

*Status:* Point in time view as at 25/04/2013. This version of this cross heading contains provisions that are not valid for this point in time.

*Changes to legislation:* There are currently no known outstanding effects for the Enterprise and Regulatory Reform Act 2013, Cross Heading: Electricity Act 1989 (c. 29). (See end of Document for details)

## SCHEDULES

VALID FROM 01/04/2014

### SCHEDULE 6

#### REGULATORY APPEALS ETC: MINOR AND CONSEQUENTIAL AMENDMENTS

#### PART 1

##### AMENDMENTS TO ACTS

##### *Electricity Act 1989 (c. 29)*

- 30 The Electricity Act 1989 is amended as follows.
- 31 (1) Section 11C (appeals) is amended as follows.
- (2) In subsection (1), for “Competition Commission (“the Commission”)” substitute “CMA ”.
- (3) In subsections (3) and (4), for “Commission” (in each place where it occurs) substitute “CMA ”.
- (4) In the heading, for “Competition Commission” substitute “CMA ”.
- 32 (1) Section 11D (procedure on appeal) is amended as follows.
- (2) Omit subsection (1).
- (3) In subsection (2), omit “Instead.”.
- (4) After subsection (2) insert—
- “(2A) Except where specified otherwise in Schedule 5A, the functions of the CMA with respect to an appeal under section 11C are to be carried out on behalf of the CMA by a group constituted for the purpose by the chair of the CMA under Schedule 4 to the Enterprise and Regulatory Reform Act 2013.”
- (5) In the heading, for “Commission” substitute “CMA ”.
- 33 (1) Section 11E (determination of appeal) is amended as follows.
- (2) In subsections (2) to (5), for “Commission” (in each place where it occurs) substitute “CMA ”.
- (3) In the heading, for “Commission” substitute “CMA ”.
- 34 (1) Section 11F (powers on allowing appeal) is amended as follows.

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- (2) In subsection (1), for “Commission” substitute “ CMA ”.
- (3) In subsection (2)—
- (a) for “Commission” (in each place where it occurs) substitute “ CMA ”, and
  - (b) for “Commission's” substitute “CMA's”.
- (4) In subsection (3), for “Commission” (in each place where it occurs) substitute “ CMA ”.
- (5) In subsection (7), for “Commission's” substitute “CMA's”.
- (6) In the heading, for “Commission's” substitute “CMA's”.
- 35 (1) Section 11G (time limits for determination of appeal) is amended as follows.
- (2) In subsection (1), for “Commission” substitute “ CMA ”.
- (3) In subsections (3) to (5) and (7), for “Commission” (in each place where it occurs) substitute “ CMA ”.
- (4) In the heading, for “Commission” substitute “ CMA ”.
- 36 (1) Section 11H (supplementary provision about determination of appeal) is amended as follows.
- (2) In subsection (1), for “Commission” (in each place where it occurs) substitute “ CMA ”.
- (3) In subsection (2)—
- (a) for “Commission” substitute “ CMA ”, and
  - (b) for “Commission's” (in each place where it occurs) substitute “CMA's”.
- (4) In subsection (3), for “Commission” substitute “ CMA ”.
- (5) In the heading, for “Commission” substitute “ CMA ”.
- 37 In section 15 (modification by order under other enactments), in subsection (1) for “Office of Fair Trading, the Competition Commission” substitute “ CMA ”.
- 38 (1) Section 56B (application for order including new activities) is amended as follows.
- (2) In subsection (3), for the words from “shall” to the end, substitute “ shall, before making the application, make a reference under section 56C to the CMA ”.
- (3) In subsections (4) and (5), for “Commission” (in each place where it occurs) substitute “ CMA ”.
- (4) After subsection (6), insert—
- “(7) The functions of the CMA with respect to a reference under section 56C (including functions under sections 109 to 115 of the Enterprise Act 2002, as applied by section 56CB) are to be carried out on behalf of the CMA by a group constituted for the purpose by the chair of the CMA under Schedule 4 to the Enterprise and Regulatory Reform Act 2013.”
- 39 (1) Section 56C (references) is amended as follows.
- (2) In subsection (1)—
- (a) for “Competition Commission” substitute “ CMA ”, and

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- (b) for “the Commission” substitute “ the CMA ”.
- (3) In subsections (2), (3), (5) and (6), for “Commission” (in each place where it occurs) substitute “ CMA ”.
- (4) In the heading, for “Competition Commission” substitute “ CMA ”.
- 40 In section 56CA (references under section 56C: time limits), in subsections (2) and (3), for “Competition Commission” (in each place where it occurs) substitute “ CMA ”.
- 41 In section 56CB (references under section 56C: application of Enterprise Act 2002), in subsection (4)—
- (a) for “Competition Commission” substitute “ CMA ”, and
- (b) for the words from “the words” to the end, substitute “—
- (a) the words “, OFCOM or the Secretary of State” were omitted; and
- (b) for the words “their functions” there were substituted “ its functions ”.”
- 42 (1) Section 56D (reports on references) is amended as follows.
- (2) In subsection (1), for “Competition Commission” substitute “ CMA ”.
- (3) In subsections (2) and (3), for “Commission” (in each place where it occurs) substitute “ CMA ”.
- (4) In subsection (3A)—
- (a) for “Competition Commission” substitute “ CMA ”, and
- (b) for the words from “in connection with” to the end, substitute “ by the chair of the CMA for the purpose of carrying out the functions of the CMA with respect to the reference ”.
- (5) In subsections (3B) to (4C), for “Competition Commission” (in each place where it occurs) substitute “ CMA ”.
- (6) In subsection (5), for “Commission” substitute “ CMA ”.
- 43 In section 64 (interpretation etc of Part 1), in subsection (1), after the definition of “authorised supplier” insert—
- ““the CMA” means the Competition and Markets Authority;”.
- 44 (1) Schedule 5A (procedure for appeals under section 11C) is amended as follows.
- (2) In paragraph 1—
- (a) in sub-paragraphs (1) and (7), for “Commission” (in each place where it occurs) substitute “ CMA ”,
- (b) in sub-paragraph (8)—
- (i) for “Commission's” substitute “CMA's”, and
- (ii) for “Commission” substitute “ CMA ”,
- (c) in sub-paragraph (9)—
- (i) for “deciding” substitute “ the authorised member decides ”, and
- (ii) for “the Commission must give the Authority” substitute “ the Authority must be given ”,
- (d) in sub-paragraph (10), for “Commission's” substitute “CMA's”,

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- (e) in sub-paragraph (12), for “the Commission must” substitute “ an authorised member of the CMA must ”, and
  - (f) in sub-paragraph (13)—
    - (i) for “of the Commission” substitute “ of the CMA ”, and
    - (ii) for “as the Commission” substitute “ as an authorised member of the CMA ”.
- (3) In paragraph 2—
- (a) in sub-paragraph (1) for “Commission” substitute “ CMA ”,
  - (b) in sub-paragraph (2)(b), for “the Commission has given the Authority” substitute “ the Authority has been given ”,
  - (c) in sub-paragraph (3), for “Commission's” substitute “CMA's”,
  - (d) in sub-paragraph (4), for “Commission” substitute “ CMA ”,
  - (e) in sub-paragraph (5)—
    - (i) for “Commission's” substitute “CMA's”, and
    - (ii) for “Commission” substitute “ CMA ”, and
  - (f) in sub-paragraph (6)—
    - (i) in paragraph (a), for “Commission” substitute “ CMA ”, and
    - (ii) in paragraph (b), for “the Commission” substitute “ an authorised member of the CMA ”.
- (4) In paragraph 3, in sub-paragraphs (1) and (3), for “Commission” (in each place where it occurs) substitute “ CMA ”.
- (5) In paragraph 4—
- (a) omit sub-paragraph (1),
  - (b) in sub-paragraph (2)—
    - (i) after “group” insert “ constituted by the chair of the CMA under Schedule 4 to the Enterprise and Regulatory Reform Act 2013 for the purpose of carrying out functions of the CMA with respect to an appeal under section 11C ”, and
    - (ii) for “Commission” substitute “ CMA panel ”,
  - (c) omit sub-paragraphs (3) to (7), and
  - (d) in sub-paragraph (8), for “a group” substitute “ the group ”.
- (6) In paragraph 5, in sub-paragraph (1)—
- (a) for “The group with the function of determining an appeal” substitute “ The CMA ”, and
  - (b) for “determination of the appeal” substitute “ determination of an appeal ”.
- (7) In paragraph 6—
- (a) in sub-paragraph (1), for “Commission” (in each place where it occurs) substitute “ CMA ”,
  - (b) in sub-paragraph (4)—
    - (i) for “The Commission may take copies” substitute “ An authorised member of the CMA may, for the purpose of the exercise of the functions of the CMA, make arrangements for copies to be taken ”, and
    - (ii) omit “to it”, and

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- (c) in sub-paragraph (5), in paragraph (a), for the words from “Commission's” to the end of paragraph (a), substitute “ CMA's behalf by an authorised member of the CMA ”.
- (8) In paragraph 7—
  - (a) in sub-paragraph (2), for “Commission” substitute “ CMA ”,
  - (b) in sub-paragraph (5)(a), for “the Commission is not required” substitute “ there is no requirement ”,
  - (c) in sub-paragraph (7), for “the Commission must pay that person” substitute “ an authorised member of the CMA must arrange for that person to be paid ”, and
  - (d) in sub-paragraph (8), for the words from “Commission's” to the end, substitute “ CMA's behalf by an authorised member of the CMA ”.
- (9) In paragraph 8—
  - (a) in sub-paragraph (1), for “Commission” substitute “ CMA ”, and
  - (b) in sub-paragraph (4), for the words from “Commission's” to the end, substitute “ CMA's behalf by an authorised member of the CMA ”.
- (10) In paragraph 9, for “Commission” substitute “ CMA ”.
- (11) In paragraph 10, in sub-paragraph (1), for “a member of the Commission” substitute “ an authorised member of the CMA ”.
- (12) In paragraph 11, in sub-paragraphs (1), (3) and (4), for “Commission” (in each place where it occurs) substitute “ CMA Board ”.
- (13) In paragraph 12, in sub-paragraphs (1) and (2), for “Commission” (in each place where it occurs) substitute “ CMA ”.
- (14) In paragraph 13, in sub-paragraph (1)—
  - (a) for the definition of “authorised member of the Commission” substitute—
    - ““authorised member of the CMA”—
    - (a) in relation to a power exercisable in connection with an appeal in respect of which a group has been constituted by the chair of the CMA under Schedule 4 to the Enterprise and Regulatory Reform Act 2013, means a member of that group who has been authorised by the chair of the CMA to exercise that power;
    - (b) in relation to a power exercisable in connection with an application for permission to bring an appeal, or otherwise in connection with an appeal in respect of which a group has not been so constituted by the chair of the CMA, means—
      - (i) any member of the CMA Board who is also a member of the CMA panel, or
      - (ii) any member of the CMA panel authorised by the Secretary of State (whether generally or specifically) to exercise the power in question.”,
  - (b) omit the definition of “the Chairman”,
  - (c) for the definition of “the Commission” substitute—

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““CMA Board” and “CMA panel” have the same meaning as in Schedule 4 to the Enterprise and Regulatory Reform Act 2013;”,  
and

(d) omit the definition of a “group”.

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