

SCHEDULE 2

Regulation 5

Amendments to other enactments

1.—(1) The Gas Act 1986⁽¹⁾ is amended as follows.

(2) In section 36A (functions with respect to competition)—

(a) for subsection (3) there is substituted—

“(3) The Authority shall be entitled to exercise, concurrently with the Office of Fair Trading, the functions of the Office of Fair Trading under the provisions of Part 1 of the Competition Act 1998 (other than sections 31D(1) to (6), 38(1) to (6) and 51), so far as relating to—

- (a) agreements, decisions or concerted practices of the kind mentioned in section 2(1) of that Act,
- (b) conduct of the kind mentioned in section 18(1) of that Act,
- (c) agreements, decisions or concerted practices of the kind mentioned in Article 81(1) of the treaty establishing the European Community, or
- (d) conduct which amounts to abuse of the kind mentioned in Article 82 of the treaty establishing the European Community,

which relate to the carrying on of activities to which this subsection applies.”;

(b) in subsection (3A), for the words “except in sections 38(1) to (6)” there is substituted “except in sections 31D(1) to (6), 38(1) to (6)”;

(c) in subsection (7)(b), for the words “other than sections 38(1) to (6)” there is substituted “other than sections 31D(1) to (6), 38(1) to (6)”.

2.—(1) The Companies Act 1989⁽²⁾ is amended as follows.

(2) Subsection (2)(a) of section 46 (delegation of functions of Secretary of State), section 47 (restrictive practices) and Schedule 14 (supervisory and qualifying bodies: restrictive practices) shall cease to have effect.

(3) In section 54 (index of defined expressions) the entry in the Table relating to “Director (in Schedule 14)” shall cease to have effect.

3.—(1) The Electricity Act 1989⁽³⁾ is amended as follows.

(2) In section 43 (functions with respect to competition)—

(a) for subsection (3) there is substituted—

“(3) The Authority shall be entitled to exercise, concurrently with the Office of Fair Trading, the functions of the Office of Fair Trading under the provisions of Part 1 of the Competition Act 1998 (other than sections 31D(1) to (6), 38(1) to (6) and 51), so far as relating to—

- (a) agreements, decisions or concerted practices of the kind mentioned in section 2(1) of that Act,
- (b) conduct of the kind mentioned in section 18(1) of that Act,
- (c) agreements, decisions or concerted practices of the kind mentioned in Article 81(1) of the treaty establishing the European Community, or

(1) 1986 c. 44.

(2) 1989 c. 40.

(3) 1989 c. 29.

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

- (d) conduct which amounts to abuse of the kind mentioned in Article 82 of the treaty establishing the European Community,
which relate to commercial activities connected with the generation, transmission or supply of electricity.”;
- (b) in subsection (3A), for the words “except in sections 38(1) to (6)” there is substituted “except in sections 31D(1) to (6), 38(1) to (6)”;
- (c) in subsection (6)(b), for the words “other than sections 38(1) to (6)” there is substituted “other than sections 31D(1) to (6), 38(1) to (6)”.
- 4.—**(1) The Water Industry Act 1991⁽⁴⁾ is amended as follows.
- (2) In section 31 (functions of the Director with respect to competition)—
- (a) for subsection (3) there is substituted—
- “(3) The Director shall be entitled to exercise, concurrently with the OFT, the functions of the OFT under the provisions of Part 1 of the Competition Act 1998 (other than sections 31D(1) to (6), 38(1) to (6) and 51), so far as relating to —
- (a) agreements, decisions or concerted practices of the kind mentioned in section 2(1) of that Act,
- (b) conduct of the kind mentioned in section 18(1) of that Act,
- (c) agreements, decisions or concerted practices of the kind mentioned in Article 81(1) of the treaty establishing the European Community, or
- (d) conduct which amounts to abuse of the kind mentioned in Article 82 of the treaty establishing the European Community,
which relate to commercial activities connected with the supply of water or securing a supply of water or with the provision or securing of sewerage services.”;
- (b) in subsection (4A), for the words “except in sections 38(1) to (6)” there is substituted “except in sections 31D(1) to (6), 38(1) to (6)”;
- (c) in subsection (8)(b), for the words “other than sections 38(1) to (6)” there is substituted “other than sections 31D(1) to (6), 38(1) to (6)”.
- 5.—**(1) The Electricity (Northern Ireland) Order 1992⁽⁵⁾ is amended as follows.
- (2) In Article 46 (functions with respect to competition)—
- (a) for paragraph (3) there is substituted—
- “(3) The Director shall be entitled to exercise, concurrently with the Office of Fair Trading, the functions of the Office of Fair Trading under the provisions of Part 1 of the Competition Act 1998 (other than sections 31D(1) to (6), 38(1) to (6) and 51), so far as relating to—
- (a) agreements, decisions or concerted practices of the kind mentioned in section 2(1) of that Act,
- (b) conduct of the kind mentioned in section 18(1) of that Act,
- (c) agreements, decisions or concerted practices of the kind mentioned in Article 81(1) of the treaty establishing the European Community, or
- (d) conduct which amounts to abuse of the kind mentioned in Article 82 of the treaty establishing the European Community,

(4) 1991 c. 56.

(5) S.I.1992/231 (N.I.1).

which relate to commercial activities connected with the generation, transmission or supply of electricity.”;

- (b) in paragraph (3A), for the words “except in sections 38(1) to (6)” there is substituted “except in sections 31D(1) to (6), 38(1) to (6)”;
- (c) in paragraph (6)(b), for the words “other than sections 38(1) to (6)” there is substituted “other than sections 31D(1) to (6), 38(1) to (6)”.

6.—(1) The Railways Act 1993⁽⁶⁾ is amended as follows.

(2) In section 67 (respective functions of the Regulator and OFT, and functions of the Monopolies Commission)—

(a) for subsection (3) there is substituted—

“(3) The Regulator shall be entitled to exercise, concurrently with the OFT, the functions of the OFT under the provisions of Part 1 of the Competition Act 1998 (other than sections 31D(1) to (6), 38(1) to (6) and 51), so far as relating to—

- (a) agreements, decisions or concerted practices of the kind mentioned in section 2(1) of that Act,
- (b) conduct of the kind mentioned in section 18(1) of that Act,
- (c) agreements, decisions or concerted practices of the kind mentioned in Article 81(1) of the treaty establishing the European Community, or
- (d) conduct which amounts to abuse of the kind mentioned in Article 82 of the treaty establishing the European Community,

which relate to the supply of services relating to railways.”;

- (b) in subsection (3A), for the words “except in sections 38(1) to (6)” there is substituted “except in sections 31D(1) to (6), 38(1) to (6)”;
- (c) in subsection (8)(b), for the words “other than sections 38(1) to (6)” there is substituted “other than sections 31D(1) to (6), 38(1) to (6)”.

7.—(1) The Environment Act 1995⁽⁷⁾ is amended as follows.

(2) In section 94 (producer responsibility: supplementary provisions)—

- (a) paragraphs (n), (oa) and (ya) of subsection (1) shall cease to have effect;
- (b) the definition of “competition scrutiny” in subsection (6) shall cease to have effect;
- (c) subsection (6A) shall cease to have effect.

(3) Section 94A (producer responsibility: competition matters) shall cease to have effect.

8.—(1) The Channel Tunnel Rail Link Act 1996⁽⁸⁾ is amended as follows.

(2) In section 22 (restriction of functions in relation to competition etc), for subsection (3) there is substituted—

“(3) The Rail Regulator shall not be entitled to exercise any functions assigned to him by section 67(3) of the Railways Act 1993 (by virtue of which he exercises concurrently with the Office of Fair Trading certain functions under Part 1 of the Competition Act 1998 so far as relating to matters connected with the supply of railway services) in relation to—

⁽⁶⁾ 1993 c. 43.

⁽⁷⁾ 1995 c. 25.

⁽⁸⁾ 1996 c. 61.

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

- (a) agreements, decisions or concerted practices of the kind mentioned in section 2(1) of that Act,
 - (b) conduct of the kind mentioned in section 18(1) of that Act,
 - (c) agreements, decisions or concerted practices of the kind mentioned in Article 81(1) of the treaty establishing the European Community, or
 - (d) conduct which amounts to abuse of the kind mentioned in Article 82 of the treaty establishing the European Community,
- entered into, taken by or engaged in by a rail link undertaker in connection with the supply of railway services, so far as relating to the rail link.”.

9.—(1) The Gas (Northern Ireland) Order 1996⁽⁹⁾ is amended as follows.

(2) In Article 23 (functions with respect to competition)—

(a) for paragraph (3) there is substituted—

“(3) The Director shall be entitled to exercise, concurrently with the Office of Fair Trading, the functions of the Office of Fair Trading under the provisions of Part 1 of the Competition Act 1998 (other than sections 31D(1) to (6), 38(1) to (6) and 51), so far as relating to—

- (a) agreements, decisions or concerted practices of the kind mentioned in section 2(1) of that Act,
- (b) conduct of the kind mentioned in section 18(1) of that Act,
- (c) agreements, decisions or concerted practices of the kind mentioned in Article 81(1) of the treaty establishing the European Community, or
- (d) conduct which amounts to abuse of the kind mentioned in Article 82 of the treaty establishing the European Community,

connected with the conveyance, storage or supply of gas.”;

- (b) in paragraph (3A), for the words “except in sections 38(1) to (6)” there is substituted “except in sections 31D(1) to (6), 38(1) to (6)”;
- (c) in paragraph (6)(b), for the words “other than sections 38(1) to (6)” there is substituted “other than sections 31D(1) to (6), 38(1) to (6)”.

10.—(1) The Transport Act 2000⁽¹⁰⁾ is amended as follows.

(2) In section 86 (functions exercisable by the CAA and OFT)—

(a) for subsection (3) there is substituted—

“(3) This subsection applies to the OFT’s functions under the provisions of Part 1 of the 1998 Act (other than sections 31D(1) to (6), 38(1) to (6) and 51), so far as relating to—

- (a) agreements, decisions or concerted practices of the kind mentioned in section 2(1) of that Act,
- (b) conduct of the kind mentioned in section 18(1) of that Act,
- (c) agreements, decisions or concerted practices of the kind mentioned in Article 81(1) of the treaty establishing the European Community, or
- (d) conduct which amounts to abuse of the kind mentioned in Article 82 of the treaty establishing the European Community,

which relate to the supply of air traffic services.”;

⁽⁹⁾ S.I. 1996/275 (N.I.2).

⁽¹⁰⁾ 2000 c. 38.

- (b) in subsection (4)(b), for the words “except in sections 38(1) to (6)” there is substituted “except in sections 31D(1) to (6), 38(1) to (6)”;
- (c) in subsection (7)(b), for the words “except under section 38(1) to (6)” there is substituted “except under section 31D(1) to (6), 38(1) to (6)”.

11.—(1) The Communications Act 2003(**11**) is amended as follows.

(2) In section 371 (OFCOM’s functions under the Competition Act 1998)—

(a) for subsection (2) there is substituted—

“(2) This subsection applies to the functions of the Office of Fair Trading under the provisions of Part 1 of the Competition Act 1998 (other than sections 31D(1) to (6), 38(1) to (6) and 51), so far as relating to—

- (a) agreements, decisions or concerted practices of the kind mentioned in section 2(1) of that Act,
- (b) conduct of the kind mentioned in section 18(1) of that Act,
- (c) agreements, decisions or concerted practices of the kind mentioned in Article 81(1) of the treaty establishing the European Community, or
- (d) conduct which amounts to abuse of the kind mentioned in Article 82 of the treaty establishing the European Community,

which relate to activities connected with communications matters.”;

(b) in subsection (3)(a), for the words “in sections 38(1) to (6)” there is substituted “in sections 31D(1) to (6), 38(1) to (6)”.