



# United Kingdom Internal Market Act 2020

## 2020 CHAPTER 27

### PART 4

#### INDEPENDENT ADVICE ON AND MONITORING OF UK INTERNAL MARKET

##### *General provision about functions under Part 4*

### **30 Functions of the CMA under Part 4: general provisions**

- (1) A regulatory provision is within the scope of this Part so far as it meets the conditions in subsections (2) and (4).
- (2) The first condition is that the regulatory provision—
  - (a) imposes a relevant requirement, as defined for the purposes of the mutual recognition principle for goods as that principle applies in relation to a sale of goods in a part of the United Kingdom (see section 3),
  - (b) imposes a relevant requirement, as defined for the purposes of the non-discrimination principle for goods as that principle has effect in relation to a part of the United Kingdom (see section 6),
  - (c) imposes an authorisation requirement within the meaning given by subsection (3) of section 17 (services: overview),
  - (d) imposes a regulatory requirement within the meaning given by subsection (4) of that section, or
  - (e) comprises provision—
    - (i) of the sort described in section 24(1) (access to professions on grounds of qualifications or experience), or
    - (ii) to which section 28 (professional regulation not within section 24: equal treatment) applies.
- (3) In its application for the purposes of section 34 (advising etc on proposed regulatory provisions on request) subsection (2) has effect as if—
  - (a) for each occurrence of “imposes” there were substituted “imposes, varies, or revokes”;

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- (b) in paragraph (e) for “comprises” there were substituted “comprises, varies, repeals or revokes”.
- (4) The second condition is that the regulatory provision applies to one or more of England, Wales, Scotland and Northern Ireland but does not apply to the whole of the United Kingdom.
- (5) In subsection (2)(c) the reference to an authorisation requirement does not include an authorisation requirement to which section 19 does not apply by virtue of section 18(1)(c).
- (6) In subsection (2)(d) the reference to a regulatory requirement does not include a regulatory requirement to which sections 20 and 21 do not apply by virtue of section 18(1)(d).
- (7) For the purposes of the law relating to defamation, absolute privilege attaches to any advice given, or report made, by the CMA (or a person acting on the CMA’s behalf) in the exercise of any functions of the CMA under this Part.
- (8) In this Part “regulatory provision” means a provision—
  - (a) contained in legislation, or
  - (b) not of a legislative character but made under, and given effect by, legislation.
- (9) But a provision is not a “regulatory provision” so far as it contains anything that is necessary to give effect to the Northern Ireland Protocol.
- (10) In this Part “the CMA” means the Competition and Markets Authority.

### **31 Objective and general functions**

- (1) In carrying out its functions under this Part the CMA must have regard to the objective in subsection (2).
- (2) The objective is to support, through the application of economic and other technical expertise, the effective operation of the internal market in the United Kingdom (with particular reference to the purposes of Parts 1, 2 and 3).
- (3) That objective includes, in particular, supporting the operation of the internal market—
  - (a) in the interests of all parts of the United Kingdom, and
  - (b) in the interests of consumers of goods and services as well as other classes of person with an interest in its operation.
- (4) The CMA must also, in carrying out its functions under this Part, have regard to the need to act even-handedly as respects the relevant national authorities.
- (5) The following do not apply in relation to the carrying out of the CMA’s functions under this Part—
  - (a) section 25(3) of the Enterprise and Regulatory Reform Act 2013 (duty to seek to promote competition), and
  - (b) sections 6(1)(b) (function of giving information or advice to the public) and 7 (provision of information and advice to Ministers etc) of the Enterprise Act 2002.
- (6) The CMA may give information or advice to the Secretary of State on matters relating to any of its functions under this Part.

## **32 Office for the Internal Market panel and task groups**

- (1) The CMA may authorise an Office for the Internal Market task group constituted under Schedule 4 to the Enterprise and Regulatory Reform Act 2013 to do anything required or authorised to be done by the CMA under this Part (and such an authorisation may include authorisation to exercise the power conferred on the CMA by this subsection).
- (2) Schedule 3 contains provision about the Office for the Internal Market panel and Office for the Internal Market task groups.

### *Reporting, advisory and monitoring functions*

## **33 Monitoring and reporting on the operation of the UK internal market**

- (1) The CMA may from time to time undertake a review of any matter it considers relevant to assessing or promoting the effective operation of—
  - (a) the internal market in the United Kingdom;
  - (b) provisions of Parts 1 to 3 (for example with regard to particular sectors of the internal market, or trade in different parts of the United Kingdom).
- (2) The CMA may receive and consider any proposals that may be made or referred to it for undertaking a review in exercise of its powers under subsection (1).
- (3) The CMA may prepare and publish a report on any matter falling within subsection (1).
- (4) Any report published by the CMA under subsection (3) is to be published in such manner as it considers appropriate.
- (5) The CMA must, no later than 31 March 2023 and at least once in every relevant 12-month period, prepare a report on—
  - (a) the operation of the internal market in the United Kingdom, and
  - (b) developments as to the effectiveness of the operation of that market.
- (6) The CMA must, no later than 31 March 2023 and at least once in every relevant 5-year period, prepare a report on—
  - (a) the effectiveness of the operation of provisions of Parts 1 to 3,
  - (b) the impact of the operation of those Parts on the operation and development of the internal market in the United Kingdom,
  - (c) any interaction between the operation of those Parts and common framework agreements, and
  - (d) the impact of common framework agreements on the operation and development of the internal market in the United Kingdom.
- (7) The CMA must arrange for a copy of the report prepared under subsection (5) or (6) for any period to be laid before—
  - (a) each House of Parliament,
  - (b) the Scottish Parliament,
  - (c) Senedd Cymru, and
  - (d) the Northern Ireland Assembly.
- (8) So far as a report under this section is concerned with the effective operation of the internal market in the United Kingdom, the report may consider (among other things)  
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- (a) developments in the operation of the internal market, for example as regards—
    - (i) competition,
    - (ii) access to goods and services,
    - (iii) volumes of trade (or of trade in any direction) between participants in different parts of the United Kingdom, and
  - (b) the practical implications of differences of approach embodied in regulatory provisions, falling within the scope of this Part, that apply to different parts of the United Kingdom.
- (9) In this section—
- “common framework agreements” has the meaning given by section 10;
  - “relevant 12-month period” means—
    - (a) the period of 12 months beginning with 1 April 2023, and
    - (b) each successive period of 12 months;
  - “relevant 5-year period” means—
    - (a) the period of 5 years beginning with 1 April 2023, and
    - (b) each successive period of 5 years.

### **34 Advising etc on proposed regulatory provisions on request**

- (1) Where the condition in subsection (3) is met, the CMA may at the request of a relevant national authority give advice, or provide a report, to the authority with respect to a qualifying proposal.
- (2) In subsection (1) “qualifying proposal” means a proposal of—
  - (a) the requesting authority, or
  - (b) a person or body on whose behalf the requesting authority makes the request, that a regulatory provision applying to the relevant part of the United Kingdom should be passed or made.
- (3) The condition is that it appears to the requesting authority that—
  - (a) the regulatory provision to which the proposal relates would fall within the scope of this Part and be within relevant competence, and
  - (b) the proposal should be further considered in the light of the significance of its potential effects on the operation of the internal market in the United Kingdom.
- (4) Advice given, or a report provided, under this section may consider among other things the potential economic effects of the proposed regulatory provision on the effective operation of the internal market in the United Kingdom, including—
  - (a) indirect or cumulative effects;
  - (b) distortion of competition or trade;
  - (c) impacts on prices, the quality of goods and services or choice for consumers.
- (5) Subsections (1) to (3) apply in relation to two or more relevant national authorities acting jointly as those subsections apply in relation to a single relevant national authority.
- (6) A request under subsection (1) must set out the reasons for making it.
- (7) If the CMA declines to provide a report requested under subsection (1) it must—

- (a) give to the requesting authority (or if more than one, to each of them simultaneously) a notice of its reasons for doing so, and
  - (b) publish the notice in such manner as it considers appropriate.
- (8) Where the CMA gives advice or reasons, or provides a report, under this section to two or more relevant national authorities acting jointly, the CMA must give the advice or reasons, or provide the report, to each of them simultaneously.
- (9) Where the CMA has on a particular day (“day 1”) given advice, or provided a report, under subsection (1) the CMA must provide a copy of the advice or report to each relevant national authority who did not request the advice or report—
- (a) as soon as reasonably practicable after the requesting authority (or each requesting authority) has informed the CMA that it may do so, or
  - (b) (if sooner), by the end of the 15th day after day 1.
- (10) Where the CMA provides a report under this section it must, as soon as reasonably practicable after it has fully complied with subsection (9), publish the report in such manner as it considers appropriate.
- (11) In this section “relevant part of the United Kingdom”, in relation to a relevant national authority, means—
- (a) in the application of this section to the Scottish Ministers as relevant national authority, Scotland;
  - (b) in the application of this section to the Welsh Ministers as relevant national authority, Wales;
  - (c) in the application of this section to a Northern Ireland department as relevant national authority, Northern Ireland;
  - (d) in the application of this section to the Secretary of State as relevant national authority, any part of the United Kingdom.

### **35 Provision of report on request after regulatory provision is passed or made**

- (1) The CMA may, at the request of a relevant national authority, provide a report to the authority on the impact on the effective operation of the internal market in the United Kingdom of a regulatory provision specified in the request which—
- (a) is passed or made after the day on which this section comes into force,
  - (b) falls within the scope of this Part, and
  - (c) applies to the relevant part of the United Kingdom and is within relevant competence.
- (2) A relevant national authority may not request a report from the CMA under subsection (1) unless the authority has considered whether any other person or body is qualified to provide an independent report on the matter.
- (3) Subsections (1) and (2) apply in relation to two or more relevant national authorities acting jointly as those subsections apply in relation to a single relevant national authority.
- (4) A request under subsection (1) must set out the reasons for making it.
- (5) If the CMA declines to provide a report requested under subsection (1) it must—
- (a) give the requesting authority a notice of its reasons for doing so, and
  - (b) publish the notice in such manner as it considers appropriate.

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- (6) Where the CMA provides a report under this section—
  - (a) if the report was requested by two or more relevant national authorities acting jointly, the CMA must provide the report to each of them simultaneously;
  - (b) the CMA must, as soon as reasonably practicable after complying with paragraph (a), publish the report in such manner as it considers appropriate.
- (7) In this section “the relevant part of the United Kingdom” means—
  - (a) in the application of this section to a relevant national authority who is the Scottish Ministers, Scotland;
  - (b) in the application of this section to a relevant national authority who is the Welsh Ministers, Wales;
  - (c) in the application of this section to a relevant national authority who is a Northern Ireland department, Northern Ireland;
  - (d) in the application of this section to a relevant national authority who is the Secretary of State, any part of the United Kingdom.

### **36 Report on request on provision considered to have detrimental effects**

- (1) The CMA may, at the request of a relevant national authority, provide a report to the authority on the economic impact of a regulatory provision passed or made after the day on which this section comes into force, where—
  - (a) the regulatory provision falls within the scope of this Part, and
  - (b) the requesting authority considers that the operation of the regulatory provision is, or may come to be, detrimental to the effective operation of the internal market in the United Kingdom.
- (2) The CMA’s function under subsection (1) is exercisable regardless of whether or not a relevant national authority has exercised the power under section 34(1) in relation to the regulatory provision in question.
- (3) A relevant national authority may not request a report from the CMA under subsection (1) unless it has considered whether any other person or body is qualified to provide an independent report on the matter.
- (4) Subsections (1) to (3) apply in relation to the making of a request by two or more relevant national authorities acting jointly as they apply in relation to the making of a request by a single relevant national authority.
- (5) A request under subsection (1) must set out the reasons for making it.
- (6) If the CMA declines to provide a report requested under subsection (1) it must—
  - (a) give the requesting authority (or each of them simultaneously, if more than one) a notice of its reasons for doing so, and
  - (b) publish the notice in such manner as it considers appropriate.
- (7) Where the CMA provides a report under subsection (1)—
  - (a) it must provide a copy of the report to each relevant national authority who did not request the report, and
  - (b) the provision of the report to the requesting authority (or each requesting authority) and each recipient mentioned in paragraph (a) must be simultaneous.

- (8) As soon as reasonably practicable after the condition in subsection (9) has been met, but in any case no later than the end of the period of 6 months beginning with the day on which the CMA complies with subsection (7), the CMA must arrange for a copy of the report to be laid before—
  - (a) each House of Parliament,
  - (b) the Scottish Parliament,
  - (c) Senedd Cymru, and
  - (d) the Northern Ireland Assembly.
- (9) The condition mentioned in subsection (8) is that each relevant national authority has notified the CMA that it does not require any further time for private consideration of the report provided or copied to it under this section.
- (10) The CMA must publish the report in such manner as it considers appropriate, but may not do so until it has made the arrangements mentioned in subsection (8) and the report has been laid in accordance with one or more of paragraphs (a) to (d) of that subsection.

### **37 Statements on reports under section 36**

- (1) Subsection (2) applies where a report (or copy of it) relating to a regulatory provision has been laid before each House of Parliament, the Scottish Parliament, Senedd Cymru and the Northern Ireland Assembly in accordance with section 36(8).
- (2) The following authorities must make a statement on the report to Parliament—
  - (a) the responsible authority for each affected part of the United Kingdom;
  - (b) the appropriate authority in relation to each relevant national authority which requested the CMA's report.
- (3) In subsection (2) “to Parliament” means—
  - (a) where the responsible authority or (as the case may be) appropriate authority is the Scottish Ministers, to the Scottish Parliament;
  - (b) where the responsible authority or (as the case may be) appropriate authority is the Welsh Ministers, to Senedd Cymru;
  - (c) where the responsible authority or (as the case may be) appropriate authority is the First Minister and deputy First Minister acting jointly, to the Northern Ireland Assembly.
- (4) A duty of the Secretary of State under subsection (2) to make a statement to Parliament is to be discharged by laying a copy of the statement before each House of Parliament.
- (5) In this section—

“affected part of the United Kingdom”, in relation to a regulatory provision, means a part of the United Kingdom to which the provision applies;

“appropriate authority”, in relation to a relevant national authority who is the Secretary of State, the Scottish Ministers or the Welsh Ministers, means that relevant national authority;

“appropriate authority”, in relation to a relevant national authority who is a Northern Ireland department, means the First Minister and deputy First Minister acting jointly.
- (6) In this section “responsible authority”, in relation to Scotland, means—

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- (a) if the regulatory provision is not within Scottish devolved competence, the Secretary of State;
  - (b) otherwise, the Scottish Ministers.
- (7) In this section “responsible authority”, in relation to Wales, means—
- (a) if the regulatory provision is not within Welsh devolved competence, the Secretary of State;
  - (b) otherwise, the Welsh Ministers.
- (8) In this section “responsible authority”, in relation to Northern Ireland, means—
- (a) if the regulatory provision is not within Northern Ireland devolved competence, the Secretary of State;
  - (b) otherwise, the First Minister and deputy First Minister acting jointly.
- (9) In this section “responsible authority”, in relation to England, means the Secretary of State.

### **38 Reports under Part 4**

Where under this Part the CMA publishes (or arranges for the publication of) a report it may exclude from the report—

- (a) any information the disclosure of which the CMA thinks is contrary to the public interest;
- (b) commercial information the disclosure of which the CMA thinks might significantly harm the legitimate business interests of any person;
- (c) information relating to the private affairs of an individual the disclosure of which the CMA thinks might significantly harm the individual’s interests.

### **39 General advice and information with regard to exercise of functions**

- (1) The CMA must prepare and publish general advice and information about how it expects to approach the exercise of its functions under sections 33 to 36.
- (2) Advice (or information) published by virtue of subsection (1) may include advice (or information) about the factors the CMA may take into account in considering whether to exercise a function conferred by any of those sections, including—
  - (a) in cases where a person or body has requested the exercise of the function in accordance with the section concerned, and
  - (b) in other cases.
- (3) The CMA may at any time publish revised, or new, advice or information.
- (4) Any advice or information published by the CMA under this section must be published in such manner as it considers appropriate.

### **40 Laying of annual documents before devolved legislatures**

- (1) Schedule 4 to the Enterprise and Regulatory Reform Act 2013 (the Competition and Markets Authority) is amended as follows.
- (2) In paragraph 12(3) (annual plan to be laid before Parliament), for “Parliament” substitute “—
  - (a) Parliament,



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- (b) the Scottish Parliament,
  - (c) Senedd Cymru, and
  - (d) the Northern Ireland Assembly”.
- (3) In paragraph 13(2) (proposals for annual plan to be laid before Parliament), for “Parliament” substitute “—
- (a) Parliament,
  - (b) the Scottish Parliament,
  - (c) Senedd Cymru, and
  - (d) the Northern Ireland Assembly”.
- (4) In paragraph 14(3)(a) (performance report to be laid before Parliament), for “Parliament” substitute “—
- (i) Parliament,
  - (ii) the Scottish Parliament,
  - (iii) Senedd Cymru, and
  - (iv) the Northern Ireland Assembly”.

#### *Information-gathering powers*

### **41 Information-gathering powers**

- (1) The powers under this section may be exercised for the purpose of assisting the CMA in carrying out any of its functions under—
- (a) section 33, 34, 35 or 36; or
  - (b) section 5 of the Enterprise Act 2002 (acquisition of information etc) in connection with a matter in relation to which the CMA proposes to undertake a review, prepare a report, or give advice under any of the sections mentioned in paragraph (a).
- (2) The CMA may by notice in writing require a person to produce any document which—
- (a) is specified or otherwise identified in the notice; and
  - (b) is in that person’s custody or under that person’s control.
- (3) The CMA may by notice in writing require any person who carries on a business to provide such estimates, forecasts, returns or other information as may be specified or otherwise described in the notice.
- (4) A notice under subsection (2) or (3) may specify—
- (a) the time and place at which,
  - (b) the form and manner in which, and
  - (c) the person to whom,
- a document or information is to be produced or provided.
- (5) A notice under subsection (2) or (3) may require the provision of a legible and intelligible copy of information which is recorded otherwise than in legible form.
- (6) A notice under subsection (2) or (3) must—
- (a) state the purpose for which the notice is given, including which of the functions mentioned in subsection (1) is relevant; and

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- (b) include information about the potential consequences of not complying with the notice.
- (7) The person to whom any document is produced in accordance with a notice under subsection (2) or (3) may copy the document.
- (8) A notice under subsection (2) or (3) may not require a person—
  - (a) to produce or provide any document or information which the person could not be compelled to produce, or give in evidence, in civil proceedings before the court; or
  - (b) to go more than 10 miles from the person’s place of residence, unless the person’s necessary travelling expenses are paid or offered to them.
- (9) In this section “the court” means—
  - (a) in relation to England and Wales or Northern Ireland, the High Court; and
  - (b) in relation to Scotland, the Court of Session.
- (10) In Schedule 14 to the Enterprise Act 2002 (disclosure of information: specified functions) at the appropriate place insert—
 

“Part 4 of the United Kingdom Internal Market Act 2020.”.

## **42 Enforcement**

- (1) Where the CMA considers that a person has, without reasonable excuse, failed to comply with any requirement of a notice under section 41, it may impose a penalty in accordance with section 43.
- (2) Where the CMA considers that a person has intentionally obstructed or delayed any person in the exercise of the power under section 41(7), it may impose a penalty in accordance with section 43.
- (3) In deciding whether and, if so, how to proceed under subsection (1) or (2), the CMA must have regard to the statement of policy which was most recently published under subsection (6) or (8) at the time the failure or (as the case may be) the obstruction or delay concerned occurred.
- (4) Subject to subsection (5), no penalty may be imposed by virtue of subsection (1) or (2) after the end of the period of 4 weeks beginning with—
  - (a) where the penalty is imposed in connection with the exercise of the CMA’s functions under section 33—
    - (i) if that exercise involves the publication of a report in accordance with subsection (3) of that section, the day on which the report is published,
    - (ii) if that exercise involves arranging for a copy of a report to be laid in accordance with subsection (7) of that section, the day on which the laying mentioned in paragraphs (a) to (d) of that subsection is fully accomplished, or
    - (iii) in the case of a review under subsection (1) of that section which does not involve the publication or laying of a report as mentioned in subparagraph (i) or (ii), the day on which the review is concluded,
  - (b) where the penalty is imposed in connection with the exercise of the CMA’s functions under section 34, the day on which the advice or report is given or provided in accordance with subsection (1) of that section,

- (c) where the penalty is imposed in connection with the exercise of the CMA's functions under section 35, the day on which the report is provided in accordance with subsection (1) of that section,
  - (d) where the penalty is imposed in connection with the exercise of the CMA's functions under section 36, the day on which the report is provided in accordance with subsection (1) of that section, or
  - (e) where the penalty is imposed in connection with the exercise of the CMA's functions under section 5 of the Enterprise Act 2002 in the circumstances mentioned in section 41(1)(b), the day on which the CMA finally concludes the carrying out of those functions.
- (5) Subsection (4) does not apply in relation to any variation or substitution of the penalty which is permitted by virtue of section 43(11).
- (6) The CMA must prepare and publish a statement of policy in relation to the enforcement of notices given under section 41.
- (7) The statement must include a statement about the considerations relevant to the determination of the nature and amount of any penalty imposed under subsection (1) or (2).
- (8) The CMA may revise its statement of policy under subsection (6) and, where it does so, it must publish the revised statement.
- (9) The CMA must consult—
- (a) each relevant national authority, and
  - (b) such other persons as it considers appropriate,
- when preparing or revising its statement of policy under subsection (6) or (8).
- (10) Any statement or revised statement published by the CMA under this section is to be published in such manner as the CMA considers appropriate.

### **43 Penalties**

- (1) A penalty imposed under section 42(1) or (2) may be of such amount as the CMA considers appropriate.
- (2) The amount of a penalty imposed under section 42(1) may be—
- (a) a fixed amount,
  - (b) an amount calculated by reference to a daily rate, or
  - (c) a combination of a fixed amount and an amount calculated by reference to a daily rate.
- (3) The amount of a penalty imposed under section 42(2) must be a fixed amount.
- (4) A penalty imposed under section 42(1) may not exceed—
- (a) in the case of a fixed amount, such amount as the Secretary of State may specify in regulations,
  - (b) in the case of an amount calculated by reference to a daily rate, such amount per day as the Secretary of State may so specify, and
  - (c) in the case of a fixed amount and an amount calculated by reference to a daily rate, such fixed amount and such amount per day as the Secretary of State may so specify.

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- (5) A penalty imposed under section 42(2) may not exceed such amount as the Secretary of State may specify in regulations.
- (6) Regulations under subsection (4) or (5) may not specify—
- (a) in the case of a fixed amount, an amount exceeding £30,000,
  - (b) in the case of an amount calculated by reference to a daily rate, an amount per day exceeding £15,000, and
  - (c) in the case of a fixed amount and an amount calculated by reference to a daily rate, a fixed amount exceeding £30,000 and an amount per day exceeding £15,000.
- (7) Regulations under subsection (4) or (5) are subject to negative resolution procedure.
- (8) Before making regulations under subsection (4) or (5) the Secretary of State must consult—
- (a) the CMA,
  - (b) each other relevant national authority, and
  - (c) such other persons as the Secretary of State considers appropriate.
- (9) In imposing a penalty by reference to a daily rate—
- (a) no account is to be taken of any days before the service on the person concerned of notice of the penalty under section 112 of the Enterprise Act 2002 (as applied by subsection (11)), and
  - (b) unless the CMA determines an earlier date (whether before or after the penalty is imposed), the amount payable ceases to accumulate at the beginning of the earliest of the days mentioned in subsection (10).
- (10) The days mentioned in subsection (9) are—
- (a) the day on which the requirement of the notice concerned under section 41 is satisfied;
  - (b) the day referred to in paragraph (a)(i), (a)(ii), or (a)(iii), (b), (c), (d) or (e) (as the case may be) of section 42(4).
- (11) Sections 112 to 115 of the Enterprise Act 2002 (procedural requirements, appeals etc in relation to penalties) apply in relation to a penalty imposed under section 42(1) or (2) as they apply in relation to a penalty imposed under section 110(1) of that Act.

### *Review*

#### **44 Duty to review arrangements for carrying out Part 4 functions**

- (1) The Secretary of State must, within the permitted period—
- (a) carry out a review of the appropriateness, for the purpose of securing the most effective and efficient performance of the Part 4 functions, of—
    - (i) the provision made by section 32(1) and the amendments made by Schedule 3, and
    - (ii) any arrangements made under or in connection with that provision and those amendments;
  - (b) prepare a report of the review (see subsection (4) for specific requirements relating to the report), and

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- (c) lay a copy of the report before Parliament, the Scottish Parliament, Senedd Cymru and the Northern Ireland Assembly.
- (2) The review must, among other things, assess—
  - (a) the way in which Part 4 functions have been carried out by the CMA through Office for the Internal Market task groups authorised under section 32(1), and
  - (b) any advantages or disadvantages of continuing with—
    - (i) the provision made by section 32 and the amendments made by Schedule 3, and
    - (ii) the arrangements made under or in connection with that provision or those amendments,as compared with other possible ways of providing for the Part 4 functions to be carried out (including possible arrangements not involving the CMA).
- (3) In carrying out the review the Secretary of State must consult the other relevant national authorities.
- (4) Before finalising the report required by subsection (1)(b) the Secretary of State must—
  - (a) send a draft of the proposed report to each of the other relevant national authorities, inviting the authority to make representations as to the content of the proposed report within a period specified by the Secretary of State, and
  - (b) consider any representations duly made in response to that invitation and determine whether to alter the report in the light of that consideration.
- (5) The Secretary of State need not consult the devolved authorities further if the draft is altered as mentioned in subsection (4)(b) (but is free to do so if the Secretary of State thinks fit).
- (6) The permitted period for the review is the period beginning with the third anniversary of the day on which section 32 comes into force (or first comes into force to any extent) and ending with the fifth anniversary.
- (7) In this section “Part 4 functions” means functions of the CMA under this Part.

### *Interpretation*

## **45 Interpretation of Part 4**

- (1) This section applies for the purposes of this Part.
- (2) “The CMA” has the meaning given by section 30(10).
- (3) References to the “operation of the internal market in the United Kingdom” are to be read as including a reference to aspects of its operation, for example its operation in relation to a particular description of goods or services or in a particular area or region of the United Kingdom.
- (4) “Regulatory provision” has the meaning given by section 30(8).
- (5) “Relevant competence” means—
  - (a) in relation to the Scottish Ministers, Scottish devolved competence;
  - (b) in relation to the Welsh Ministers, Welsh devolved competence;
  - (c) in relation to a Northern Ireland department, Northern Ireland devolved competence;

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

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- (d) in relation to the Secretary of State, reserved competence.
- (6) “Relevant national authority” means any of the following—
  - (a) the Secretary of State;
  - (b) the Scottish Ministers;
  - (c) the Welsh Ministers;
  - (d) a Northern Ireland department.
- (7) “Scottish devolved competence”, “Welsh devolved competence”, “Northern Ireland devolved competence” and “reserved competence” are to be interpreted in accordance with subsections (8) to (11).
- (8) A regulatory provision, so far as applying to Scotland—
  - (a) is within Scottish devolved competence if it—
    - (i) would be within the legislative competence of the Scottish Parliament if contained in an Act of that Parliament, or
    - (ii) is provision which could be made in subordinate legislation by the Scottish Ministers, the First Minister or the Lord Advocate acting alone;
  - (b) otherwise, is within reserved competence.
- (9) A regulatory provision, so far as applying to Wales—
  - (a) is within Welsh devolved competence if it—
    - (i) would be within the legislative competence of Senedd Cymru if contained in an Act of Senedd Cymru (assuming that any consent by a Minister of the Crown were given), or
    - (ii) is provision which could be made in subordinate legislation by the Welsh Ministers acting alone;
  - (b) otherwise, is within reserved competence.
- (10) A regulatory provision, so far as applying to Northern Ireland—
  - (a) is within Northern Ireland devolved competence if it—
    - (i) would be within the legislative competence of the Northern Ireland Assembly, and would not require the consent of the Secretary of State, if contained in an Act of that Assembly,
    - (ii) is contained in, or was made under, Northern Ireland legislation, and would be within the legislative competence of the Northern Ireland Assembly, and would require the consent of the Secretary of State, if contained in an Act of that Assembly, or
    - (iii) is provision which could be made in subordinate legislation by the First Minister and deputy First Minister in Northern Ireland acting jointly, a Northern Ireland Minister or a Northern Ireland department;
  - (b) otherwise, is within reserved competence.
- (11) A regulatory provision, so far as applying to England, is within reserved competence.