

SCHEDULE 6

(introduced by section 38(3))

RESCISSION OF AUTHORISATION

Application

- 1 This schedule applies where the Scottish Ministers are satisfied that—
- (a) an act or an omission of an approved regulator (or a series of acts or omissions) has had, or is likely to have, an adverse impact on the observance of any of the regulatory objectives, and
 - (b) the matter cannot be adequately addressed by the Scottish Ministers taking any of the measures mentioned in section 38(4)(a) to (e).

Power to rescind

- 2 The Scottish Ministers may rescind the authorisation of the approved regulator (given under section 10).

Notice of intention

- 3 (1) Before rescinding the approved regulator's authorisation, the Scottish Ministers must give it a notice (a "notice of intention") of their intention to do so.
- (2) The notice of intention must—
- (a) state that the Scottish Ministers intend to rescind the approved regulator's authorisation,
 - (b) explain why they are satisfied as mentioned in paragraph 1.

Consultation

- 4 (1) The approved regulator has 28 days beginning with the date of receipt of the notice of intention (or such longer period as the approved regulator and the Scottish Ministers may agree) to make representations to the Scottish Ministers about the proposed rescission.
- (2) The Scottish Ministers must—
- (a) publish the notice of intention in such manner as they consider most appropriate for bringing it to the attention of any relevant person or body,
 - (b) give a copy of the notice of intention to—
 - (i) the OFT,
 - (ii) such other person or body as they consider appropriate,
 - (c) after the expiry of the period for representations, the Scottish Ministers must—
 - (i) give the recipients under paragraph (b) a copy of any representations received from the approved regulator,
 - (ii) consult them accordingly in relation to the proposed rescission.

Decision

- 5 (1) The Scottish Ministers must have regard to any representations made to them by the approved regulator, or any consultee under paragraph 4(2)(c), when deciding whether to proceed with rescinding the authorisation.
- (2) The Scottish Ministers must—
- (a) give a notice of their decision (a “decision notice”) to the approved regulator,
 - (b) give reasons in the decision notice for their decision,
 - (c) notify the consultees under paragraph 4(2)(c) of their decision,
 - (d) publish the decision notice in such manner as they consider most appropriate for bringing it to the attention of any relevant person or body.
- (3) If the Scottish Ministers decide to rescind the authorisation, the decision notice must—
- (a) specify the date from which the rescission is to be effective (which may be the date on which that notice is given),
 - (b) state, for the purpose of section 38(5), whether or not the approval of the approved regulator (given under section 7) is preserved.
- (4) For the purposes of this schedule, relevant persons or bodies include—
- (a) other approved regulators,
 - (b) providers of legal services,
 - (c) organisations representing the interests of consumers,
 - (d) members of the public.