

SCHEDULES

SCHEDULE 1

Section 1

THE NATIONAL CONSUMER COUNCIL

PART 1

MEMBERS OF THE COUNCIL

Membership

- 1 (1) The Council is to consist of the following members—
 - (a) a chairman (“the Council Chairman”) appointed by the Secretary of State,
 - (b) the chairman of each territorial committee, and
 - (c) such other members as may be appointed by the Secretary of State.
- (2) In this Schedule—
 - (a) references to executive members of the Council are to the members of the Council appointed from the staff of the Council, and
 - (b) references to non-executive members of the Council are to the members of the Council who are not executive members.
- (3) The Council Chairman must be a non-executive member of the Council.
- (4) The persons appointed under sub-paragraph (1)(c) may include one or both of the following—
 - (a) a member of the Consumer Panel established by the Financial Services Authority under the Financial Services and Markets Act 2000 (c. 8) nominated for the appointment by that Panel after consultation with the Council Chairman and the Financial Services Authority;
 - (b) a member of the Consumer Panel established by the Office of Communications under the Communications Act 2003 (c. 21) nominated for the appointment by that Panel after consultation with the Council Chairman and the Office of Communications.
- (5) Nothing in sub-paragraph (4) prevents the Secretary of State from appointing under sub-paragraph (1)(c) a person who is a member of either Panel but is not the subject of a nomination for the purposes of sub-paragraph (4).
- (6) A person may be appointed under sub-paragraph (1)(c) only if—
 - (a) in the case of an appointment of a non-executive member, the Secretary of State has consulted the Council Chairman about the appointment;
 - (b) in the case of an appointment of an executive member, the person has been nominated by the Council Chairman for appointment to the Council.

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- (7) In making appointments to the Council under sub-paragraph (1)(c) the Secretary of State must secure that a majority of the members of the Council are non-executive members.
- (8) In making appointments to the Council, the Secretary of State must have regard to the desirability of including among the members of the Council one or more persons with experience of work among, and the special needs of, disabled persons.

Terms of appointment and tenure of members

- 2 Subject to this Schedule, a member of the Council—
 - (a) is to hold and vacate office in accordance with the terms and conditions of the member's appointment, and
 - (b) may resign or be removed from office in accordance with those terms and conditions.
- 3 (1) The Council may pay, or make provision for paying—
 - (a) its non-executive members such remuneration as the Secretary of State may determine, and
 - (b) any of its members such travelling and other allowances as the Secretary of State may determine.
 (2) The Council may—
 - (a) pay to or in respect of any person who is or has been a non-executive member such pension, allowances or gratuities as the Secretary of State may determine, or
 - (b) make such payments as the Secretary of State may determine towards provision for the payment of a pension, allowance or gratuity to or in respect of such a person.
- 4 (1) A non-executive member must be appointed for a fixed period.
 (2) The period for which a non-executive member is appointed must not exceed 5 years.
 (3) A person who has held office as a non-executive member may be re-appointed as a non-executive member, once only, for a further period (whether consecutive or not) not exceeding 5 years.
- 5 (1) A person ceases to be a member of the Council if—
 - (a) in the case of the Council Chairman, the person ceases to hold that office or becomes a member of the staff of the Council;
 - (b) in the case of a member within paragraph 1(1)(b), the person ceases to be the chairman of a territorial committee;
 - (c) in the case of any other non-executive member, the person becomes a member of the staff of the Council;
 - (d) in the case of an executive member, the person ceases to be a member of the staff of the Council;
 - (e) in the case of a non-executive member appointed by virtue of a nomination within paragraph 1(4), the person ceases to be a member of the Panel which made the nomination.

- (2) The Secretary of State may remove any person from office as chairman or another member of the Council on the grounds that the person is unable, unfit or unwilling to discharge the functions of the office.
- 6 Where—
- (a) a non-executive member ceases to be a member otherwise than on the expiry of the member's term of office, and
 - (b) it appears to the Secretary of State that there are circumstances which make it right for that person to receive compensation,
- the Council may make a payment to that person of such amount as the Secretary of State may determine.

PART 2

STAFF OF THE COUNCIL

The Chief Executive

- 7 (1) The Council is to employ a person as its Chief Executive.
- (2) The first appointment of a Chief Executive—
- (a) is to be made by the Secretary of State, and
 - (b) is to be on such terms and conditions as are determined by the Secretary of State.
- (3) Subsequent appointments of a Chief Executive—
- (a) are to be made by the Council with the approval of the Secretary of State, and
 - (b) are to be on such terms and conditions as are determined by the Council with the approval of the Secretary of State.

Other staff

- 8 (1) The Council may appoint such other staff, on such terms and conditions, as it considers appropriate.
- (2) The approval of the Secretary of State as to numbers and as to terms and conditions of staff is required for the exercise by the Council of its powers under sub-paragraph (1).

The Superannuation Act 1972

- 9 (1) The persons to whom section 1 of the Superannuation Act 1972 (c. 11) (persons to or in respect of whom benefits may be provided by schemes under that section) applies are to include the Chief Executive and the other employees of the Council.
- (2) Accordingly, in Schedule 1 to that Act (employment to which superannuation schemes may extend), in the list of other bodies, at the appropriate place insert—
- “The National Consumer Council established under the Consumers, Estate Agents and Redress Act 2007.”
- (3) The Council must pay to the Minister for the Civil Service, at such times as that Minister may direct, such sums as that Minister may determine in respect of the

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increase attributable to sub-paragraph (1) in the sums payable out of money provided by Parliament under that Act.

Arrangements for assistance

- 10 (1) The Council may make arrangements with such persons as it considers appropriate for assistance to be provided to it.
- (2) Arrangements may include the paying of fees to such persons.

PART 3

TERRITORIAL, REGIONAL AND OTHER COMMITTEES

Constitution of territorial committees

- 11 (1) A territorial committee is to consist of a chairman, and such other members, as the Secretary of State may appoint.
- (2) In this Schedule—
- (a) references to executive members of a territorial committee are to the members of the committee appointed from the staff of the Council, and
 - (b) references to non-executive members of a territorial committee are to the members who are not executive members of the committee.
- (3) The chairman of a territorial committee must be a non-executive member of the committee.
- (4) In appointing persons to a territorial committee the Secretary of State must secure that a majority of the members of the committee are non-executive members.
- (5) Before appointing a person as a non-executive member of a territorial committee the Secretary of State must consult—
- (a) the Council Chairman,
 - (b) except where the appointment is as chairman, the chairman of the territorial committee,
 - (c) in the case of the Scottish Consumer Council, the Scottish Ministers, and
 - (d) in the case of the Welsh Consumer Council, the Welsh Ministers,
- about the appointment.
- (6) A person may be appointed as an executive member of a territorial committee only if the person has been nominated for the appointment by the Council Chairman, after consultation with the chairman of the territorial committee.
- (7) In making appointments to a territorial committee, the Secretary of State must have regard to the desirability of including among the members of the committee one or more persons with experience of work among, and the special needs of, disabled persons.

Regional committees

- 12 (1) The Council may, with the approval of the Secretary of State, establish one or more committees for areas within the United Kingdom.

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- (2) In this Schedule references to a “regional committee” are to a committee established under sub-paragraph (1).
- (3) The purposes of a regional committee are—
 - (a) the provision of advice and information to the Council about such consumer matters affecting the area for which the committee is established as may be specified by the Council, and
 - (b) such other purposes as the Council may determine.
- (4) The Council may not abolish a regional committee, or alter the area for which a regional committee is established, except with the approval of the Secretary of State.
- (5) If the Council proposes to do anything mentioned in sub-paragraph (1) or (4), it must, after consulting the Secretary of State, give notice—
 - (a) describing its proposals, and
 - (b) specifying the period (not being less than 2 months) starting with the date of the notice within which representations may be made with respect to the proposals,and consider any representations that are duly made and not withdrawn.
- (6) A notice under sub-paragraph (5) must be given by publishing it in such manner as the Council considers appropriate for bringing the proposals to the attention of those likely to be affected by them.
- (7) The Secretary of State may not give his approval under sub-paragraph (4) until after the period specified in the notice under sub-paragraph (5).

Constitution of regional committees

- 13 (1) A regional committee is to consist of a chairman, and such other members, as the Council may appoint.
- (2) In this Schedule—
 - (a) references to executive members of a regional committee are to the members of the committee appointed from the staff of the Council, and
 - (b) references to non-executive members of a regional committee are to the members who are not executive members of the committee.
- (3) The chairman of a regional committee must be a non-executive member of the committee.
- (4) In appointing persons to a regional committee the Council must secure that a majority of the members of the committee are non-executive members.
- (5) In making appointments to a regional committee, the Council must have regard to the desirability of including among the members of the committee one or more persons with experience of work among, and the special needs of, disabled persons.

Other committees

- 14 The Council may establish such other committees as it considers appropriate.

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General provision about committees

- 15 (1) In this paragraph and paragraphs 16 and 17 “committee” means—
- (a) a territorial committee,
 - (b) a regional committee, or
 - (c) a committee established under paragraph 14.
- (2) A committee may establish sub-committees.
- (3) The members of a committee or sub-committee may include persons who are not members of the Council.
- (4) The members of a sub-committee established by a committee may include persons who are not members of the committee.

Terms of appointment etc

- 16 Subject to this Schedule, a member of a committee—
- (a) is to hold and vacate office in accordance with the terms and conditions of the member’s appointment, and
 - (b) may resign or be removed from office in accordance with those terms and conditions.
- 17 (1) The Council may—
- (a) pay to any non-executive member of a committee or sub-committee, such remuneration as the Secretary of State may determine;
 - (b) pay to any member of a committee or sub-committee, such travelling and other allowances as the Secretary of State may determine.
- (2) For the purposes of sub-paragraph (1), the non-executive members of a committee established under paragraph 14 or a sub-committee are such of its members as are not also members of the staff of the Council.
- (3) The Council may—
- (a) pay to or in respect of any person who is or has been a non-executive member of a territorial committee such pension, allowances or gratuities as the Secretary of State may determine, or
 - (b) make such payments as the Secretary of State may determine towards provision for the payment of a pension, allowance or gratuity to or in respect of such a person.
- 18 (1) A non-executive member of a territorial or regional committee must be appointed for a fixed period.
- (2) The period for which a non-executive member of a territorial or regional committee is appointed must not exceed 5 years.
- (3) A person who has held office as a non-executive member of a territorial or regional committee may be re-appointed as a non-executive member of that committee, once only, for a further period (whether consecutive or not) not exceeding 5 years.
- 19 (1) A person ceases to be a member of a territorial or regional committee where—
- (a) in the case of the chairman of the committee, the person ceases to hold that office or becomes a member of the staff of the Council;

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- (b) in the case of any other non-executive member, the person becomes a member of the staff of the Council;
 - (c) in the case of an executive member, the person ceases to be a member of the staff of the Council.
 - (2) The Secretary of State may remove any person from office as chairman or another member of a territorial committee on the grounds that the person is unable, unfit or unwilling to discharge the functions of the office.
- 20 Where—
- (a) a non-executive member of a territorial committee ceases to be a member of the committee otherwise than on the expiry of the member's term of office, and
 - (b) it appears to the Secretary of State that there are circumstances which make it right for that person to receive compensation,
- the Council may make a payment to that person of such amount as the Secretary of State may determine.

PART 4

PROCEDURE ETC

Procedure

- 21 The Council may regulate—
- (a) its own procedure (including quorum), and
 - (b) the procedure (including quorum) of its committees and sub-committees.
- 22 The validity of any act of the Council is not affected by—
- (a) any vacancy among the members of the Council or of any of its committees or sub-committees, or
 - (b) any defect in the appointment of any member of the Council or of any of its committees or sub-committees, or any disqualification of a person as chairman or another member of the Council.

Delegation

- 23 (1) The Council may authorise—
- (a) the Council Chairman or any other member of the Council,
 - (b) any of its committees or sub-committees, or
 - (c) the Chief Executive or any other member of staff,
- to exercise, on behalf of the Council, such of its functions, in such circumstances, as the Council may determine.
- (2) Any committee established by the Council may delegate functions (including functions delegated to the committee) to—
- (a) the Council Chairman or any other member of the Council,
 - (b) any member of the committee,
 - (c) a sub-committee of the committee, or
 - (d) the Chief Executive or any other member of staff.

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Application of seal and proof of instruments

- 24 The application of the seal of the Council is to be authenticated by the signature of—
- (a) any member of the Council,
 - (b) the Chief Executive of the Council, or
 - (c) any person who has been authorised (whether generally or specifically) by the Council for the purpose.
- 25 Any contract or instrument which, if entered into or executed by an individual, would not need to be under seal may be entered into or executed on behalf of the Council by any person who has been authorised (whether generally or specifically) by the Council for the purpose.
- 26 A document purporting to be duly executed under the seal of the Council, or signed on its behalf—
- (a) is to be received in evidence, and
 - (b) is to be taken to be executed or signed in that way, unless the contrary is proved.

Offices

- 27 (1) The Council must maintain an office in each of England, Northern Ireland, Scotland and Wales.
- (2) The Council may, with the approval of the Secretary of State, establish additional offices in the United Kingdom.

PART 5

FUNDING AND ACCOUNTS

Funding

- 28 The Secretary of State may pay the Council out of money provided by Parliament such sums as the Secretary of State may determine towards the Council's expenses.
- 29 (1) Section 8 of the Utilities Act 2000 (c. 27) (payments by licence holders relating to new arrangements) is amended as follows.
- (2) In subsection (2) after “subsection (3)” insert “or (3A)”.
- (3) In subsection (3)—
- (a) for “Those expenses” substitute “The expenses within this subsection”,
 - (b) in paragraph (a) for “Council” substitute “Gas and Electricity Consumer Council”, and
 - (c) omit paragraph (b) and the “and” immediately preceding it.
- (4) After that subsection insert—
- “(3A) The expenses within this subsection are—
- (a) the appropriate proportion of the expenses of the Council (including expenses which relate to its establishment but not expenses within paragraph (c));

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- (b) the appropriate proportion of the expenses of the Secretary of State which relate to the establishment of the Council;
 - (c) any expenses of the Council, the Secretary of State or the Gas and Electricity Consumer Council which relate to a transfer scheme made in respect of the Gas and Electricity Consumer Council under section 35(2)(a) or (7) of the Consumers, Estate Agents and Redress Act 2007;
 - (d) the expenses of the Secretary of State which relate to the abolition of the Gas and Electricity Consumer Council;
 - (e) the expenses of the Office of Fair Trading which relate to the expansion of an OFT scheme to enable it to cater for gas and electricity consumers;
 - (f) the appropriate proportion of the expenses of the Office of Fair Trading on, or in connection with, the support of any OFT scheme.
- (3B) The “appropriate proportion” of any expenses means such proportion of the expenses as the Secretary of State considers is reasonable having regard to—
- (a) in the case of expenses within subsection (3A)(a) or (b), the functions exercisable by the Council in relation to gas and electricity consumers, and
 - (b) in the case of expenses within subsection (3A)(f), the functions under the OFT scheme which are exercisable in relation to gas and electricity consumers.”
- (5) In subsection (4) for paragraphs (a) and (b) substitute—
- “(a) the establishment of the Council, or
 - (b) the abolition of the Gas and Electricity Consumer Council.”
- (6) For subsection (5) substitute—
- “(5) The Authority may, in accordance with this section, make such incidental or consequential modifications of—
- (a) the other conditions of a gas licence or an electricity licence, or
 - (b) any code or agreement relevant to the conditions of such a licence,
- as it considers necessary or expedient in consequence of, or of preparations for, an event mentioned in subsection (4)(a) or (b).”
- (7) In subsection (6) after “licence” insert “or any code or agreement”.
- (8) Omit subsection (7).
- (9) For subsection (8) substitute—
- “(8) The powers of the Authority under subsection (4) (as amended by paragraph 29 of Schedule 1 to the Consumers, Estate Agents and Redress Act 2007), and subsection (5) as it applies in relation to that subsection, may not be exercised after the end of the period of 2 years beginning with the commencement of that paragraph.”
- (10) In subsection (9) after “(3)” insert “or (3A)”.
- (11) After that subsection insert—
- “(10) For the purposes of this section—

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“consumer” has the same meaning as in Part 1 of the Consumers, Estate Agents and Redress Act 2007 (see section 3 of that Act);

“gas and electricity consumers” means consumers in relation to gas conveyed through pipes or electricity conveyed by distribution systems or transmission systems;

“OFT scheme” means any public consumer advice scheme supported by the Office of Fair Trading.”

30 In section 39 of the Postal Services Act 2000 (c. 26) (recovery of costs of the Council etc)—

- (a) for “the Council”, in the first place, substitute “the Consumer Council for Postal Services”, and
- (b) omit “or of the Secretary of State in relation to the establishment of the Council”.

31 (1) After section 39 of that Act insert—

“39A Licences and the new arrangements

- (1) The conditions of a licence may require the payment by the licence holder of sums relating to any of the expenses mentioned in subsection (2).
- (2) The expenses within this subsection are—
 - (a) the appropriate proportion of the expenses of the Council (including expenses which relate to its establishment but not expenses within paragraph (c));
 - (b) the appropriate proportion of the expenses of the Secretary of State which relate to the establishment of the Council;
 - (c) any expenses of the Council, the Secretary of State or the Consumer Council for Postal Services which relate to a transfer scheme made in respect of the Consumer Council for Postal Services under section 35(2)(a) or (7) of the Consumers, Estate Agents and Redress Act 2007;
 - (d) the expenses of the Secretary of State which relate to the abolition of the Consumer Council for Postal Services;
 - (e) the expenses of the Office of Fair Trading which relate to the expansion of an OFT scheme to enable it to cater for postal services consumers;
 - (f) the appropriate proportion of the expenses of the Office of Fair Trading on, or in connection with, the support of any OFT scheme.
- (3) The “appropriate proportion” of any expenses means such proportion of the expenses as the Secretary of State considers is reasonable having regard to—
 - (a) in the case of expenses within subsection (2)(a) or (b), the functions exercisable by the Council in relation to postal services consumers, and
 - (b) in the case of expenses within subsection (2)(f), the functions under the OFT scheme which are exercisable in relation to those consumers.
- (4) The Commission may, in accordance with this section, modify any condition included in a licence by virtue of section 39 where the Commission considers it necessary or expedient to do so in consequence of, or of preparations for—

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- (a) the establishment of the Council, or
 - (b) the abolition of the Consumer Council for Postal Services.
- (5) The Commission may, in accordance with this section, make such incidental or consequential modifications of the other conditions of a licence, as it considers necessary or expedient in consequence of, or of preparations for, an event mentioned in subsection (4)(a) or (b).
- (6) Before modifying the conditions of a licence under subsection (4) or (5) the Commission must consult the licence holder.
- (7) The powers of the Commission under subsection (4) or (5) may not be exercised after the end of the period of 2 years beginning with the commencement of those subsections.
- (8) The Secretary of State may give directions to the Commission for the purpose of securing that sums relating to any of the expenses mentioned in subsection (2) are included in the sums payable by virtue of conditions in licences and the Commission must comply with any such direction.
- (9) In this section—
- “consumer” has the same meaning as in Part 1 of the Consumers, Estate Agents and Redress Act 2007 (see section 3 of that Act);
 - “postal services consumers” means consumers in relation to relevant postal services (within the meaning of section 41);
 - “OFT scheme” means any public consumer advice scheme supported by the Office of Fair Trading.”

Accounts

- 32 (1) The Council must—
- (a) keep proper accounts and proper records in relation to the accounts, and
 - (b) prepare in respect of each financial year a statement of accounts.
- (2) Each statement of accounts must comply with any directions given by the Secretary of State, with the approval of the Treasury, as to—
- (a) the information to be contained in it and the manner in which it is to be presented;
 - (b) the methods and principles according to which the statement is to be prepared;
 - (c) the additional information (if any) which is to be provided for the information of Parliament.
- (3) The Council must give a copy of each statement of accounts—
- (a) to the Secretary of State, and
 - (b) to the Comptroller and Auditor General,
- before the end of the month of August next following the financial year to which the statement relates.
- (4) The Comptroller and Auditor General must—
- (a) examine, certify and report on each statement of accounts which is received under sub-paragraph (3), and

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- (b) send a copy of the certified statement and the Comptroller and Auditor General's report to the Secretary of State, who shall lay them before Parliament.

PART 6

STATUS ETC

Status

- 33 (1) The Council is not to be regarded—
- (a) as the servant or agent of the Crown, or
 - (b) as enjoying any status, immunity or privilege of the Crown.
- (2) Accordingly, the Council's property is not to be regarded as property of or held on behalf of the Crown.

Disqualification

- 34 (1) In Part 2 of Schedule 1 to the House of Commons Disqualification Act 1975 (c. 24) (bodies of which all members are disqualified) at the appropriate place insert—
- “The National Consumer Council.”
- (2) In Part 3 of that Schedule (other disqualifying offices) at the appropriate place insert—
- “A member of a committee of the National Consumer Council established under section 1 of, or paragraph 12 of Schedule 1 to, the Consumers, Estate Agents and Redress Act 2007 (territorial and regional committees).”
- (3) In Part 2 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (c. 25) (bodies of which all members are disqualified) at the appropriate place insert—
- “The National Consumer Council.”
- (4) In Part 3 of that Schedule (other disqualifying offices) at the appropriate place insert—
- “A member of a committee of the National Consumer Council established under section 1 of, or paragraph 12 of Schedule 1 to, the Consumers, Estate Agents and Redress Act 2007 (territorial and regional committees).”

Freedom of information

- 35 In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (c. 36) (other public bodies and offices which are public authorities) at the appropriate place insert—
- “The National Consumer Council.”

Public records

- 36 (1) In Schedule 1 to the Public Records Act 1958 (c. 51) (definition of public records) at the appropriate place in Part 2 of the Table at the end of paragraph 3 insert—
- “The National Consumer Council.”
- (2) The records of the Council are to include—
- (a) on and after commencement of section 30(1), the records of the Gas and Electricity Consumer Council, and
 - (b) on and after commencement of section 30(2), the records of the Consumer Council for Postal Services,
- and those records are to be dealt with accordingly under the Public Records Act 1958.

Parliamentary Commissioner Act 1967

- 37 In Schedule 2 to the Parliamentary Commissioner Act 1967 (c. 13) (departments and authorities subject to investigation) at the appropriate place insert—
- “The National Consumer Council.”

Exemption from liability in damages

- 38 (1) This paragraph applies to—
- (a) the Council;
 - (b) a member of the Council;
 - (c) a member of any territorial committee, regional committee or other committee or sub-committee of the Council;
 - (d) the Chief Executive or any other member of the Council’s staff.
- (2) A person to whom this paragraph applies is not liable in damages for anything done or omitted in the exercise or purported exercise of the functions of the Council conferred by or by virtue of this or any other enactment.
- (3) But sub-paragraph (2) does not apply—
- (a) if it is shown that the act or omission was in bad faith, or
 - (b) so as to prevent an award of damages made in respect of an act or omission on the ground that the act or omission was unlawful as a result of section 6(1) of the Human Rights Act 1998 (c. 42).
- (4) In this paragraph “enactment” means—
- (a) an Act of Parliament,
 - (b) an Act of the Scottish Parliament,
 - (c) a Measure or Act of the National Assembly for Wales, or
 - (d) Northern Ireland legislation,
- whenever passed or made.