

## SCHEDULE 1

### TRANSFER OF FUNCTIONS OF OFT AND COMPETITION COMMISSION TO CMA AND AMENDMENTS CONSEQUENTIAL ON PARTS 3 AND 4 OF THE ACT

#### PART 1

##### Amendments to secondary legislation principally concerned with competition

##### **Water Mergers (Modification of Enactments) Regulations 2004**

**22.**—(1) The Water Mergers (Modification of Enactments) Regulations 2004(1) are amended as follows.

(2) In regulation 3 (omitted provisions)—

(a) in paragraph (b), for “sections 34A and and 34B” substitute “section 34A”,

(b) after paragraph (b) insert—

“(ba) sections 34ZA to 34ZC (time limits for decisions and references);”,

(c) omit “and” at the end of paragraph (f), and

(d) after paragraph (f), insert—

“(fa) section 110B (section 110A: supplementary provision); and”.

(3) In regulation 4 (sections 22 to 24: references in relation to completed mergers)—

(a) in the text of section 22(2) of the 2002 Act as it has effect as substituted by that regulation, for “OFT or (as the case may be) the Commission” substitute “CMA”,

(b) in the text of section 23(1)(a) of the 2002 Act as it has effect as substituted by that regulation, for “Commission” substitute “CMA”, and

(c) in the text of section 24(1)(b) of the 2002 Act as it has effect as substituted by that regulation, for “OFT” substitute “CMA”.

(4) In regulation 6 (section 30: relevant customer benefits), in the text of section 30(1)(b) of the 2002 Act as it has effect as substituted by that regulation for “Commission” substitute “CMA”.

(5) Omit regulation 7 (section 31: information powers in relation to completed mergers).

(6) In regulation 8 (section 32: supplementary provision for purposes of sections 25 and 31)—

(a) in the heading and in the words before paragraph (a) for “sections 25 and 31” substitute “section 25”, and

(b) omit paragraph (a).

(7) After regulation 10, insert—

##### **“Section 34C: functions to be exercised by CMA groups**

**10A.** Section 34C (functions to be exercised by CMA groups) has effect as if, in subsection (1)—

(a) in the words before paragraph (a), for “section 22 or 33” there were substituted “section 32(a) or (b) of the 1991 Act”,

(b) in paragraph (a), for “sections 35(6) and (7), 36(5) and (6) and” there were substituted “section”, and

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(1) [S.I. 2004/3202](#), to which there are amendments not relevant to this Order.

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- (c) in paragraph (b), for “section 22, section 23(9)(a)” there were substituted “section 32(b) of the 1991 Act, section 23(1)(a)”.
- (8) In regulation 11 (sections 35 to 36: questions to be decided in relation to mergers)—
- (a) in the text of section 35(1) to (3) and (5) to (7) of the 2002 Act as it has effect as substituted by that regulation, for “Commission” substitute “CMA”,
  - (b) in the text of section 35(2) and (3) of the 2002 Act as it has effect as substituted by that regulation, for “in pursuance of paragraph 15 of Schedule 7 to the 1998 Act” substitute “under Schedule 4 to the Enterprise and Regulatory Reform Act 2013”,
  - (c) in the text of section 36(1) to (6) of the 2002 Act as it has effect as substituted by that regulation, for “Commission” substitute “CMA”, and
  - (d) in the text of section 36(2) and (3) of the 2002 Act as it has effect as substituted by that regulation, for “in pursuance of paragraph 15 of Schedule 7 to the 1998 Act” substitute “under Schedule 4 to the Enterprise and Regulatory Reform Act 2013”.
- (9) In regulation 12 (section 37: cancellation and variation of references), in the text of section 37(2) and (3) of the 2002 Act as it has effect as substituted by that regulation, for “Commission” substitute “CMA”.
- (10) In regulation 13 (section 38: investigations and reports on references), in the text of paragraph (d) of section 38(2) of the 2002 Act as it has effect as substituted by that regulation, for “Commission” substitute “CMA”.
- (11) After regulation 13, insert—

**“Section 39: Time-limits for investigations and reports**

- 13A.** Section 39 (time-limits for investigations and reports) has effect as if, in subsection (8A), for “section 33” there were substituted “section 32(a) of the 1991 Act”.
- (12) In regulation 15 (section 41: duty to remedy effects of completed or anticipated mergers), in the text of section 41(5) of the 2002 Act as it has effect as substituted by that regulation, for “Commission” substitute “CMA”.
- (13) Omit regulation 16 (section 71: initial undertakings: completed mergers).
- (14) In regulation 17 (section 72: initial enforcement orders: completed mergers)—
- (a) in the heading and in the wording before paragraph (a), for “completed mergers” substitute “completed or anticipated mergers”,
  - (b) for paragraph (a) substitute—
    - “(a) in subsection (1)—
      - (i) in paragraph (a), for “to make a reference under section 22 or 33” there were substituted “it has a duty to make a reference under section 32(a) or (b) of the 1991 Act; and
      - (ii) in paragraph (b), after “two or more” (in both places where it occurs), there were inserted “water”;
  - (c) omit paragraphs (b) and (c), and
  - (d) in paragraph (d)—
    - (i) after “section 22” (in both places where it occurs) insert “or 33”, and
    - (ii) for “section 32(b)” (in both places where it occurs) substitute “section 32(a) or (b)”.
- (15) Omit regulation 25 (section 103: duty of expedition in relation to references).
- (16) In regulation 26 (section 104: certain duties of relevant authorities to consult), in paragraph (b), for “in paragraph (b)” substitute “in sub-paragraph (iii) of paragraph (a)”.

(17) In regulation 28 (section 106: advice and information about references), for “subsections (1) and (3)” substitute “subsection (1)”.

(18) In regulation 29 (section 107: further publicity requirements), in paragraph (a)(ii), for “paragraph (a) substitute “paragraph (aa)”.

(19) In regulation 30 (section 109: attendance of witnesses and production of documents etc) for the words from “in subsections” to the end substitute—

“in subsection (A1)(a)—

(a) after “this Part” there were inserted “or section 32 of the 1991 Act”, and

(b) for “section 22 or 33” there were substituted “section 32(a) or (b) of the 1991 Act”.

(20) After regulation 30, insert—

**“Section 110A: Restriction on powers to impose penalties under section 110**

**30A.** Section 110A has effect as if—

(a) in subsections (5) and (6), for “section 22 or 33” there were substituted “section 32(a) or (b) of the 1991 Act”, and

(b) in subsection (5), for “to make the reference” there were substituted “it has a duty to make a reference under section 32(a) or (b) of the 1991 Act”.

(21) In regulation 32 (section 120: review of decisions under Part 3), in the text of section 120(1) of the 2002 Act as it has effect as substituted by that regulation, for “OFT or the Commission” substitute “CMA”.