

SCHEDULE

TRANSITIONAL PROVISIONS AND SAVINGS: THE COMPETITION AND MARKETS AUTHORITY AND COMPETITION REFORM

Abolition of OFT and Competition Commission

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2.—(1) Anything which, immediately before the commencement date, is in the process of being done by or in relation to the transferor may, so far as it relates to a relevant function, be continued by or in relation to the transferee.

(2) Anything done (or having effect as if done) by or in relation to the transferor for the purposes of or in connection with a relevant function is, if in force or effective immediately before the commencement date, to have effect as if done by or in relation to the transferee so far as that is required for continuing its effect on or after the commencement date.

(3) In the application of sub-paragraph (1) or (2)—

- (a) any reference made before the commencement date under section 22, 33, 45, 62, 131 or 132 of the 2002 Act⁽¹⁾ or section 59 of the Legal Services Act 2007⁽²⁾ to the Commission is to be treated, so far as provided by those sub-paragraphs, as a reference under that section to the chair of the CMA for the constitution of a CMA group,
- (b) where any functions exercisable immediately before the commencement date by a Commission group are to be exercisable on or after that date by a CMA group—
 - (i) any person who, immediately before the commencement date, is a member of the Commission group is to be treated, on or after that date, as a member of the CMA group concerned if the person is a member of the CMA panel,
 - (ii) any person who, immediately before the commencement date, is the chairman of the Commission group is to be treated, on or after that date, as the chair of the CMA group if the person is a member of the CMA panel, and
 - (iii) the persons treated as mentioned in sub-paragraph (i) or (ii) are to be treated, on or after the commencement date, as if they have been constituted in accordance with Part 3 of Schedule 4 to the Act as the chair and other members of the CMA group (and that Part applies accordingly in relation to the operation of the group), and
- (c) an authorisation given (whether by warrant or otherwise) before the commencement date, so far as it authorises a named member, or member of staff, of the OFT or the Commission, continues to authorise that individual (but no other) on or after the commencement date if, and only if, the individual is a member, or (as the case may be) a member of staff, of the CMA.

(1) Section 22 was amended by paragraph 1 of Schedule 19 to the Communications Act 2003 (c.21), paragraph 67 of Schedule 5 and paragraph 2 of Schedule 8 to the Enterprise and Regulatory Reform Act 2013 (c.24) and paragraph 2 of the Schedule to the EC Merger Control (Consequential Amendments) Regulations 2004 (S.I. 2004/1079). Section 33 was amended by paragraph 1 of Schedule 19 to the Communications Act 2003, paragraph 72 of Schedule 5 and paragraph 3 of Schedule 8 to the Enterprise and Regulatory Reform Act 2013 and paragraph 2 of the Schedule to the EC Merger Control (Consequential Amendments) Regulations 2004. Section 45 was amended by paragraph 9 of Schedule 16 to the Communications Act 2003 and paragraph 85 of Schedule 5 to the Enterprise and Regulatory Reform Act 2013. Section 62 was amended by paragraph 14 of Schedule 16 and paragraph 1 of Schedule 19 to the Communications Act 2003 and paragraph 104 of Schedule 5 to the Enterprise and Regulatory Reform Act 2013. Section 131 was amended by section 33 of, and paragraph 2 of Schedule 10 and paragraph 163 of Schedule 5 to, the Enterprise and Regulatory Reform Act 2013. Section 132 was amended by section 34 of, and paragraph 164 of Schedule 5, paragraph 3 of Schedule 10 and paragraph 10 of Schedule 12 to, the Enterprise and Regulatory Reform Act 2013.

(2) 2007 c.29. Section 59 was amended by paragraph 111 of Schedule 6 to the Enterprise and Regulatory Reform Act 2013.

Changes to legislation: There are currently no known outstanding effects for the The Enterprise and Regulatory Reform Act 2013 (Commencement No. 6, Transitional Provisions and Savings) Order 2014, Paragraph 2. (See end of Document for details)

(4) Any enactment, instrument or other document passed or made before the commencement date is to have effect, so far as necessary for the purposes of or in consequence of sub-paragraphs (1) to (3), as if any references (however expressed) to the transferor were references to the transferee.

(5) Sub-paragraphs (1) to (4)—

(a) do not apply in relation to any matter dealt with by a transfer scheme under section 27 of the Act or by any other transitional provision made by virtue of the Act; and

(b) do not apply so as to convert an appointment as a member of the OFT or the Commission into an appointment as a member of the CMA.

(6) Any enactment, instrument or other document passed or made before the commencement date is to have effect, so far as necessary for the purposes of or in consequence of its continued effect by virtue of sub-paragraph (8), (10) or (11) below or any of paragraphs 4 to 7, 9 to 12 and 16, as if any references (however expressed) to the transferor were references to the transferee.

(7) The repeals of section 45(4) of the Competition Act 1998⁽³⁾ and section 2(3) of the 2002 Act⁽⁴⁾ (general conversion of references to the Monopolies and Mergers Commission and the Director General of Fair Trading) by paragraphs 220 and 229 of Schedule 5 to the Act do not apply so far as those sections create references to the transferor to which sub-paragraph (4) or (6) above are capable of applying.

(8) The repeal of paragraph 12(1) to (3) of Schedule 7 to the Competition Act 1998 (annual accounts)⁽⁵⁾ by paragraph 222 of Schedule 5 to the Act does not apply in relation to any accounts for the financial year ending with 31st March 2014; and those provisions of the Act of 1998 continue to apply as if the obligations of the Commission in relation to its accounts were obligations of the CMA in relation to the Commission's accounts.

(9) The CMA must prepare accounts (and send them to the Comptroller and Auditor General) under section 5 of the Government Resources and Accounts Act 2000⁽⁶⁾ for the financial year ending with 31st March 2014 in respect of the OFT.

(10) The repeals of paragraph 12A of Schedule 7 to the Competition Act 1998⁽⁷⁾ and section 4(1) to (3) of the 2002 Act⁽⁸⁾ (annual reports) by paragraphs 222 and 229 of Schedule 5 to the Act do not apply in relation to any report for the financial year ending with 31st March 2014; and those provisions of the Act of 1998 and the 2002 Act continue to apply as if the obligation to make (and, in the case of the OFT, lay) a report about the Commission or OFT were an obligation of the CMA to make (or lay) such a report.

(11) The repeal of Part 2 of Schedule 3 to the 2002 Act (transfers between the Commission and the Competition Service) by paragraph 226 of Schedule 5 to the Act does not apply in relation to any transfer effected by virtue of that Part before the commencement date so far as that Part is capable of continuing to apply on or after the commencement date in relation to the transfer.

(12) The abolition of the OFT or the Commission does not affect the validity of anything done (or having effect as if done) by or in relation to the transferor before the commencement date.

(13) In this paragraph—

“CMA Board” has the same meaning as in Schedule 4 to the Act (see Part 2 of that Schedule);

(3) 1998 c.41. Section 45 was amended by section 187 of and paragraph 38 of Schedule 25 to the Enterprise Act 2002 and repealed by paragraph 220 of Schedule 5 to the Enterprise and Regulatory Reform Act 2013.

(4) 2002 c.40. Section 2 was repealed by paragraph 229 of Schedule 5 to the Enterprise and Regulatory Reform Act 2013.

(5) Paragraph 12(1) to (3) of Schedule 7 was repealed by paragraph 222 of Schedule 5 to the Enterprise and Regulatory Reform Act 2013.

(6) 2000 c.20. Section 5 was amended by paragraph 1 of Schedule 1 to the Statute Law (Repeals) Act 2004 (c.14), section 43 of the Constitutional Reform and Governance Act 2010 (c.25), paragraph 14 of Schedule 7 to the Companies Act 1985 (International Accounting Standards and Other Accounting Amendments) Regulations 2004 (S.I. 2004/2947) and paragraph 214 of the Schedule to the Companies Act (Consequential Amendments etc) Order 2008 (S.I. 2008/948).

(7) Paragraph 12A of Schedule 7 was inserted by section 186 of the Enterprise Act 2002 and repealed by paragraph 222 of Schedule 5 to the Enterprise and Regulatory Reform Act 2013.

(8) Section 4 was repealed by paragraph 229 of Schedule 5 to the Enterprise and Regulatory Reform Act 2013.

“CMA group” means a group constituted in accordance with Part 3 of Schedule 4 to the Act;

“CMA panel” has the same meaning as in Schedule 4 to the Act (see Part 3 of that Schedule);

“Commission group” means a group constituted under any enactment to perform functions of the Commission;

“the Council” means the Competition Commission Council;

“relevant function” means any function of the transferor which is transferred to the transferee by virtue of Part 3 or 4 of the Act or sub-paragraph (6) above;

“transferee” means the CMA, the CMA Board, a CMA group, the chair of the CMA, another member of the CMA or (as the case may be) a member of staff of the CMA;

“transferor” means the OFT, the Commission, the Council, a Commission group, the chairman of the OFT or Commission, another member of the OFT or Commission or a member of staff of the OFT or Commission;

and references in this paragraph to things done include references to things omitted to be done.

Commencement Information

II Sch. para. 2 in force at made date

Changes to legislation:

There are currently no known outstanding effects for the The Enterprise and Regulatory Reform Act 2013 (Commencement No. 6, Transitional Provisions and Savings) Order 2014, Paragraph 2.