

SCHEDULES

SCHEDULE 10

REGULATORS

PART III

THE PROHIBITIONS: NORTHERN IRELAND

Electricity

- 7 (1) In consequence of the repeal by this Act of provisions of the Competition Act 1980, the functions transferred by paragraph (3) of Article 46 of the Electricity (Northern Ireland) Order 1992 (functions with respect to competition) are no longer exercisable by the Director General of Electricity Supply for Northern Ireland.
- (2) Accordingly, that Order is amended as follows.
- (3) In Article 6 (general duties of the Director), after paragraph (2), add—
- “ (3) Paragraph (1) does not apply in relation to anything done by the Director in the exercise of functions assigned to him by Article 46(3) (“Competition Act functions”).
- (4) The Director may nevertheless, when exercising any Competition Act function, have regard to any matter in respect of which a duty is imposed by paragraph (1) (“a general matter”), if it is a matter to which the Director General of Fair Trading could have regard when exercising that function; but that is not to be taken as implying that, in the exercise of any function mentioned in Article 4(7) or paragraph (2), regard may not be had to any general matter.”
- (4) Article 46 is amended as follows.
- (5) For paragraph (3) substitute—
- “ (3) The Director shall be entitled to exercise, concurrently with the Director General of Fair Trading, the functions of that Director under the provisions of Part I of the Competition Act 1998 (other than sections 38(1) to (6) and 51), so far as relating to—
- (a) agreements, decisions or concerted practices of the kind mentioned in section 2(1) of that Act, or
- (b) conduct of the kind mentioned in section 18(1) of that Act,
- which relate to commercial activities connected with the generation, transmission or supply of electricity.
- (3A) So far as necessary for the purposes of, or in connection with, the provisions of paragraph (3), references in Part I of the Competition Act 1998 to the

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Director General of Fair Trading are to be read as including a reference to the Director (except in sections 38(1) to (6), 51, 52(6) and (8) and 54 of that Act and in any other provision of that Act where the context otherwise requires).”

- (6) In paragraph (4), omit sub-paragraph (c) and the “and” immediately after it.
- (7) In paragraph (5), omit “or (3)”.
- (8) In paragraph (6), for sub-paragraph (b) substitute—
 - “(b) Part I of the Competition Act 1998 (other than sections 38(1) to (6) and 51),”.
- (9) In paragraph (7), omit “or the 1980 Act”.

Gas

- 8 (1) In consequence of the repeal by this Act of provisions of the Competition Act 1980, the functions transferred by paragraph (3) of Article 23 of the Gas (Northern Ireland) Order 1996 (functions with respect to competition) are no longer exercisable by the Director General of Gas for Northern Ireland.
- (2) Accordingly, that Order is amended as follows.
- (3) In Article 5 (general duties of the Department and Director), after paragraph (4), insert—
 - “(4A) Paragraphs (2) to (4) do not apply in relation to anything done by the Director in the exercise of functions assigned to him by Article 23(3) (“Competition Act functions”).
 - (4B) The Director may nevertheless, when exercising any Competition Act function, have regard to any matter in respect of which a duty is imposed by any of paragraphs (2) to (4), if it is a matter to which the Director General of Fair Trading could have regard when exercising that function.”
- (4) Article 23 is amended as follows.
- (5) For paragraph (3) substitute—
 - “(3) The Director shall be entitled to exercise, concurrently with the Director General of Fair Trading, the functions of that Director under the provisions of Part I of the Competition Act 1998 (other than sections 38(1) to (6) and 51), so far as relating to—
 - (a) agreements, decisions or concerted practices of the kind mentioned in section 2(1) of that Act, or
 - (b) conduct of the kind mentioned in section 18(1) of that Act, connected with the conveyance, storage or supply of gas.
 - (3A) So far as necessary for the purposes of, or in connection with, the provisions of paragraph (3), references in Part I of the Competition Act 1998 to the Director General of Fair Trading are to be read as including a reference to the Director (except in sections 38(1) to (6), 51, 52(6) and (8) and 54 of that Act and in any other provision of that Act where the context otherwise requires).”
- (6) In paragraph (4)—
 - (a) for “transferred by”, in each place, substitute “mentioned in”;

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- (b) after sub-paragraph (b), insert “and”;
 - (c) omit sub-paragraph (d) and the “and” immediately before it.
- (7) In paragraph (5), omit “or (3)”.
- (8) In paragraph (6), for sub-paragraph (b) substitute—
“*(b)* Part I of the Competition Act 1998 (other than sections 38(1) to (6) and 51),”.
- (9) In paragraph (7)—
 - (a) omit “or under the 1980 Act”;
 - (b) for “or (3)” substitute “and paragraph 1 of Schedule 10 to the Competition Act 1998”.
- (10) In paragraph (8), omit “or the 1980 Act”.
- (11) In paragraph (9), for the words from “transferred” to the end substitute “mentioned in paragraph (2) or (3).”