

SCHEDULES

SCHEDULE 4

AUTHORISATION AND APPROVAL

PART II

APPROVAL REQUIRED BY SECTION 29

Submission of proposals to Advisory Committee

- 6 (1) Where an authorised body proposes to make any alteration to its qualification regulations or rules of conduct which is required by section 29(3) to be approved under this Part of this Schedule, it shall send to the Advisory Committee a copy of—
- (a) its qualification regulations;
 - (b) its rules of conduct; and
 - (c) the proposed amending regulations or rules.
- (2) Where an authorised body proposes to make any alteration in the rights granted by it which calls for its qualification regulations and rules of conduct to be approved under section 29(4), it shall send to the Advisory Committee a copy of—
- (a) its qualification regulations;
 - (b) its rules of conduct; and
 - (c) a statement of the proposed alteration to the rights in question.
- (3) The documents sent to the Advisory Committee by the authorised body under sub-paragraph (1) or (2) shall be accompanied by such explanatory material as it considers is likely to be needed by the Advisory Committee in order for the Committee to be able to understand fully the implications of the proposed alteration.
- (4) The applicant shall provide the Advisory Committee with such additional information as the Committee may reasonably require.

Consideration by Advisory Committee

- 7 (1) It shall be the duty of the Advisory Committee to consider the applicant's regulations and rules and the proposed alteration.
- (2) When it has completed its consideration, the Advisory Committee shall advise the applicant of the extent to which (if at all) its qualification regulations or rules of conduct should, in the Committee's opinion, be amended in order better to—
- (a) further the statutory objective; or
 - (b) comply with the general principle.

Status: This is the original version (as it was originally enacted).

Submission to Lord Chancellor

- 8 (1) If, after—
- (a) receiving the Advisory Committee’s advice; and
 - (b) making the alteration in question,
- the applicant wishes the approval required by section 29(3) or (as the case may be) (4) to be given, it shall apply to the Lord Chancellor under this paragraph.
- (2) An application under this paragraph shall—
- (a) be in writing;
 - (b) specify the purposes for which approval is sought; and
 - (c) be accompanied by—
 - (i) a copy of the amending regulations or rules or (as the case may be) of the statement mentioned in paragraph 6(2)(c) (“the statement”); and
 - (ii) such explanatory material as the applicant considers is likely to be needed for the implications of the alteration to be fully understood.
- (3) The applicant shall provide the Lord Chancellor with such additional information as he may reasonably require.
- (4) On receipt of such an application, the Lord Chancellor shall—
- (a) send a copy of the application and of any documents provided under sub-paragraph (2)(c) or (3) to the Advisory Committee and to each of the designated judges; and
 - (b) refer the application to the Committee for advice.

Advice of the Director General of Fair Trading

- 9 (1) The Lord Chancellor shall also send a copy of the documents mentioned in paragraph 8(4)(a) to the Director.
- (2) The Director shall consider whether the amending regulations or rules would have, or would be likely to have, the effect of restricting, distorting or preventing competition to any significant extent.
- (3) When the Director has completed his consideration he shall give such advice to the Lord Chancellor as he thinks fit.
- (4) The Director may publish any advice given by him under this paragraph.
- (5) The Director shall, so far as practicable, exclude from anything published under sub-paragraph (4) any matter which relates to the affairs of a particular person (other than the applicant) the publication of which would, or might in the Director’s opinion, seriously and prejudicially affect the interests of that person.
- 10 Section 46 shall apply in relation to the investigation of any matter with a view to its consideration under paragraph 9, as it applies in relation to the investigation of any matter under section 45.

Approval by Lord Chancellor and designated judges

- 11 (1) When he has received the advice of the Advisory Committee and that of the Director, the Lord Chancellor shall send a copy of the advice to the applicant.

- (2) The applicant shall be allowed a period of 28 days, beginning with the day on which the copy is sent to him, to make representations about the advice—
 - (a) to the Lord Chancellor; or
 - (b) where the Lord Chancellor appoints a person for the purposes of this sub-paragraph, to that person.
- (3) When the period of 28 days has expired the Lord Chancellor shall consider, in the light of the advice and of any representations duly made by the applicant under sub-paragraph (2) whether the approval required by section 29(3) or (4) should be given.
- (4) When the Lord Chancellor has complied with sub-paragraph (3) he shall—
 - (a) send to each designated judge a copy of—
 - (i) the advice; and
 - (ii) any representations duly made by the applicant under sub-paragraph (2);
 - (b) inform each designated judge as to whether he proposes to give the required approval; and
 - (c) where he proposes to withhold that approval, inform each designated judge of his reason for doing so.
- (5) It shall then be the duty of each designated judge to consider, in the light of the material sent to him by the Lord Chancellor under sub-paragraph (4), whether the required approval should be given.
- (6) The applicant shall provide each designated judge with such additional information as may reasonably be required.
- (7) If the Lord Chancellor, or any of the designated judges, is satisfied that the alteration is incompatible with the statutory objective or the general principle, he shall refuse to give the required approval.
- (8) When each designated judge has discharged his duties under this paragraph he shall notify the Lord Chancellor in writing both of his decision and of his reasons for reaching it.
- (9) When—
 - (a) the Lord Chancellor has discharged his duties under this paragraph; and
 - (b) the designated judges have notified him of their decisions,the Lord Chancellor shall notify the applicant of the result of its application.
- (10) If the Lord Chancellor or any of the designated judges refuses to give the required approval, the alteration in question shall not have effect.
- (11) The Lord Chancellor shall, if the applicant applies to him in writing, notify the applicant of—
 - (a) his reasons for reaching his decision; and
 - (b) the reasons given by each designated judge for reaching his decision.