

SCHEDULE 3

Consequential, supplementary, incidental and transitional provision and savings relating to the transfer of functions under the Money Laundering Regulations 2007

PART 2

Transitional provisions and savings

General

3.—(1) This paragraph and paragraphs 4 to 7 have effect in place of the provisions of paragraph 32 of the Schedule to the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No. 2) Order 2013⁽¹⁾ (transitional provision in relation to the Money Laundering Regulations 2007).

(2) Nothing in this Order affects the validity of anything done (or having effect as if done) by or in relation to the OFT before the commencement of article 5(2).

(3) Anything done (or having effect as if done) by or in relation to the OFT, so far as it relates to any of the functions transferred by article 5(2), has effect, so far as is necessary for continuing its effect after the commencement of article 5(2), as if done by or in relation to the Commissioners.

(4) Anything (including legal proceedings) which at the coming into force of article 5(2) is in the process of being done by or in relation to the OFT, so far as it relates to any of the functions transferred by article 5(2), may be continued by or in relation to the Commissioners.

(5) So far as is necessary or appropriate for the purposes of or in consequence of the transfer effected by article 5(2), after the coming into force of that article, a reference to the OFT in an instrument or other document is to be treated as a reference to the Commissioners.

(6) This paragraph is subject to paragraphs 4 to 7.

Costs orders

4. Where the OFT is the receiving or paying party under a costs order made in connection with legal proceedings that relate to the exercise of any function transferred by article 5(2), the CMA is to be treated as the receiving or paying party, as the case may be, instead.

Change in appeal procedure

5. Where the OFT has issued a notice under regulation 34(4)(b), 34(8) or 42(6) of the 2007 Regulations in relation to any of the functions transferred by article 5(2) but have not before the commencement of article 5(2) issued a notice of its decision under regulation 34(5)(b), 34(9)(b) or 42(7)(b), as the case may be, the notice ceases to have effect.

6. Where the OFT has issued a notice of its decision under regulation 34(5)(b), 34(9)(b) or 42(7)(b) of the 2007 Regulations in relation to any of the functions transferred by article 5(2) and an appeal has not been started before the commencement of article 5(2)—

(a) a person who is the subject of such a decision may appeal to the First-tier Tribunal;

(1) [S.I. 2013/1881](#) was commenced on 26th July 2013 for the purposes in Article 1(2) of that Order, coming fully into force on 1st April 2014.

Draft Legislation: This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument: *The Public Bodies (Abolition of the National Consumer Council and Transfer of the Office of Fair Trading's Functions in relation to Estate Agents etc) Order 2014 No. 631*

- (b) any such appeal must be started in accordance with the Tribunal Procedure (First Tier Tribunal) (General Regulatory Chamber) Rules 2009(2);
- (c) after such an appeal has been started it is to be treated as an appeal under regulation 43 of the 2007 Regulations;
- (d) the Commissioners may offer a review of such a decision and where they do so regulations 43 to 43F of the 2007 Regulations apply with the following modifications—
 - (i) in regulation 43 (appeals against decisions of the Commissioners)—
 - (aa) omit paragraph (1);
 - (bb) in paragraph (2) for “a decision to which this regulation applies” substitute “a decision under regulation 34(5)(b), 34(9)(b) or 42(7)(b)”;
 - (ii) in regulation 43A (offer of review)—
 - (aa) omit paragraph (1);
 - (bb) in paragraph (2) omit “at the same time as the decision is notified to P”;
 - (iii) in the following provisions after “under regulation 43F” insert “or paragraph 6(a) of Schedule 3 to the Public Bodies (Abolition of the National Consumer Council and Transfer of the Office of Fair Trading’s Functions in relation to Estate Agents etc) Order 2014”-
 - (aa) regulation 43B(2) and (3);
 - (bb) regulation 43D(3).
 - (iv) in regulation 43E (nature of review etc.), in paragraph (3)(a) for “Commissioners” substitute “Office of Fair Trading”.

7. Where an appeal has been started against a decision of the OFT in relation to any of the functions transferred by article 5(2) under regulation 44 of the 2007 Regulations, after the commencement of article 5(2) it is to be treated as an appeal under regulation 43 of the 2007 Regulations.

(2) [S.I. 2009/1976](#), rule 1(2) was substituted by rule 2(2) of [S.I. 2010/2653](#); the definition of “General Regulatory Chamber” was repealed by rule 2(2) of [S.I. 2011/651](#); rule 22(1)(a) was substituted by rule 27(a) of [S.I. 2010/43](#); there are other amending instruments but none are relevant.