



Consumers, Estate Agents and Redress Act 2007

2007 CHAPTER 17

PART 1

THE NATIONAL CONSUMER COUNCIL

The National Consumer Council and territorial committees

1 Establishment of the National Consumer Council and its territorial committees

- (1) There is to be a body corporate called the National Consumer Council or, in Welsh, Cyngor Defnyddwyr Cenedlaethol (“the Council”).
- (2) The Council must establish and maintain—
 - (a) a committee for Scotland to be known as the Scottish Consumer Council;
 - (b) a committee for Wales to be known as the Welsh Consumer Council or, in Welsh, Cyngor Defnyddwyr Cymru;
 - (c) a committee for Northern Ireland to be known as the Northern Ireland Postal Services Committee.
- (3) In this Part references to a “territorial committee” are to a committee established under subsection (2).
- (4) Schedule 1 is about the Council and its territorial committees.

2 The territorial committees

- (1) The territorial committees may exercise, on behalf of the Council, the following functions—
 - (a) in the case of the Scottish Consumer Council, the Council’s functions under sections 8 to 17, 19 and 21 to 26, so far as they are exercisable in relation to Scotland;

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- (b) in the case of the Welsh Consumer Council, the Council’s functions under those sections, so far as they are exercisable in relation to Wales;
 - (c) in the case of the Northern Ireland Postal Services Committee—
 - (i) the Council’s functions under sections 8 to 12, 15 to 17, 19, 21 and 23 to 26 so far as they are exercisable in relation to Northern Ireland, and
 - (ii) the Council’s functions under section 22 so far as they are exercisable in relation to consumer matters which relate to relevant postal services in relation to Northern Ireland.
- (2) For the purpose of facilitating or improving co-ordination in relation to the carrying out of its functions, the Council may from time to time—
- (a) impose restrictions or conditions on the exercise by a territorial committee of a function by virtue of subsection (1);
 - (b) give a territorial committee general or specific directions relating to the exercise of a function by virtue of that subsection.
- (3) Nothing in subsection (1) prevents the Council from exercising any of its functions referred to in that subsection.
- (4) A territorial committee also has the following purposes—
- (a) the provision of advice and information to the Council about consumer matters affecting the area for which the committee is established,
 - (b) the provision of advice to the Council about the exercise of the Council’s functions in so far as they affect that area, and
 - (c) such other purposes as the Council may determine (including the exercise of any functions delegated to the committee under paragraph 23 of Schedule 1).

“Consumer”, “consumer matters” and “designated consumers”

3 “Consumer” and “consumer matters”

- (1) In this Part “consumer” and “consumer matters” have the meaning given by this section.
- (2) “Consumer” means—
- (a) a person who purchases, uses or receives, in Great Britain, goods or services which are supplied in the course of a business carried on by the person supplying or seeking to supply them, or
 - (b) a person who purchases, uses or receives relevant postal services in Northern Ireland.
- (3) “Consumer” includes both an existing consumer and a future consumer.
- (4) For the purposes of subsection (2)—
- (a) a person who uses services includes, in relation to relevant postal services, an addressee;
 - (b) “goods” includes land or an interest in land;
 - (c) “business” includes a profession and the activities of any government department, local or public authority or other public body.
- (5) “Consumer matters” means—
- (a) the interests of consumers, and

- (b) any matter connected with those interests.

4 “Designated consumers”

- (1) In this Part “designated consumers” means—
 - (a) consumers in relation to gas conveyed through pipes or electricity conveyed by distribution systems or transmission systems, and
 - (b) consumers in relation to relevant postal services.
- (2) The Secretary of State may, by order, amend subsection (1) so as—
 - (a) to make any description of consumers within subsection (3) “designated consumers” for the purposes of this Part;
 - (b) to provide for any description of consumers to cease to be “designated consumers” for those purposes.
- (3) The consumers within this subsection are consumers in England and Wales in relation to services provided by a water undertaker, a sewerage undertaker or a licensed water supplier, in its capacity as such.
- (4) Before making an order under subsection (2), the Secretary of State must consult—
 - (a) the Council,
 - (b) in the case of a relevant order, the Scottish Ministers,
 - (c) the Welsh Ministers, and
 - (d) such other persons as the Secretary of State considers appropriate.
- (5) For this purpose a “relevant order” is an order which relates to any description of—
 - (a) consumers in relation to gas conveyed through pipes or electricity conveyed by distribution systems or transmission systems, or
 - (b) consumers in relation to relevant postal services.

Determining priorities

5 Forward work programmes

- (1) The Council must before each financial year publish a document (the “forward work programme”) containing—
 - (a) a statement of any priorities of the Council for the year in relation to designated consumers generally or any description of designated consumers;
 - (b) a general description of the main activities (including any projects) which it plans to undertake during the year in relation to designated consumers generally or any description of designated consumers;
 - (c) a statement of any other priorities of the Council for the year;
 - (d) a general description of any other projects which it plans to undertake during the year (other than those comprising routine activities in the exercise of its functions).
- (2) The description of a project under subsection (1)(b) or (d) must include the objectives of the project.
- (3) The forward work programme for any year must also include—

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- (a) an estimate of the overall expenditure which the Council expects to incur during the year in the exercise of its functions, and
 - (b) an estimate of the expenditure (if any) which the Council expects to incur during the year in the exercise of its functions in relation to designated consumers.
- (4) An estimate under subsection (3)(b) must identify the expenditure (if any) which the Council expects to incur in the exercise of its functions in relation to each of the following—
 - (a) consumers in relation to gas conveyed through pipes or electricity conveyed by distribution systems or transmission systems;
 - (b) consumers in relation to relevant postal services;
 - (c) consumers who are designated consumers by virtue of an order under section 4(2)(a).
- (5) Before publishing the forward work programme for any year, the Council must publish a notice—
 - (a) containing a draft of the forward work programme, and
 - (b) specifying the period within which representations about the proposals contained in it may be made,and must consider any representations which are duly made and not withdrawn.
- (6) The notice under subsection (5) must be published by the Council in such manner as it considers appropriate for the purpose of bringing the matters contained in the notice to the attention of persons likely to have an interest in them.
- (7) The Council must send a copy of any notice given by it under subsection (5) to—
 - (a) the Secretary of State,
 - (b) the Scottish Ministers,
 - (c) the Welsh Ministers,
 - (d) the Office of Fair Trading, and
 - (e) any regulatory body which the Council considers might have an interest in the content of the notice.

6 General provision about functions

- (1) In exercising its functions the Council must comply with the requirements of this section.
- (2) The Council must have regard to the forward work programme published under section 5.
- (3) The Council must have regard to the interests of consumers in different areas.
- (4) The Council must have regard to the interests of consumers that are one or more of the following—
 - (a) disabled or chronically sick individuals;
 - (b) individuals of pensionable age;
 - (c) individuals with low incomes;
 - (d) individuals residing in rural areas.

- (5) But nothing in subsection (4) is to be taken as implying that regard may not be had to the interests of other descriptions of consumers.
- (6) The Council must have regard to the need to use its resources in the most efficient and economic way.
- (7) In discharging the duty imposed by subsection (6), the Council must take account of the existence of any other public bodies with the same functions as, or similar functions to, those of the Council and the activities carried on by such bodies.
- (8) The Council must exercise its functions in the manner which it considers is best calculated to contribute to the achievement of sustainable development.
- (9) Subject to section 13 (investigation of complaints relating to disconnection of gas or electricity), nothing in this Part imposes on the Council a duty to exercise any of its functions on behalf of or at the request of a particular consumer.
- (10) A person is of pensionable age for the purposes of this section if—
 - (a) the person has attained pensionable age (within the meaning given by the rules in paragraph 1 of Schedule 4 to the Pensions Act 1995 (c. 26)), or
 - (b) in the case of a man born before 6 April 1955, he is the same age as a woman who has attained pensionable age (within the meaning so given).

Annual report

7 Annual report

- (1) The Council must prepare a report for each financial year on its activities during the year (“the annual report”).
- (2) The annual report must—
 - (a) contain a report on the progress of the projects described in the Council’s forward work programme for that year published under section 5,
 - (b) contain details of any activities undertaken in that year under section 22 (voluntary activities), and
 - (c) deal with such other matters as the Secretary of State may from time to time direct.
- (3) As soon as reasonably practicable after the end of each financial year, the Council must send a copy of the annual report prepared for that year to—
 - (a) the Secretary of State,
 - (b) the Scottish Ministers, and
 - (c) the Welsh Ministers.
- (4) The Secretary of State must lay a copy of the annual report before Parliament.
- (5) The Council must arrange for the annual report to be published.

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The core functions

8 The representative function

- (1) The Council may—
- (a) provide advice and information to persons within subsection (2) about consumer matters,
 - (b) make proposals to such persons about consumer matters, and
 - (c) represent the views of consumers on consumer matters to such persons.
- (2) Those persons are—
- (a) any Minister of the Crown or government department;
 - (b) the Scottish Ministers;
 - (c) the Welsh Ministers;
 - (d) any regulatory body established by or under an enactment;
 - (e) the European Commission or any other international organisation;
 - (f) any other person whom the Council considers might have an interest in the matter in question.
- (3) In this section “enactment” means—
- (a) an Act of Parliament,
 - (b) an Act of the Scottish Parliament,
 - (c) a Measure or Act of the National Assembly for Wales, or
 - (d) Northern Ireland legislation,
- whenever passed or made.

9 The research function

The Council may obtain and keep under review—

- (a) information about consumer matters,
- (b) information about the views of consumers on consumer matters, and
- (c) information of such other description as may be prescribed by the Secretary of State by order.

10 The information function

- (1) The Council may facilitate the dissemination to consumers of advice and information—
- (a) about the Council and its functions,
 - (b) about consumer matters, and
 - (c) about such other matters as may be prescribed by the Secretary of State by order.
- (2) In exercising the power conferred by subsection (1) the Council may (among other things)—
- (a) publish or otherwise make available information in any manner the Council thinks appropriate for the purpose of bringing it to the attention of those likely to be interested;
 - (b) support (financially or otherwise), facilitate or co-ordinate the activities of other persons.

Powers of investigation

11 General powers of investigation

- (1) The Council may investigate—
 - (a) a complaint made by or on behalf of a consumer which appears to the Council to raise one or more issues of general relevance;
 - (b) any matter which appears to the Council to be, or to be related to, a problem which affects or may affect consumers generally or consumers of a particular description.
- (2) For this purpose, a complaint raises an issue of general relevance if it raises—
 - (a) a novel issue which affects or may affect consumers generally or consumers of a particular description, or
 - (b) any other issue which has or may have an important effect on consumers generally or consumers of a particular description.

12 Investigation of complaints made by vulnerable designated consumers

- (1) Subsection (3) applies to a complaint which is made—
 - (a) by or on behalf of a vulnerable person in that person's capacity as a designated consumer ("the designated consumer"),
 - (b) against a person ("the supplier") who in the course of a business carried on by the supplier supplies or seeks to supply, or refuses to supply, goods or services to the designated consumer, and
 - (c) in respect of a matter connected with the supply of goods or services by the supplier to the designated consumer or a refusal by the supplier to supply goods or services to the designated consumer.
- (2) For this purpose a person is "vulnerable" if the Council is satisfied that it is not reasonable to expect that person to pursue the complaint on that person's own behalf.
- (3) Where a complaint to which this subsection applies is referred to the Council by or on behalf of the designated consumer, the Council may investigate the complaint for the purpose of determining whether it is appropriate to take any action under subsection (4).
- (4) Where it appears to the Council to be appropriate to do so with a view to assisting in reaching a satisfactory resolution of a complaint referred to it under this section, the Council may—
 - (a) provide advice to the designated consumer or, if the complaint was made by another person on the designated consumer's behalf, that person;
 - (b) make representations on behalf of the designated consumer to the supplier about anything to which the complaint relates.

13 Investigation of complaints relating to disconnection of gas or electricity

- (1) This section applies to—
 - (a) a complaint by a gas consumer against a gas transporter, in respect of the disconnection of, or a threat to disconnect, the consumer's premises by the gas transporter;

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- (b) a complaint by a gas consumer against a gas transporter, following such a disconnection, in respect of a refusal by the gas transporter to reconnect the premises;
 - (c) a complaint by a gas consumer against a gas supplier, in respect of the cutting off of, or a threat to cut off, a supply of gas to the consumer's premises by the gas supplier;
 - (d) a complaint by a gas consumer against a gas supplier, following such a cutting off, in respect of a refusal by the gas supplier to restore the supply to the premises;
 - (e) a complaint by a gas consumer against a gas supplier, in respect of the failure of a prepayment system;
 - (f) a complaint by an electricity consumer against an electricity supplier, an electricity distributor or a transmission licence holder, in respect of the disconnection of, or a threat to disconnect, the consumer's premises by the electricity supplier, electricity distributor or licence holder;
 - (g) a complaint by an electricity consumer against an electricity supplier, electricity distributor or transmission licence holder, following such a disconnection by the supplier, distributor or licence holder, in respect of a refusal by the supplier, distributor or licence holder to reconnect the premises;
 - (h) a complaint by an electricity consumer against an electricity supplier, in respect of the failure of a prepayment system.
- (2) Where a complaint to which this section applies is referred to the Council by or on behalf of the complainant, the Council must investigate the complaint for the purpose of determining whether it is appropriate to take any action under subsection (3).
- (3) Where it appears to the Council to be appropriate to do so with a view to assisting in reaching a satisfactory resolution of a complaint referred to it under this section, the Council must—
- (a) provide advice to the complainant, or
 - (b) make representations on behalf of the complainant to the person against whom the complaint is made about anything to which the complaint relates.
- (4) The Council may refuse to investigate a complaint, or part of a complaint, if—
- (a) the complaint or part appears to the Council to be frivolous or vexatious;
 - (b) the complaint or part falls within a class of matter which a regulatory body is under a duty (whether imposed by or under an enactment or otherwise) to investigate;
 - (c) the complaint or part is being dealt with, or the Council is satisfied that it would be better dealt with, under an ombudsman scheme or any other redress scheme or in legal proceedings;
 - (d) the Council considers that there has been undue delay in the making of the complaint or part, or the provision of evidence to support it;
 - (e) the Council considers that there are other compelling reasons why it is inappropriate for the complaint or part to be investigated by the Council.
- (5) The Council may refuse to investigate a complaint until the complainant has taken such steps as appear to the Council to be reasonable for the purpose of giving the person against whom the complaint is made a reasonable opportunity to deal with it.
- (6) In subsection (1)—

- (a) in paragraphs (a) and (b) “disconnection” in relation to any premises, means disconnection from a main of a gas transporter or the discontinuation of the conveyance of gas to the premises;
- (b) in paragraphs (b), (d) and (g), the references to a gas consumer or electricity consumer are references to a person who was such a consumer at the time the disconnection of, or cutting off of the supply to, the premises occurred;
- (c) in paragraphs (e) and (h), references to the failure of a prepayment system are references to—
 - (i) a failure in the facilities for payment for the supply of gas or electricity which results in a consumer with a prepayment meter being unable to make a payment for the supply of gas or electricity, or
 - (ii) where a payment has been made for the supply of gas or electricity through a prepayment meter, a case where the supply is not given through the prepayment meter because of a defect in the meter or in the facilities for payment.

(7) In this section—

“electricity consumer” means an individual who is a consumer in relation to electricity supplied by an authorised supplier;

“enactment” means—

- (a) an Act of Parliament,
- (b) an Act of the Scottish Parliament, or
- (c) a Measure or Act of the National Assembly for Wales,

whenever passed or made;

“gas consumer” means an individual who is a consumer in relation to gas supplied by an authorised supplier;

“the consumer’s premises”—

- (a) in relation to an electricity consumer, means the premises to which the electricity supplied to the consumer by the authorised supplier is supplied;
- (b) in relation to a gas consumer, means the premises to which the gas supplied to the consumer is conveyed by the gas transporter;

“redress scheme” means a scheme under which complaints may be made to, and investigated and determined by, an independent person.

14 Reference of matters to the Gas and Electricity Markets Authority

- (1) In this section references to a complaint are to a complaint within section 11(1)(a) or to which section 12(3) or 13 applies.
- (2) Where it appears to the Council that a complaint relates to a matter in respect of which any of the Authority’s enforcement functions may be exercisable, the Council must refer the complaint to the Authority unless it is satisfied that the Authority is already aware of the matter.
- (3) Where a complaint to which section 13 applies is referred to the Authority under subsection (2), the Council is not required to investigate the complaint under subsection (2) of that section until the Authority has had a reasonable opportunity to exercise its enforcement functions in relation to the matter to which the complaint relates.

- (4) On investigating a complaint, the Council must inform the complainant if it considers that the complaint relates to a matter of a kind which can be referred by the complainant to the Authority under any provision of the Gas Act 1986 (c. 44) or the Electricity Act 1989 (c. 29).
- (5) In this section—
- “the Authority” means the Gas and Electricity Markets Authority;
 - “enforcement function”, in relation to the Authority, means any of its functions under section 28 or 30A of the Gas Act 1986 or section 25 or 27A of the Electricity Act 1989.

15 Reference of matters to the Postal Services Commission

- (1) The Council must refer any complaint within section 11(1)(a), or to which section 12(3) applies, to the Postal Services Commission (“the Commission”) if the Council considers that—
- (a) the subject matter of the complaint indicates that a condition of a licence under Part 2 of the Postal Services Act 2000 (c. 26) has been contravened,
 - (b) the subject matter of the complaint is a referable matter, or
 - (c) it is appropriate to do so.
- (2) The Council and the Commission must, from time to time, agree the descriptions of matters which are to be referred to the Commission and, for the purposes of subsection (1)(b), a matter is a “referable matter” if it is of a description for the time being so agreed.

16 Investigations relating to public post offices

- (1) Without prejudice to the generality of section 11, the Council may investigate any matter relating to—
- (a) the number and location of public post offices in England and Wales and Scotland;
 - (b) the number and location of public post offices in Northern Ireland.
- (2) In this section “public post office” has the same meaning as in the Postal Services Act 2000 (c. 26) (see section 42(3) of that Act).

Other functions of the Council

17 Reports by the Council

- (1) The Council may prepare a report in relation to any matter falling within the scope of its functions.
- (2) The Council may publish any report prepared under this section.

18 Secretary of State’s power to require reports

- (1) The Secretary of State may direct the Council to prepare, and submit to the Secretary of State within a specified period, a report in respect of any matter specified in the direction which relates to consumer matters.

- (2) The Secretary of State may publish any report submitted under this section.

19 Advice, information and guidance

- (1) The Council may issue advice or guidance to any person with a view to improving standards of service and promoting best practice in connection with the handling of complaints made by consumers or any other matter affecting the interests of consumers.
- (2) The Council may publish advice or information about consumer matters if it appears to the Council that its publication would promote the interests of consumers.
- (3) For this purpose “information about consumer matters” includes information about the views of consumers on consumer matters.

20 Duty to enter into co-operation arrangements

- (1) It is the duty of the Council and each designated body to enter into co-operation arrangements under this section.
- (2) In this section—
- “co-operation arrangements” means arrangements made by the Council and a designated body with a view to securing co-operation between them, including—
- (a) the exchange of information between them,
- (b) the co-ordination of any activities they carry on in connection with their functions relating to the provision of advice or information to consumers, and
- (c) consistent treatment of matters which affect both of them;
- “designated body” means—
- (a) the Office of Fair Trading;
- (b) the Consumer Panel established by the Financial Services Authority under the Financial Services and Markets Act 2000 (c. 8) (“the Financial Services Consumer Panel”);
- (c) the Consumer Panel established by the Office of Communications under the Communications Act 2003 (c. 21) (“the OFCOM Consumer Panel”);
- (d) a person designated by the Secretary of State by order for the purposes of this section.
- (3) The co-operation arrangements must set out—
- (a) in the case of the Financial Services Consumer Panel, the procedure for consulting and making nominations for the purposes of paragraph 1(4)(a) of Schedule 1 to this Act and section 10(5A) of the Financial Services and Markets Act 2000 (c. 8);
- (b) in the case of the OFCOM Consumer Panel, the procedure for consulting and making nominations for the purposes of paragraph 1(4)(b) of Schedule 1 to this Act and section 17(4A) of the Communications Act 2003.
- (4) As soon as practicable after agreement is reached between the Council and a designated body on co-operation arrangements, the Council and the body must prepare a memorandum setting them out and send a copy of it to the Secretary of State.

- (5) The Council and a designated body must keep under review any co-operation arrangements entered into by them under this section.
- (6) As soon as practicable after agreement is reached on any changes to co-operation arrangements, the Council and the designated body to which they relate must revise their memorandum and send a copy of the revised memorandum to the Secretary of State.
- (7) The Secretary of State must lay a copy of any document received under this section before each House of Parliament.

21 Power to co-operate and give assistance

The Council may make arrangements to co-operate with and give assistance to any person if it considers that to do so would facilitate or be conducive to the exercise of its own functions.

22 Voluntary activities

- (1) The Council may provide for any person advice or assistance, including research or other services, as respects any matter in which the Council has skill, experience or expertise.
- (2) The Council may make such charges as it thinks fit in respect of anything done in exercise of its powers under this section.
- (3) The Council may spend such sums as it considers reasonable in the exploitation of commercial opportunities arising from the activities it carries on in the exercise of its functions.
- (4) The Council may—
 - (a) establish one or more bodies corporate to exercise on behalf of the Council such of its functions under this section, in such circumstances, as the Council may determine;
 - (b) acquire an interest in an existing body corporate with a view to it exercising on behalf of the Council such of its functions under this section, in such circumstances, as the Council may determine.
- (5) The Council may acquire an interest in a body corporate under subsection (4)(b) only with the consent of the Secretary of State.
- (6) If the Secretary of State gives such consent, the Secretary of State must publish a notice stating that consent has been given and specifying the reasons for giving consent.

23 Supplementary powers etc

- (1) The Council may do anything (other than borrow money) which is calculated to facilitate, or is incidental or conducive to, the exercise of any of its functions.
- (2) The Council must not acquire or dispose of any interest in land, except with the approval of the Secretary of State.
- (3) Subsection (2) does not apply to an acquisition of an interest in land under a transfer scheme (within the meaning of section 35).

Information

24 Provision of information to the Council

- (1) The Council may, by notice, require a person within subsection (3) to supply it with such information as is specified or described in the notice within such reasonable period as is so specified.
- (2) The information specified or described in a notice under subsection (1) must be information the Council requires for the purpose of exercising its functions.
- (3) The persons referred to in subsection (1) are—
 - (a) the Office of Fair Trading;
 - (b) a designated regulator;
 - (c) any person who supplies goods or services in the course of a business carried on by that person;
 - (d) any other person specified or of a description specified by the Secretary of State by order for the purposes of this subsection.
- (4) A notice under subsection (1) may specify the manner and form in which any information is to be provided.
- (5) Before giving a notice under subsection (1), or specifying the manner or form in which any information is to be provided, the Council must have regard to the desirability of minimising the costs, or any other detriment, to the person to whom the notice is to be given.
- (6) If a person within subsection (3)(a) or (b) fails to comply with a notice under subsection (1), the person must, if so required by the Council, give notice to the Council of the reasons for the failure.
- (7) An order under subsection (3)(d) may provide either—
 - (a) that subsection (6) is to apply in relation to a person specified or of a description specified by the order as it applies to a person within subsection (3) (a) or (b), or
 - (b) that section 26 is to apply in relation to such a person.
- (8) The Council may publish any notice received under subsection (6).
- (9) In this section—
 - “designated regulator” means—
 - (a) the Gas and Electricity Markets Authority;
 - (b) the Postal Services Commission;
 - (c) the Water Services Regulation Authority;
 - (d) any other person prescribed by the Secretary of State by order for the purposes of this subsection;
 - “goods” includes land or an interest in land.

25 Enforcement by regulator of section 24 notice

- (1) Where a regulated provider fails to comply with a notice under section 24(1), the Council may refer the failure to—

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- (a) a person prescribed by the Secretary of State by order for the purposes of this section, or
 - (b) if no person has been so prescribed, the relevant regulator.
- (2) Subsection (1) applies only to the extent that the notice relates to information which is held or may be obtained by the regulated provider in its capacity as a regulated provider.
- (3) For the purposes of this section—
- “designated investigator”, in relation to a failure to comply with a notice under section 24(1), means the person to whom the failure is referred under subsection (1);
 - “regulated provider” means a person listed in the first column of the following table;
 - “relevant regulator”, in relation to a regulated provider, means the body listed in relation to the regulated provider in the second column of that table.

TABLE

<i>Regulated provider</i>	<i>Relevant regulator</i>
A person holding a licence under section 7, 7ZA or 7A of the Gas Act 1986 (c. 44).	The Gas and Electricity Markets Authority.
A person holding a licence under section 6 of the Electricity Act 1989 (c. 29) .	The Gas and Electricity Markets Authority.
A person holding a licence under Part 2 of the Postal Services Act 2000 (c. 26).	The Postal Services Commission.
A water undertaker, sewerage undertaker or licensed water supplier.	The Water Services Regulation Authority.

- (4) Where a failure is referred under subsection (1), the designated investigator must—
- (a) consider any representations made by the Council or the regulated provider, and
 - (b) determine whether the regulated provider is entitled to refuse to comply with the notice by virtue of provision made under section 28 (exemptions from requirements to provide information).
- (5) If the designated investigator determines that the regulated provider is not entitled to refuse to comply with the notice, the designated investigator must direct the regulated provider to comply with it.
- (6) The designated investigator must give the Council and the regulated provider notice of—
- (a) a determination under subsection (4)(b) and the reasons for it, and
 - (b) any direction under subsection (5).
- (7) An obligation imposed by virtue of subsection (5) on a water undertaker, sewerage undertaker or licensed water supplier is enforceable by the Water Services Regulation Authority under section 18 of the Water Industry Act 1991 (c. 56) (orders for securing compliance).

- (8) Schedule 2 makes provision about the enforcement of obligations imposed by virtue of subsection (5) on other regulated providers.

26 Enforcement by court of section 24 notice

- (1) This section applies where a person (“the defaulter”) refuses, or otherwise fails, to comply with a notice given to the defaulter under section 24(1) and the defaulter is—
- (a) within section 24(3)(c), or
 - (b) a person in relation to whom this section applies by virtue of provision made under section 24(7)(b).
- (2) But this section does not apply in relation to a notice if, or to the extent that, section 25(1) applies in relation to the notice.
- (3) The Council may apply to the court for an order requiring the defaulter to comply with the notice or with such directions for the like purpose as may be contained in the order.
- (4) An order under this section may, in particular, provide that all the costs or expenses of and incidental to the application are to be borne—
- (a) by the defaulter, or
 - (b) if officers of a company or other association are responsible for the failure to comply with the notice, by those officers.
- (5) In this section “the court”—
- (a) in relation to England and Wales or Northern Ireland, means the High Court, and
 - (b) in relation to Scotland, means the Court of Session.

27 Provision of information by the Council

- (1) An authorised person may, by notice, require the Council to supply it with such information as is specified or described in the notice within such reasonable period as is so specified.
- (2) The information specified or described in a notice under subsection (1) must be information the authorised person requires for the purpose of exercising its functions.
- (3) “Authorised person” means—
- (a) the Office of Fair Trading;
 - (b) a designated regulator (within the meaning of section 24(9));
 - (c) any person specified or of a description specified by the Secretary of State by order.
- (4) A notice under subsection (1) may specify the manner and form in which any information is to be provided.
- (5) Before giving a notice under subsection (1) or specifying the manner or form in which any information is to be provided, an authorised person must have regard to the desirability of minimising the costs, or any other detriment, to the Council.
- (6) If the Council fails to comply with a notice under subsection (1), it must, if so required by the authorised person which gave that notice, give notice to the authorised person of the reasons for the failure.

Status: This is the original version (as it was originally enacted).

(7) An authorised person may publish any notice received by it under subsection (6).

28 Exemptions from requirements to provide information

- (1) The Secretary of State may make regulations prescribing—
 - (a) descriptions of persons to whom the Council may not give a notice under section 24(1);
 - (b) descriptions of information which a person may refuse to supply in accordance with a notice under section 24(1) or 27(1);
 - (c) circumstances in which a person may refuse to comply with such a notice.
- (2) No person may be required by a notice under section 24(1) or 27(1) or a court order under section 26—
 - (a) to provide any information which that person could not be compelled to supply in evidence in civil proceedings before the High Court or the Court of Session, or
 - (b) to produce any document which that person could not be compelled to produce in such proceedings.

29 Disclosure of information

- (1) In Schedule 14 to the Enterprise Act 2002 (c. 40) (restrictions on disclosure: list of enactments under or by virtue of which information is obtained), at the appropriate place in the list insert—

“Consumers, Estate Agents and Redress Act 2007.”
- (2) In Schedule 15 to that Act (enactments in relation to which disclosure may be made), at the appropriate place in the list insert—

“Consumers, Estate Agents and Redress Act 2007.”
- (3) For the purposes of Part 9 of the Enterprise Act 2002 (c. 40) (information) the following information is to be regarded as “specified information” within the meaning of that Part—
 - (a) information obtained by the Council under or by virtue of Part 1 of the the Gas Act 1986 (c. 44), Part 1 of the Electricity Act 1989 (c. 29) or the Utilities Act 2000 (c. 27);
 - (b) information obtained by the Council under or by virtue of the Postal Services Act 2000 (c. 26).
- (4) Part 9 of the Enterprise Act 2002 (which among other things restricts the disclosure of certain information) does not limit the information which may be—
 - (a) made available by the Council under section 8 or 10,
 - (b) included in, or made public as part of, a report of the Council under any provision of this Part,
 - (c) published by the Council under section 19(2) or 24(8),
 - (d) published by an authorised person under section 27(7),
 - (e) published by the Council under section 45, or
 - (f) published by the Council under section 33DA of the Gas Act 1986 or section 42AA of the Electricity Act 1989.

- (5) Before disclosing any specified information by virtue of subsection (4) (other than by publishing it as mentioned in subsection (4)(e) or (f)), the Council or authorised person must consult—
- (a) if the information relates to the affairs of an individual, that individual, and
 - (b) if the information relates to the business of an undertaking, the person for the time being carrying on the business.
- (6) Before disclosing any specified information by virtue of subsection (4) (other than by publishing it as mentioned in subsection (4)(e) or (f)), the Council or authorised person must also have regard to the considerations set out in subsections (2) to (4) of section 244 of the Enterprise Act 2002.

For this purpose, references to “the authority” in those subsections are to be read as references to the Council or the authorised person, as appropriate.

- (7) In this section—
- “authorised person” has the same meaning as in section 27;
 - “specified information” has the meaning given by section 238(1) of the Enterprise Act 2002.

Abolition of consumer bodies

30 Abolition of “Energywatch” and “Postwatch”

- (1) The Gas and Electricity Consumer Council is abolished.
- (2) The Consumer Council for Postal Services is abolished.
- (3) Subject to any modifications made by this Act—
- (a) the functions of the Gas and Electricity Consumer Council under the Gas Act 1986 (c. 44), the Electricity Act 1989 (c. 29) and the Utilities Act 2000 (c. 27), and
 - (b) the functions of the Consumer Council for Postal Services under the Postal Services Act 2000 (c. 26),
- are transferred by this section to the Council.
- (4) Accordingly—
- (a) in section 66 of the Gas Act 1986 (general interpretation), for the definition of “the Council” substitute—
““the Council” means the National Consumer Council;”,
 - (b) in section 111(1) of the Electricity Act 1989 (general interpretation), for the definition of “the Council” substitute—
““the Council” means the National Consumer Council;”,
 - (c) in section 125(1) of the Postal Services Act 2000 (interpretation), after the definition of “correspondent” insert—
““the Council” means the National Consumer Council;”, and
 - (d) in section 106(1) of the Utilities Act 2000 (interpretation), for the definition of “Council” substitute—
““Council” means the National Consumer Council;”.

Status: This is the original version (as it was originally enacted).

(5) Schedule 3 contains transitional provisions.

31 Designation of the Consumer Council for Water for abolition

- (1) The Secretary of State may by order designate the Consumer Council for Water for abolition.
- (2) An order under this section must specify the earliest date on which a transfer order or an abolition order under section 32 may take effect in respect of the Consumer Council for Water.
- (3) Before making an order under this section the Secretary of State must consult—
 - (a) the Consumer Council for Water,
 - (b) the Council, and
 - (c) such other persons as the Secretary of State considers appropriate.
- (4) An order under this section may only be made with the consent of the Welsh Ministers.

32 Transfer orders and abolition orders

- (1) Where the Consumer Council for Water is designated for abolition under section 31, the Secretary of State may make in respect of it—
 - (a) one or more transfer orders;
 - (b) an abolition order.
- (2) A transfer order is an order which provides for the transfer to the Council of any function of the Consumer Council for Water.
- (3) An abolition order is an order which provides for the abolition of the Consumer Council for Water.
- (4) No provision of an order under this section may take effect before the date specified under section 31(2).
- (5) A transfer order or abolition order may be made only with the consent of the Welsh Ministers.

33 Supplementary provision about transfer and abolition orders

- (1) This section applies where the Consumer Council for Water has been designated for abolition under section 31.
- (2) In this section “payment conditions” means—
 - (a) in the case of an appointment under Chapter 1 of Part 2 of the Water Industry Act 1991 (c. 56), conditions included in the appointment by virtue of section 11(1)(c) of that Act, and
 - (b) in the case of a water supply licence under Chapter 1A of that Part, conditions included in the licence by virtue of section 17G(1)(b) of that Act.
- (3) The payment conditions of such an appointment or licence may (without prejudice to the generality of sections 11(1)(c) and 17G(1)(b) of that Act) require the payment by the company holding the appointment or licence of sums relating to any of the expenses mentioned in subsection (4).

- (4) Those expenses are—
- (a) the appropriate proportion of the expenses of the Council (other than those expenses within paragraph (b) and any expenses relating to the establishment of the Council);
 - (b) any expenses of the Council, the Secretary of State or the Consumer Council for Water which relate to a transfer scheme made in respect of the Consumer Council for Water under section 35(2)(a) or (7);
 - (c) the expenses of the Secretary of State which relate to the abolition of the Consumer Council for Water;
 - (d) the expenses of expanding an OFT scheme to enable it to cater for water consumers;
 - (e) the appropriate proportion of the expenses of the Office of Fair Trading on, or in connection with, the support of any OFT scheme.
- (5) The “appropriate proportion” of any relevant expenses means such proportion of the expenses as the Secretary of State considers is reasonable having regard to—
- (a) in the case of expenses within subsection (4)(a), the functions exercisable by the Council in relation to water consumers;
 - (b) in the case of expenses within subsection (4)(e), the functions under the OFT scheme which are exercisable in relation to water consumers.
- (6) The Authority may, in accordance with this section, modify any payment conditions where it considers it necessary or expedient to do so in consequence of, or of preparations for—
- (a) the abolition of the Consumer Council for Water, or
 - (b) a transfer order or abolition order under section 32.
- (7) The Authority may, in accordance with this section, make such incidental or consequential modifications of the other conditions which are included in—
- (a) an appointment under Chapter 1 of Part 2 of the Water Industry Act 1991 (c. 56), or
 - (b) a water supply licence under Chapter 1A of that Part,
- as it considers necessary or expedient in consequence of, or of preparations for, an event mentioned in subsection (6)(a) or (b).
- (8) Before modifying under subsection (6) or (7) the conditions included in an appointment or licence, the Authority must consult the company holding the appointment or licence.
- (9) The Secretary of State may, after consulting the Welsh Ministers, give directions to the Authority for the purpose of securing that sums relating to any of the expenses mentioned in subsection (4) are included in the sums payable by virtue of payment conditions; and the Authority must comply with any such direction.
- (10) In this section—
- “the Authority” means the Water Services Regulation Authority;
 - “OFT scheme” means any public consumer advice scheme supported by the Office of Fair Trading;
 - “water consumers” means consumers in relation to services provided by a water undertaker, a sewerage undertaker or a licensed water supplier, in its capacity as such.

Status: This is the original version (as it was originally enacted).

Abolition: supplementary provision

34 Compensation for loss of office

- (1) The Secretary of State may pay such sums as the Secretary of State may, with the approval of the Treasury, determine by way of compensation to any person who—
 - (a) ceases to be a member of the Consumer Council for Postal Services, the Gas and Electricity Consumer Council, or the Consumer Council for Water by virtue of the abolition of the body in question by or under this Part, or
 - (b) ceases to be a member of the company called the National Consumer Council (a company limited by guarantee and registered under the Companies Acts) by virtue of its dissolution.
- (2) The compensation is payable in respect of loss of office, or loss or diminution of pension rights.

35 Transfer of property etc

- (1) This section applies to—
 - (a) the Consumer Council for Postal Services;
 - (b) the Gas and Electricity Consumer Council;
 - (c) if a transfer order has been made under section 32 (whether or not it has taken effect), the Consumer Council for Water;
 - (d) the company called the National Consumer Council (a company limited by guarantee and registered under the Companies Acts).
- (2) The Secretary of State may direct a body to which this section applies—
 - (a) to make a scheme or schemes for the transfer of its property, rights and liabilities to the Council;
 - (b) to transfer such property, rights or obligations as are specified in the direction to a person (other than the Council) so specified (“the specified transferee”).
- (3) Before giving, varying or revoking a direction under subsection (2), the Secretary of State must consult—
 - (a) the body to which the direction is to be or has been given,
 - (b) the Council, and
 - (c) in the case of a direction under subsection (2)(b), the specified transferee.
- (4) A body given a direction under subsection (2)(a) must consult the Council before making a transfer scheme.
- (5) A transfer scheme made pursuant to a direction under subsection (2)(a) has effect—
 - (a) only if approved by the Secretary of State, and
 - (b) subject to any modifications made by the Secretary of State.
- (6) Before making any modifications the Secretary of State must consult the body to which the direction was given.
- (7) The Secretary of State may make a scheme or schemes for the transfer to the Council of the property, rights and liabilities of a body to which this section applies.
- (8) Schedule 4 makes further provision about transfer schemes.

- (9) In this section “transfer scheme” means a scheme made under or by virtue of subsection (2)(a) or (7).

36 Directions

- (1) The Secretary of State may direct a body to which section 35 applies to supply to the Secretary of State such information specified or described in the direction as the Secretary of State may require in relation to—
- (a) the body’s property, rights or liabilities, or
 - (b) the exercise by the body of its functions.
- (2) A direction under subsection (1)—
- (a) must specify the period within which the information is to be provided, and
 - (b) may require the information to be supplied in a specified form.
- (3) A body given a direction under subsection (1) must comply with it within the specified period.
- (4) The Secretary of State may direct a body to which section 35 applies not to take any action of a specified kind, or in specified circumstances.
- (5) Before giving, varying or revoking a direction under this section, the Secretary of State must consult—
- (a) the body to which the direction is to be or has been given, and
 - (b) the Council.
- (6) In this section “specified” means specified in the direction given by the Secretary of State.

Alteration of the Council’s functions

37 Extension of the Council’s functions: Great Britain

- (1) The Secretary of State may, by order, confer on the Council any other function or functions if the Secretary of State considers that it is in the interests of consumers generally, or consumers of a particular description, to do so.
- (2) The Secretary of State may only confer a function on the Council under this section if the function appears to the Secretary of State to be connected (directly or indirectly) to an existing or former function of the Council.
- (3) Before making an order under subsection (1), the Secretary of State must consult—
- (a) the Council,
 - (b) if it appears to the Secretary of State that the exercise of any function conferred by the order might affect Wales in relation to any matter as respects which functions are exercisable by the Welsh Ministers, those Ministers, and
 - (c) such other persons as the Secretary of State considers appropriate.
- (4) An order under this section may not make provision which would be within the legislative competence of the Scottish Parliament if it were contained in an Act of that Parliament.

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- (5) An order under this section which makes provision which would be within the legislative competence of the National Assembly for Wales if it were contained in a Measure of the Assembly (or, if the order is made after the Assembly Act provisions come into force, an Act of the Assembly) may only be made with the consent of the Assembly.
- (6) In subsection (5) “the Assembly Act provisions” has the meaning given by section 103(8) of the Government of Wales Act 2006 (c. 32).

38 Removal of the Council’s functions in relation to Northern Ireland

- (1) This section applies where the Secretary of State is satisfied that satisfactory arrangements are in place for a body (other than the Council) to exercise functions corresponding to the functions exercisable by the Council in relation to Northern Ireland.
- (2) The Secretary of State may by order repeal—
- (a) section 1(2)(c) (requirement to establish and maintain the Northern Ireland Postal Services Committee);
 - (b) section 2(1)(c) (functions which the Northern Ireland Postal Services Committee is authorised to exercise);
 - (c) section 3(2)(b) (Northern Ireland consumers of relevant postal services);
 - (d) section 16(1)(b) (investigations relating to public post offices in Northern Ireland);
 - (e) any other provision of this Part, so far as it extends to Northern Ireland.
- (3) Before making an order under this section, the Secretary of State must consult—
- (a) the Council, and
 - (b) such other persons as the Secretary of State considers appropriate.

Representation on other consumer panels

39 The Financial Services Consumer Panel

In section 10 of the Financial Services and Markets Act 2000 (c. 8) (the Consumer Panel), after subsection (5) insert—

- “(5A) The Secretary of State may direct the Authority to appoint as a member of the Consumer Panel a person specified by the Secretary of State who—
- (a) is a non-executive member of the National Consumer Council, and
 - (b) is nominated for the purposes of this subsection by the National Consumer Council after consultation with the Authority.
- (5B) Only one person may, at any time, be a member of the Consumer Panel appointed in accordance with a direction under subsection (5A); but that does not prevent the Authority appointing as a member of the Consumer Panel any person who is also a member of the National Consumer Council.
- (5C) A person appointed in accordance with a direction under subsection (5A) ceases to be a member of the Panel on ceasing to be a non-executive member of the National Consumer Council.”

40 The OFCOM Consumer Panel

In section 17 of the Communications Act 2003 (c. 21) (membership etc of the Consumer Panel)—

(a) after subsection (4) insert—

“(4A) The Secretary of State may direct OFCOM to appoint as a member of the Consumer Panel a person specified by the Secretary of State who—

- (a) is a non-executive member of the National Consumer Council, and
- (b) is nominated for the purposes of this subsection by the National Consumer Council after consultation with OFCOM.

(4B) Only one person may, at any time, be a member of the Consumer Panel appointed in accordance with a direction under subsection (4A); but that does not prevent OFCOM appointing as a member of the Consumer Panel any person who is also a member of the National Consumer Council.

(4C) A person appointed in accordance with a direction under subsection (4A) ceases to be a member of the Panel on ceasing to be a non-executive member of the National Consumer Council.”, and

(b) in subsection (5) for “subsection (3) or (4)” substitute “subsections (3) to (4A)”.

Interpretation

41 Interpretation of Part 1

(1) In this Part—

“distribution system” has the meaning given by section 4(4) of the Electricity Act 1989 (c. 29);

“financial year” (except in Schedule 3) means—

(a) the period beginning with the day on which the Council is established and ending with the next following 31 March, and

(b) each successive period of 12 months;

“functions” includes powers and duties;

“gas” has the meaning given by section 48(1) of the Gas Act 1986 (c. 44);

“licensed water supplier” means a company holding a water supply licence under Chapter 1A of Part 2 of the Water Industry Act 1991 (c. 56);

“modify” includes amend, add to, revoke or repeal (and references to “modification” are to be read accordingly);

“postal services” has the same meaning as in the Postal Services Act 2000 (c. 26) (see section 125(1) of that Act);

“regulatory body” means a person who exercises regulatory functions in relation to a particular description of persons with a view to ensuring compliance with particular standards of conduct (whether statutory or non-statutory) by those persons;

“relevant postal services” means any postal services provided in connection with the provision of a universal postal service (within the meaning of the

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Postal Services Act 2000) and any other postal services which are provided, or authorised or required to be provided, by a licence holder under Part 2 of that Act in accordance with a licence under that Part.

(2) In this Part—

- (a) expressions used, as regards matters relating to gas, which are defined in section 48 of the Gas Act 1986 have the same meaning as in Part 1 of that Act, and
- (b) expressions used, as regards matters relating to electricity, which are defined in section 64 of the Electricity Act 1989, have the same meaning as in Part 1 of that Act.