

SCHEDULE 1

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

PART 2

Amendments to other Acts of Parliament

Water Industry Act 1991

84.—(1) Section 31 (functions of Authority with respect to competition)(1) is amended as follows.

(2) In subsection (2), for “OFT” substitute “CMA”.

(3) In subsection (2A)—

(a) for “OFT” substitute “CMA”,

(b) for “and 171” substitute “, 171 and 174E”, and

(c) for “relating to” substitute—

“those functions—

(a) are exercisable by the CMA Board (within the meaning of Schedule 4 to the Enterprise and Regulatory Reform Act 2013), and

(b) relate to”.

(4) In subsection (3), for “OFT” (in each place where it occurs) substitute “CMA”.

(5) In subsection (4)—

(a) for “above, references” substitute—

“above—

(a) references”,

(b) for “OFT” substitute “CMA”,

(c) for “and 171” substitute “, 171 and 174E”, and

(d) for “requires)” substitute—

“requires);

(b) references in that Part to section 5 of the 2002 Act are to be construed as including references to section 27(1) and (2) of this Act.”

(6) After subsection (4) insert—

“(4ZA) Section 130A of the 2002 Act is to have effect in its application in relation to the Authority by virtue of subsections (2) and (2A)—

(a) as if for subsection (1) of that section there were substituted—

“(1) Where the Water Services Regulation Authority—

(a) is proposing to carry out its functions under section 27(1) and (2) of the Water Industry Act 1991 in relation to a matter for the purposes mentioned in subsection (2), and

(1) Amended by Schedule 10 to the Competition Act 1998, S.I. 1999/506, Schedules 9 and 25 to the Enterprise Act 2002, by virtue of section 36 of the Water Act 2003, by S.I. 2004/1261, S.I. 2012/1809 and by Schedule 15 to the Enterprise and Regulatory Reform Act 2013.

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- (b) considers that the matter is one in respect of which it would be appropriate for the Authority to exercise its powers under section 174 (investigation) in connection with deciding whether to make a reference under section 131,

the Authority must publish a notice under this section (referred to in this Part as a “market study notice”).”, and

- (b) as if in subsection (2)(a) of that section, for “the acquisition or supply of goods or services of one or more than one description in the United Kingdom” there were substituted “commercial activities connected with the supply of water or the provision of sewerage services (within the meaning given by section 219(1) of the Water Industry Act 1991)”.

- (7) In subsection (4A), for “the OFT” substitute “the CMA”.
- (8) In subsections (5) and (6), for “OFT” (in each place where it occurs) substitute “CMA”.
- (9) In subsection (7)—
 - (a) in the words before paragraph (a)—
 - (i) for “the Competition Commission” substitute “a CMA group”,
 - (ii) for “reference made to them by the Authority” substitute “market investigation reference made by the Authority (under section 131 of the 2002 Act)”, and
 - (b) for “Commission” (in each place where it occurs) substitute “group”.
- (10) After subsection (7) insert—

“(7A) In subsection (7) “CMA group” has the same meaning as in Schedule 4 to the Enterprise and Regulatory Reform Act 2013.”
- (11) In subsection (8), for “the OFT” substitute “the CMA”.
- (12) In subsection (8A), for “OFT” substitute “CMA”.