

Changes to legislation: There are currently no known outstanding effects for the Energy Act 2023, Schedule 16. (See end of Document for details)

SCHEDULES

SCHEDULE 16

Section 204

MERGERS OF ENERGY NETWORK ENTERPRISES

PART 1

FURTHER DUTIES OF COMPETITION AND MARKETS AUTHORITY TO MAKE REFERENCES

1 Part 3 of the Enterprise Act 2002 (mergers) is amended as follows.

Commencement Information

II Sch. 16 para. 1 in force at Royal Assent, see [s. 334\(2\)\(j\)](#)

2 After section 68 insert—

“Mergers of energy network enterprises in Great Britain

68A Relevant merger situations involving energy network mergers

- (1) For the purposes of this Part, a relevant merger situation involves an energy network merger if two or more of the enterprises that cease to be distinct are energy network enterprises of the same type.
- (2) For the purposes of this Part, the types of “energy network enterprise” are—
 - (a) an enterprise holding a licence under section 7 of the Gas Act 1986 (gas transporter);
 - (b) an enterprise holding a licence under section 6(1)(b) of the Electricity Act 1989 (transmission of electricity), except as mentioned in subsection (3);
 - (c) an enterprise holding a licence under section 6(1)(c) of the Electricity Act 1989 (distribution of electricity), except as mentioned in subsection (3).
- (3) An enterprise holding a licence under section 6(1)(b) or (c) of the Electricity Act 1989 is not an energy network enterprise if—
 - (a) the licence was granted following a tender exercise, and
 - (b) either—
 - (i) the enterprise does not hold any other licence of a type mentioned in subsection (2), or
 - (ii) the enterprise holds one or more other licences under section 6(1)(b) or (c) of the Electricity Act 1989 and each of those other licences was granted following a tender exercise.

Changes to legislation: There are currently no known outstanding effects for the Energy Act 2023, Schedule 16. (See end of Document for details)

- (4) The Secretary of State may by regulations amend this section by—
- (a) adding to subsection (2) an enterprise holding a licence under the Gas Act 1986 or the Electricity Act 1989 of a type that is not specified in that subsection;
 - (b) creating an exception in relation to a type of enterprise specified in subsection (2);
 - (c) amending or removing an exception that applies in relation to a type of enterprise specified in subsection (2).
- (5) Before making regulations under subsection (4), the Secretary of State must consult—
- (a) the Gas and Electricity Markets Authority, and
 - (b) the CMA.
- (6) In this section, “tender exercise” has the same meaning as in section 6CD of the Electricity Act 1989.

68B Further duty to make references in relation to completed mergers

- (1) The CMA must make a reference to its chair for the constitution of a group under Schedule 4 to the Enterprise and Regulatory Reform Act 2013 if the CMA believes that it is or may be the case that—
- (a) a relevant merger situation involving an energy network merger has been created, and
 - (b) the creation of that situation has caused, or may be expected to cause, substantial prejudice to the ability of the Gas and Electricity Markets Authority, in carrying out its functions under Part 1 of the Gas Act 1986 or Part 1 of the Electricity Act 1989, to make comparisons between energy network enterprises of the type involved in the energy network merger;
- but this is subject to subsections (2) and (3).
- (2) The CMA may decide not to make a reference under this section if it believes that any relevant customer benefits in relation to the creation of the relevant merger situation outweigh the prejudice mentioned in subsection (1)(b).
- (3) The CMA must not make a reference under this section in any circumstances described in section 22(3).
- (4) A reference under this section must, in particular, specify—
- (a) the enactment under which it is made, and
 - (b) the date on which it is made.

68C Further duty to make references in relation to anticipated mergers

- (1) The CMA must make a reference to its chair for the constitution of a group under Schedule 4 to the Enterprise and Regulatory Reform Act 2013 if the CMA believes that it is or may be the case that—
- (a) arrangements are in progress or in contemplation which, if carried into effect, will result in the creation of a relevant merger situation involving an energy network merger, and

Changes to legislation: There are currently no known outstanding effects for the Energy Act 2023, Schedule 16. (See end of Document for details)

- (b) the creation of that situation may be expected to cause substantial prejudice to the ability of the Gas and Electricity Markets Authority, in carrying out its functions under Part 1 of the Gas Act 1986 or Part 1 of the Electricity Act 1989, to make comparisons between energy network enterprises of the type involved in the energy network merger,
but this is subject to subsections (2) and (3).
- (2) The CMA may decide not to make a reference under this section if it believes that—
 - (a) the arrangements concerned are not sufficiently far advanced, or are not sufficiently likely to proceed, to justify the making of a reference, or
 - (b) any relevant customer benefits in relation to the creation of the relevant merger situation concerned outweigh the prejudice mentioned in subsection (1)(b).
- (3) The CMA must not make a reference under this section in any circumstances described in section 33(3).
- (4) A reference under this section must, in particular, specify—
 - (a) the enactment under which it is made, and
 - (b) the date on which it is made.

68D Opinion of the Gas and Electricity Markets Authority

- (1) Before forming a view for the purposes of section 68B(1)(b) or (2) or 68C(1)(b) or (2)(b), the CMA must—
 - (a) ask the Gas and Electricity Markets Authority to give an opinion, and
 - (b) consider that opinion.
- (2) Where the CMA makes a request under this section, the Gas and Electricity Markets Authority must give its opinion on—
 - (a) whether and to what extent the creation of the relevant merger situation has prejudiced, or may be expected to prejudice, the Authority's ability, in carrying out its functions under Part 1 of the Gas Act 1986 or Part 1 of the Electricity Act 1989, to make comparisons between energy network enterprises of the type involved in the relevant merger situation, and
 - (b) whether any prejudice is outweighed by any relevant customer benefits in relation to the creation of the relevant merger situation.
- (3) The Gas and Electricity Markets Authority must prepare and publish a statement of the methods it considers should be applied in forming an opinion on the matters mentioned in subsection (2).
- (4) The statement must, in particular, set out—
 - (a) the criteria to be used for assessing the effect of any particular energy network enterprises ceasing to be distinct enterprises on the Gas and Electricity Market Authority's ability to make comparisons between such enterprises, and
 - (b) the relative weight to be given to the criteria.

Changes to legislation: There are currently no known outstanding effects for the Energy Act 2023, Schedule 16. (See end of Document for details)

- (5) Before preparing or altering the statement, the Gas and Electricity Markets Authority must consult—
- (a) the Secretary of State,
 - (b) the Scottish Ministers,
 - (c) the Welsh Ministers,
 - (d) the CMA, and
 - (e) each energy network enterprise.
- (6) The Gas and Electricity Markets Authority must from time to time—
- (a) review the statement, and
 - (b) where appropriate, change the statement and publish the new version.
- (7) In forming its opinion under this section, the Gas and Electricity Markets Authority must apply the methods set out in its latest statement.

68E Combined references

- (1) In respect of a relevant merger situation involving an energy network merger, the CMA may—
- (a) make a reference under both section 22 and section 68B, or
 - (b) make a reference under both section 33 and section 68C.
- (2) If the CMA does so—
- (a) the references may be decided by the same group constituted under Schedule 4 to the Enterprise and Regulatory Reform Act 2013;
 - (b) the functions of the CMA referred to in section 34C(1) and (2) may be carried out on behalf of the CMA by the same group in relation to both references; and
 - (c) the group’s duties under section 38 to prepare and publish a report on each reference may be satisfied by preparing and publishing a single report on both references.

68F Modification of this Part

- (1) In relation to—
- (a) a reference, or possible reference, under section 68B, and
 - (b) a reference, or possible reference, under section 68C,

Chapter 1 of this Part applies with the modifications set out in Schedule 5A.

- (2) In Chapters 2 to 5 of this Part, references to a provision of Chapter 1 include that provision as applied by subsection (1) and Schedule 5A.”

Commencement Information

I2 Sch. 16 para. 2 in force at Royal Assent, see [s. 334\(2\)\(j\)](#)

Changes to legislation: There are currently no known outstanding effects for the Energy Act 2023, Schedule 16. (See end of Document for details)

“SCHEDULE 5A

Section 68F

ENERGY NETWORK MERGERS AFFECTING COMPARATIVE
REGULATION: MODIFICATION OF CHAPTER 1 OF PART 3**General modifications**

- 1 (1) Chapter 1 (other than sections 22 and 33) has effect as if—
 - (a) references to a reference or possible reference under section 22 were references to a reference or possible reference under section 68B, and
 - (b) references to a reference or possible reference under section 33 were references to a reference or possible reference under section 68C.
- (2) The references in sub-paragraph (1) to a reference under a section include a reference treated as made under that section.

Turnover

- 2 Section 23 (relevant merger situations) has effect as if—
 - (a) in subsection (1), for paragraph (b) there were substituted—
 - “(b) the value of the turnover in Great Britain of the enterprise being taken over exceeds £70 million.”;
 - (b) subsections (2) to (8) were omitted.
- 3 Section 28 (turnover test) has effect as if—
 - (a) references to the United Kingdom were to Great Britain;
 - (b) in subsection (5), for “The CMA shall” there were substituted “The CMA and the Gas and Electricity Markets Authority shall each”;
 - (c) the reference in subsection (6) to section 23(1)(b) included a reference to that provision as modified by paragraph 2 of this Schedule.

Relevant customer benefits

- 4 Section 30 (relevant customer benefits) has effect as if—
 - (a) in subsection (1)(a)(i), for “lessening of competition concerned” there were substituted “prejudice to the Gas and Electricity Markets Authority”;
 - (b) in subsections (2)(b) and (3)(b), for “a similar lessening of competition” there were substituted “a similar prejudice to the Gas and Electricity Markets Authority”.

Time limits for decisions about references

- 5 Section 34ZA(1)(a) (time-limits for decisions about references) has effect as if—
 - (a) the reference to section 22(2) were to section 68B(2);

Changes to legislation: There are currently no known outstanding effects for the Energy Act 2023, Schedule 16. (See end of Document for details)

- (b) the reference to section 22(3) were to—
 - (i) that provision as applied by section 68B(4), and
 - (ii) section 68B(3);
- (c) the reference to section 33(2) were to section 68C(2);
- (d) the reference to section 33(3) were to—
 - (i) that provision as applied by section 68C(4), and
 - (ii) section 68C(3).

Questions to be decided in relation to completed mergers

- 6 Section 35 (questions to be decided in relation to completed mergers) has effect as if—
- (a) in subsection (1)(a), after “situation” there were inserted “involving an energy network merger”;
 - (b) in subsection (1)(b), for the words from “has resulted” to the end there were substituted “has caused, or may be expected to cause, substantial prejudice to the ability of the Gas and Electricity Markets Authority to make comparisons between energy network enterprises of the type involved in the energy network merger”;
 - (c) for subsection (2) there were substituted—

“(2) For the purposes of this section there is a prejudicial outcome if there is a situation described in subsection (1)(a) which has, or may be expected to have, the effect described in subsection (1)(b).”;
 - (d) in subsection (3), for “an anti-competitive outcome (within the meaning given by subsection (2)(a))” there were substituted “a prejudicial outcome”;
 - (e) in subsections (3)(a) and (b) and (4), for “lessening of competition” (in each place it appears) there were substituted “prejudice”.

Questions to be decided in relation to anticipated mergers

- 7 Section 36 (questions to be decided in relation to anticipated mergers) has effect as if—
- (a) in subsection (1)(a), after “situation” there were inserted “involving an energy network merger”;
 - (b) in subsection (1)(b), for the words from “result” to the end there were substituted “cause substantial prejudice to the ability of the Gas and Electricity Markets Authority to make comparisons between energy network enterprises of the type involved in the energy network merger”;
 - (c) after subsection (1) there were inserted—

“(1A) For the purposes of this section there is a prejudicial outcome if there are arrangements described in subsection (1)(a) which may be expected to have the effect described in subsection (1)(b).”;

Changes to legislation: There are currently no known outstanding effects for the Energy Act 2023, Schedule 16. (See end of Document for details)

- (d) in subsection (2), for “an anti-competitive outcome (within the meaning given by section 35(2)(b))” there were substituted “a prejudicial outcome”;
- (e) in subsections (2)(a) and (b) and (3), for “lessening of competition” (in each place it appears) there were substituted “prejudice”.

Duty to remedy effects of completed or anticipated mergers

- 8 Section 41 (duty to remedy effects of completed or anticipated mergers) has effect as if—
- (a) in subsection (1), for “an anti-competitive outcome” there were substituted “a prejudicial outcome (within the meaning of section 35(2) or 36(1A))”;
 - (b) in subsection (2)(a) and (b), for “lessening of competition” there were substituted “prejudice”;
 - (c) in subsection (4), for “lessening of competition” there were substituted “prejudice”.

Commencement Information

I3 Sch. 16 para. 3 in force at Royal Assent, see [s. 334\(2\)\(j\)](#)

PART 2

CONSEQUENTIAL AMENDMENTS OF PART 3 OF ENTERPRISE ACT 2002

- 4 Part 3 of the Enterprise Act 2002 is amended as follows.

Commencement Information

I4 Sch. 16 para. 4 in force at Royal Assent, see [s. 334\(2\)\(j\)](#)

- 5 (1) Section 22 (duty to make references in relation to completed mergers) is amended as follows.
- (2) In subsection (3)(c), after “section 33” insert “or [68B](#) or [68C](#)”.
 - (3) In subsection (7)(a), after “section 33” insert “, [68B](#) or [68C](#)”.

Commencement Information

I5 Sch. 16 para. 5 in force at Royal Assent, see [s. 334\(2\)\(j\)](#)

- 6 In section 33(3)(c) (circumstances in which references in relation to anticipated mergers may not be made), after “section 22” insert “or [68B](#) or [68C](#)”.

Commencement Information

I6 Sch. 16 para. 6 in force at Royal Assent, see [s. 334\(2\)\(j\)](#)

Changes to legislation: There are currently no known outstanding effects for the Energy Act 2023, Schedule 16. (See end of Document for details)

- 7 (1) Section 42 (intervention by Secretary of State in certain public interest cases) is amended as follows.
- (2) In subsection (1)(b), for “section 22 or 33” substitute “section 22, 33, [68B](#) or [68C](#)”.
- (3) In subsection (1)(c), after “33” insert “or [subsection \(2\)\(a\)](#) of section [68C](#)”.
- (4) In subsection (1)(d)—
- (a) for “section 22 or 33” substitute “section 22, 33, [68B](#) or [68C](#)”;
 - (b) in sub-paragraph (1), after the second “or (a)” insert “(including those provisions as applied by sections [68B](#) and [68C](#))”.

Commencement Information

I7 Sch. 16 para. 7 in force at Royal Assent, see [s. 334\(2\)\(j\)](#)

- 8 In section 56(2) (competition cases where intervention on public interest grounds ceases), for “or 33” (in both places it occurs) substitute “, 33, [68B](#) or [68C](#)”.

Commencement Information

I8 Sch. 16 para. 8 in force at Royal Assent, see [s. 334\(2\)\(j\)](#)

- 9 In section 57(1) (duties of CMA and OFCOM to inform Secretary of State), for “section 22 or 33” substitute “section 22, 33, [68B](#) or [68C](#)”.

Commencement Information

I9 Sch. 16 para. 9 in force at Royal Assent, see [s. 334\(2\)\(j\)](#)

- 10 In the italic heading at the beginning of Chapter 4, for “section 22 or 33” substitute “section 22, 33, [68B](#) or [68C](#)”.

Commencement Information

I10 Sch. 16 para. 10 in force at Royal Assent, see [s. 334\(2\)\(j\)](#)

- 11 (1) Section 72 (initial enforcement orders: completed or anticipated mergers) is amended as follows.
- (2) In subsection (1)(a), for “section 22 or 33” substitute “section 22, 33, [68B](#) or [68C](#)”.
- (3) In subsection (6)(a) and (d), for “section 22 or 33” substitute “section 22, 33, [68B](#) or [68C](#)”.

Commencement Information

I11 Sch. 16 para. 11 in force at Royal Assent, see [s. 334\(2\)\(j\)](#)

- 12 (1) Section 73 (undertakings in lieu of references) is amended as follows.
- (2) In the heading, for “22 or 33” substitute “22, 33, [68B](#) or [68C](#)”.

Changes to legislation: There are currently no known outstanding effects for the Energy Act 2023, Schedule 16. (See end of Document for details)

(3) After subsection (3) insert—

“(3A) Subsection (3B) applies if the CMA considers that it is under a duty to make a reference under section 68B or 68C; and for the purposes of this subsection it must—

- (a) disregard the operation of section 22(3)(b) or 33(3)(b) (as applied by section 68B or 68C), but
- (b) take account of its power under section 68B(2) or 68C(2) to decide not to make such a reference.

(3B) The CMA may, instead of making such a reference and for the purpose of remedying, mitigating or preventing the prejudice to the ability of the Gas and Electricity Markets Authority described in section 68B(1) or 68C(1), accept from such of the parties concerned as it considers appropriate undertakings to take such action as it considers appropriate.

(3C) In proceeding under subsection (3B), the CMA must, in particular, have regard to the need to achieve as comprehensive a solution as is reasonable and practicable to the prejudice.

(3D) Before proceeding under subsection (3B), the CMA must—

- (a) ask the Gas and Electricity Markets Authority to give its opinion on the effect of the undertakings offered, and
- (b) consider the Authority’s opinion.”

(4) In subsection (4), after “subsection (2)” insert “or (3B)”.

Commencement Information

I12 Sch. 16 para. 12 in force at Royal Assent, see [s. 334\(2\)\(j\)](#)

- 13 (1) Section 73A (time-limits for consideration of undertakings) is amended as follows.
- (2) In subsection (1), after “73(2)” insert “or (3B)”.
- (3) In subsection (2), for “those purposes” substitute “the purposes of section 73(2) or (3B)”.

Commencement Information

I13 Sch. 16 para. 13 in force at Royal Assent, see [s. 334\(2\)\(j\)](#)

- 14 (1) Section 74 (effect of undertakings under section 73) is amended as follows.
- (2) In subsection (1), for “or 45” substitute “, 45, 68B or 68C”.
- (3) In subsection (5)(a), for “or 33” substitute “, 33, 68B or 68C”.

Commencement Information

I14 Sch. 16 para. 14 in force at Royal Assent, see [s. 334\(2\)\(j\)](#)

Changes to legislation: There are currently no known outstanding effects for the Energy Act 2023, Schedule 16. (See end of Document for details)

- 15 In section 77(1)(a) (restrictions on certain dealings: completed mergers), after “22” insert “or [68B](#)”.

Commencement Information

I15 Sch. 16 para. 15 in force at Royal Assent, see [s. 334\(2\)\(j\)](#)

- 16 In section 78(1)(a) (restrictions on certain share dealings: anticipated mergers), after “33” insert “or [68C](#)”.

Commencement Information

I16 Sch. 16 para. 16 in force at Royal Assent, see [s. 334\(2\)\(j\)](#)

- 17 In section 79(1) and (2) (sections 77 and 78: further interpretation provisions), for “or 33” substitute “, 33, [68B](#) or [68C](#)”.

Commencement Information

I17 Sch. 16 para. 17 in force at Royal Assent, see [s. 334\(2\)\(j\)](#)

- 18 In section 80(1), (7) and (8) (interim undertakings), for “or 33” substitute “, 33, [68B](#) or [68C](#)”.

Commencement Information

I18 Sch. 16 para. 18 in force at Royal Assent, see [s. 334\(2\)\(j\)](#)

- 19 In section 81(1), (7) and (8) (interim orders), for “or 33” substitute “, 33, [68B](#) or [68C](#)”.

Commencement Information

I19 Sch. 16 para. 19 in force at Royal Assent, see [s. 334\(2\)\(j\)](#)

- 20 In section 82(3) and (4) (final undertakings), for “or 33” substitute “, 33, [68B](#) or [68C](#)”.

Commencement Information

I20 Sch. 16 para. 20 in force at Royal Assent, see [s. 334\(2\)\(j\)](#)

- 21 In section 84(5) (final orders), for “or 33” substitute “, 33, [68B](#) or [68C](#)”.

Commencement Information

I21 Sch. 16 para. 21 in force at Royal Assent, see [s. 334\(2\)\(j\)](#)

- 22 (1) Section 100 (exceptions to protection given by merger notices) is amended as follows.

Changes to legislation: There are currently no known outstanding effects for the Energy Act 2023, Schedule 16. (See end of Document for details)

(2) In subsection (1), for “or (as the case may be) 33” substitute “, 33, 68B or 68C”.

(3) In subsection (2)(a), for “or 33” substitute “, 33, 68B or 68C”.

Commencement Information

I22 Sch. 16 para. 22 in force at Royal Assent, see [s. 334\(2\)\(j\)](#)

23 In section 104(6) (certain duties of relevant authorities to consult), in the definition of “relevant decision”, in paragraph (a)(i), for “or 33” substitute “, 33, 68B or 68C”.

Commencement Information

I23 Sch. 16 para. 23 in force at Royal Assent, see [s. 334\(2\)\(j\)](#)

24 In section 105(1) (general information duties of CMA), for “or 33” substitute “, 33, 68B or 68C”.

Commencement Information

I24 Sch. 16 para. 24 in force at Royal Assent, see [s. 334\(2\)\(j\)](#)

25 (1) Section 106 (advice and information about references) is amended as follows.

(2) In the heading, for “sections 22 and 33” substitute “section 22, 33, 68B or 68C”.

(3) In subsection (1)(a), for “or 33” substitute “, 33, 68B or 68C”.

Commencement Information

I25 Sch. 16 para. 25 in force at Royal Assent, see [s. 334\(2\)\(j\)](#)

26 (1) Section 107 (further publicity requirements) is amended as follows.

(2) In subsection (1)(a), for “or 33” substitute “, 33, 68B or 68C”.

(3) In subsection (1)(aa), for “subsection (2)(b) of section 33” substitute “section 33(2)(b) or 68C(2)(a)”.

(4) In subsection (1)(b), for “or 33” substitute “, 33, 68B or 68C”.

(5) In subsection (2)(a), at the end insert “or 68C”.

(6) In subsection (2)(b), for the words from “a reference” to the end substitute “a reference under section 22 or 68B as if it had been made under section 33 or 68C or to treat a reference under section 33 or 68C as if it had been made under section 22 or 68B”.

Commencement Information

I26 Sch. 16 para. 26 in force at Royal Assent, see [s. 334\(2\)\(j\)](#)

Changes to legislation: There are currently no known outstanding effects for the Energy Act 2023, Schedule 16. (See end of Document for details)

- 27 In section 109(A1)(a) (attendance of witnesses and production of documents etc), for “or 33” substitute “, 33, [68B](#) or [68C](#)”.

Commencement Information

I27 Sch. 16 para. 27 in force at Royal Assent, see [s. 334\(2\)\(j\)](#)

- 28 In section 110A(5) and (6) (restriction on powers to impose penalties under section 110), for “or 33” substitute “, 33, [68B](#) or [68C](#)”.

Commencement Information

I28 Sch. 16 para. 28 in force at Royal Assent, see [s. 334\(2\)\(j\)](#)

- 29 In section 110B(1) and (2) (restriction on powers to impose penalties under section 110), for “or 33” substitute “, 33, [68B](#) or [68C](#)”.

Commencement Information

I29 Sch. 16 para. 29 in force at Royal Assent, see [s. 334\(2\)\(j\)](#)

- 30 In section 121(3)(a) (fees), for “or 33” substitute “, 33, [68B](#) or [68C](#)”.

Commencement Information

I30 Sch. 16 para. 30 in force at Royal Assent, see [s. 334\(2\)\(j\)](#)

- 31 In section 124(5) (orders and regulations), at the beginning insert “Regulations made by the Secretary of State under section [68A](#) or”.

Commencement Information

I31 Sch. 16 para. 31 in force at Royal Assent, see [s. 334\(2\)\(j\)](#)

- 32 In section 127(3) (associated person), for “or 62” substitute “, 62, [68B](#) or [68C](#)”.

Commencement Information

I32 Sch. 16 para. 32 in force at Royal Assent, see [s. 334\(2\)\(j\)](#)

- 33 (1) The table in section 130 (index of defined expressions) is amended as follows.
(2) After the entry for “Enactment” insert—

“Energy network enterprise	Section 68A
Energy network merger	Section 68A ”.

- (3) In the entry for “Final determination of reference under section 22 or 33”, for “or 33” substitute “, 33, [68B](#) or [68C](#)”.

- (4) In the entry for “References under section 22, 33, 45 or 62”—

Changes to legislation: There are currently no known outstanding effects for the Energy Act 2023, Schedule 16. (See end of Document for details)

- (a) for “or 62” substitute “, 62, 68B or 68C”, and
 - (b) after “37(2)” insert “(including as applied by Schedule 5A)”.
- (5) In the entry for “The turnover in the United Kingdom of an enterprise”, after “28(2)” insert “(including as applied by Schedule 5A)”.

Commencement Information

I33 Sch. 16 para. 33 in force at Royal Assent, see [s. 334\(2\)\(j\)](#)

- 34 (1) Schedule 7 (enforcement regime for public interest and special public interest cases) is amended as follows.
- (2) In paragraph 4(1), for “or 45” substitute “, 45, 68B or 68C”.
 - (3) In paragraph 4(2)(a), for “or 33” substitute “, 33, 68B or 68C”.

Commencement Information

I34 Sch. 16 para. 34 in force at Royal Assent, see [s. 334\(2\)\(j\)](#)

PART 3

CONSEQUENTIAL AMENDMENTS OF OTHER ENACTMENTS

Utilities Act 2000

- 35 In section 105(3) of the Utilities Act 2000 (general restrictions on disclosure of information), in paragraph (azb), after “under” insert “Part 3 of the Enterprise Act 2002 or under”.

Commencement Information

I35 Sch. 16 para. 35 in force at Royal Assent, see [s. 334\(2\)\(j\)](#)

Enterprise and Regulatory Reform Act 2013

- 36 (1) Schedule 4 to the Enterprise and Regulatory Reform Act 2013 is amended as follows.
- (2) In paragraph 35(3) (membership of CMA panel), in the definition of “specialist utility functions”, after paragraph (d) insert—
“(dza) a reference under section 68B or 68C of the Enterprise Act 2002;”.
 - (3) In paragraph 56 (CMA group decision: requirement for two thirds majority), after sub-paragraph (2) insert—
“(2A) Sub-paragraph (2B) applies where a decision of a CMA group under section 35(1) or 36(1) of that Act (as applied by section 68F of, and Schedule 5A to, that Act) that there is, or is likely to be, prejudice of the kind described in section 68B(1)(b) or 68C(1)(b) of that Act is not a qualifying majority decision.

Changes to legislation: There are currently no known outstanding effects for the Energy Act 2023, Schedule 16. (See end of Document for details)

(2B) The decision of the CMA group is to be treated as a decision under section 35(1) or, as the case may be, section 36(1) of that Act (as applied by section 68F of, and Schedule 5A to, that Act) that there is not, or is not likely to be, prejudice of that kind.”

Commencement Information

I36 Sch. 16 para. 36 in force at Royal Assent, see [s. 334\(2\)\(j\)](#)

Changes to legislation:

There are currently no known outstanding effects for the Energy Act 2023, Schedule 16.