3)

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**F130** Word in Sch. 4 para. 28(4) substituted (1.4.2003) by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(e) (iii); S.I. 2003/766, art. 2, Sch. (with art. 3)

**F131** Words in Sch. 4 para. 28(5) substituted (1.4.2003) by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(e) (iv); S.I. 2003/766, art. 2, Sch. (with art. 3)

### *F132* Notice to authorised body

#### Textual Amendments

**F132** Sch. 4 substituted (1.1.2000) by 1999 c. 22, s. 41, Sch. 5 para. 2 (with Sch. 14 para. 7(2)); S.I. 1999/3344, art. 2(a) (subject to art. 4, Sch. 2 of that S.I.)

- F133** 29 (1) When the [<sup>F134</sup>Secretary of State] has received the advice of the Consultative Panel and the [<sup>F135</sup>OFT], he may give to the body a notice containing—
- (a) a copy of the advice; and
  - (b) a statement of the effect of an Order made in pursuance of the recommendation.
- (2) The notice shall invite the authorised body to make representations in writing to the [<sup>F134</sup>Secretary of State].
- (3) Any such representations must be made before the end of—
- (a) the period of three months beginning with the date on which the notice was given; or
  - (b) such other period as the authorised body and the [<sup>F134</sup>Secretary of State] may agree.

#### Textual Amendments

**F133** Sch. 4 substituted (1.1.2000) by 1999 c. 22, s. 41, Sch. 5 para. 2 (with Sch. 14 para. 7(2)); S.I. 1999/3344, art. 2(a) (subject to art. 4, Sch. 2 of that S.I.)

**F134** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, Sch. 2 para. 8(1)(d) (with arts. 6, 8)

**F135** Sch. 4: "OFT" substituted (1.4.2003) in each place for "Director" by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(a); S.I. 2003/766, art. 2, Sch. (with art. 3)

### *F136* Notice to members of authorised body

#### Textual Amendments

**F136** Sch. 4 substituted (1.1.2000) by 1999 c. 22, s. 41, Sch. 5 para. 2 (with Sch. 14 para. 7(2)); S.I. 1999/3344, art. 2(a) (subject to art. 4, Sch. 2 of that S.I.)

- F137** 30 (1) Where the [<sup>F138</sup>Secretary of State]—
- (a) has given a notice to an authorised body under paragraph 29(1); or

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- (b) is proposing to make a recommendation in relation to an authorised body in reliance on paragraph 25(2)(a) or (b),
- he shall take such steps as are reasonably practicable to bring the matter to the attention of the members of the authorised body and of any other persons who, in his opinion, are likely to be affected by an Order made in pursuance of the recommendation.
- (2) Any such steps shall include inviting those members and other persons to make representations to the [F138Secretary of State].
- (3) Any such representations—
- (a) shall, except in such circumstances as the [F138Secretary of State] may specify, be in writing; and
- (b) must be made before the end of the period of three months beginning with such date as may be specified by the [F138Secretary of State].

#### Textual Amendments

**F137** Sch. 4 substituted (1.1.2000) by 1999 c.22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

**F138** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

#### *F139 Advice of designated judges*

#### Textual Amendments

**F139** Sch. 4 substituted (1.1.2000) by 1999 c. 22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

- <sup>F140</sup>31 (1) The [F141Secretary of State] shall send to each of the designated judges—
- (a) a copy of any written representations made under paragraph 30 and a note of any oral representations made under that paragraph; and
- (b) in a case where he is required to seek the advice of the Consultative Panel and the [F142OFT], a copy of the advice given to him by the Consultative Panel and the [F142OFT] and of any representations made under paragraph 29.
- (2) Each of the designated judges shall then consider whether the [F141Secretary of State] should make the recommendation.
- (3) The [F141Secretary of State] and the authorised body shall provide each of the designated judges with such additional information as he may reasonably require.
- (4) When each of the designated judges has completed his consideration he shall give such advice to the [F141Secretary of State] as he thinks fit.



*Status: Point in time view as at 19/08/2003.*

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#### Textual Amendments

- F140** Sch. 4 substituted (1.1.2000) by 1999 c.22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)
- F141** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)
- F142** Sch. 4: "OFT" substituted (1.4.2003) in each place for "Director" by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(a); S.I. 2003/766, **art. 2**, Sch. (with art. 3)

*F143 Consideration by [F144 Secretary of State]*

#### Textual Amendments

- F143** Sch. 4 substituted (1.1.2000) by 1999 c. 22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)
- F144** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

- F145**32 Before deciding whether to make the recommendation the [F146 Secretary of State] shall consider—
- (a) any representations made under paragraph 30 and the advice given by each of the designated judges; and
  - (b) in a case where he is required to seek the advice of the Consultative Panel and the [F147 OFT], the advice given to him by the Consultative Panel and the [F147 OFT] and of any representations made under paragraph 29.

#### Textual Amendments

- F145** Sch. 4 substituted (1.1.2000) by 1999 c.22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)
- F146** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)
- F147** Sch. 4: "OFT" substituted (1.4.2003) in each place for "Director" by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(a); S.I. 2003/766, **art. 2**, Sch. (with art. 3)

*F148 The Order*

#### Textual Amendments

- F148** Sch. 4 substituted (1.1.2000) by 1999 c. 22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

- F149**33 (1) An Order made in pursuance of a recommendation under paragraph 25 may include any appropriate transitional and incidental provision.

*Status: Point in time view as at 19/08/2003.*

**Changes to legislation:** Courts and Legal Services Act 1990, SCHEDULE 4 is up to date with all changes known to be in force on or before 30 May 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (2) Where an Order is made in relation to a body in pursuance of such a recommendation, the grant of any rights of audience, or rights to conduct litigation, to any person by the body shall cease to have effect, subject to any transitional provision included in the Order.
- (3) Where such an Order is made, the [<sup>F150</sup>Secretary of State] shall—
- (a) give the body written notice of the making of the Order and of his reasons for recommending that it be made;
  - (b) take such steps as are reasonably practicable to bring the making of the Order to the attention of the members of that body; and
  - (c) publish notice of the making of the Order in such manner as he considers appropriate for bringing it to the attention of persons (other than those members) who, in his opinion, are likely to be affected by the Order.

#### Textual Amendments

**F149** Sch. 4 substituted (1.1.2000) by 1999 c.22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

**F150** Words in Schs. 3-6 substituted (19.8.2003) by [The Secretary of State for Constitutional Affairs Order 2003](#) (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

**Status:**

Point in time view as at 19/08/2003.

**Changes to legislation:**

Courts and Legal Services Act 1990, SCHEDULE 4 is up to date with all changes known to be in force on or before 30 May 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.