

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.

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- (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.

Status: This is the original version (as it was originally enacted).

SCHEDULE 2

Section 25

ENFORCEMENT OF INFORMATION REQUIREMENTS

Gas Act 1986 (c. 44)

- 1 In section 28 of the Gas Act 1986 (orders for securing compliance with certain provisions), in subsection (8), in the definition of “relevant requirement” for “or section 27(4)(b) of the Utilities Act 2000 (order to comply with a direction under section 24 of that Act)” substitute “or section 25(5) of the Consumers, Estate Agents and Redress Act 2007 (directions to comply with requirements under section 24 of that Act)”.

Electricity Act 1989 (c. 29)

- 2 In section 25 of the Electricity Act 1989 (orders for securing compliance), in subsection (8), in the definition of “relevant requirement” for “or section 27(4)(b) of the Utilities Act 2000 (order to comply with a direction under section 24 of that Act)” substitute “or section 25(5) of the Consumers, Estate Agents and Redress Act 2007 (directions to comply with requirements under section 24 of that Act)”.

Postal Services Act 2000 (c. 26)

- 3 (1) The Postal Services Act 2000 is amended as follows.
- (2) In section 22 (final orders)—
- (a) in subsection (1)—
 - (i) in paragraph (a) for “any condition of his licence” substitute “any relevant requirement”,
 - (ii) in paragraph (b) for “condition” substitute “requirement”, and
 - (iii) for “the condition” substitute “the requirement”, and
 - (b) for subsection (5) substitute—

“(5) In this Act—

“final order” means an order under this section;

“relevant requirement”, in relation to a licence holder, means—

 - (a) a condition of the licence holder’s licence, or
 - (b) an obligation imposed on the licence holder by virtue of section 25(5) of the Consumers, Estate Agents and Redress Act 2007 (directions to comply with requirements to provide information under section 24 of that Act).”
- (3) In section 23 (provisional orders)—
- (a) in subsection (1)—
 - (i) in paragraph (a), for “any condition of his licence or is likely to contravene any such condition” substitute “any relevant requirement or is likely to contravene any such requirement”, and
 - (ii) for “the licence condition” substitute “the relevant requirement”,
 - (b) for subsection (2)(a) substitute—

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- “(a) that the licence holder is contravening any relevant requirement or is likely to contravene any such requirement, and”, and
 - (c) in subsection (3) for “licence condition” substitute “relevant requirement”.
- (4) In section 24 (confirmation of provisional orders), in subsection (1)—
 - (a) for paragraph (a) substitute—
 - “(a) it is satisfied that the licence holder is contravening any relevant requirement or is likely to contravene any such requirement, and”, and
 - (b) in paragraph (b) for “condition” substitute “requirement”.
- (5) In section 25 (exceptions from duty to make or confirm enforcement orders), in paragraph (b) for “condition” substitute “relevant requirement”.
- (6) In section 26 (enforcement orders: main procedural requirements), in subsection (2)—
 - (a) in paragraph (c) for “condition” substitute “relevant requirement”, and
 - (b) in paragraph (d) for “condition” substitute “relevant requirement”.
- (7) In section 30 (financial penalties)—
 - (a) in subsection (1)—
 - (i) in paragraph (a) for “condition of his licence” substitute “relevant requirement”, and
 - (ii) in paragraph (b) for “condition” substitute “requirement”, and
 - (b) in subsection (3) for “condition” substitute “relevant requirement”.
- (8) In section 32 (imposition of financial penalties: main procedural requirements)—
 - (a) in subsection (2)(c), for “condition” substitute “relevant requirement”, and
 - (b) in subsection (4)(c), for “condition” substitute “relevant requirement”.
- (9) In section 34 (time-limit on the imposition of penalties)—
 - (a) in subsection (1) for “licence condition” substitute “relevant requirement”, and
 - (b) in subsection (2) for “licence condition” substitute “relevant requirement”.
- (10) In section 126 (index of defined expressions) at the appropriate place in the table insert—

“Relevant requirement

Section 22(5)”

SCHEDULE 3

Section 30

ABOLITION OF CONSUMER BODIES: TRANSITIONAL PROVISION

Complaints and investigations functions of Gas and Electricity Consumer Council

- 1 (1) This paragraph applies to—

Status: This is the original version (as it was originally enacted).

- (a) any complaint to which section 32(1) of the Gas Act 1986 (c. 44) applies which is referred to the Gas and Electricity Consumer Council before the appointed day;
 - (b) any matter under investigation by the Gas and Electricity Consumer Council under section 33 of that Act immediately before the appointed day.
- (2) The functions of the Gas and Electricity Consumer Council under section 32 or 33 of the Gas Act 1986 are exercisable by the Council in relation to the complaint or matter, but as if in section 32(8) of that Act the reference to the Utilities Act 2000 (c. 27) or the Gas Act 1986 included a reference to this Act and to Part 9 of the Enterprise Act 2002 (c. 40).
- (3) Sub-paragraph (2) applies—
- (a) notwithstanding the repeal of sections 32 and 33 of the Gas Act 1986 by this Act, and
 - (b) whether or not the complaint is within section 11, 12 or 13, or the matter is within section 11.
- (4) “The appointed day” is the day on which section 30(1) comes into force.
- 2 (1) This paragraph applies to—
- (a) any complaint to which section 46(1) of the Electricity Act 1989 (c. 29) applies which is referred to the Gas and Electricity Consumer Council before the appointed day;
 - (b) any matter under investigation by the Gas and Electricity Consumer Council under section 46A of that Act immediately before the appointed day.
- (2) The functions of the Gas and Electricity Consumer Council under section 46 or 46A of the Electricity Act 1989 are exercisable by the Council in relation to the complaint or matter, but as if in section 46(8) of that Act the reference to the Utilities Act 2000 or the Electricity Act 1989 included a reference to this Act and Part 9 of the Enterprise Act 2002.
- (3) Sub-paragraph (2) applies—
- (a) notwithstanding the repeal of sections 46 and 46A of the Electricity Act 1989 by this Act, and
 - (b) whether or not the complaint is within section 11, 12 or 13, or the matter is within section 11.
- (4) “The appointed day” is the day on which section 30(1) comes into force.

Annual reports of the Gas and Electricity Consumer Council

- 3 (1) After the abolition of the Gas and Electricity Consumer Council under section 30(1), any duty of the Gas and Electricity Consumer Council to make an annual report, in relation to any financial year for which such a report has not been made, is to be discharged by the Council.
- (2) The period between the abolition of the Gas and Electricity Consumer Council and the end of the preceding financial year (if less than 12 months) is to be treated as its financial year for which the last annual report is required.
- (3) If that period is 9 months or longer the Council must make the last annual report as soon as practicable after the end of that period.

Status: This is the original version (as it was originally enacted).

- (4) If that period is shorter than 9 months the last annual report must be made no later than the first report of the Council under section 7.
- (5) In this paragraph—
 - “annual report” means a report required by paragraph 6 of Schedule 2 to the Utilities Act 2000 (c. 27);
 - “financial year” means a year ending with 31 March.

Complaints and investigations functions of Consumer Council for Postal Services

- 4 (1) This paragraph applies to any matter which, immediately before the appointed day, is under investigation by the Consumer Council for Postal Services under—
 - (a) section 56(1) of the Postal Services Act 2000 (c. 26) (complaints referred to the Consumer Council for Postal Services), or
 - (b) section 57 of that Act (power of that Council to investigate other matters).
- (2) The functions of the Consumer Council for Postal Services under section 56 or 57 of the Postal Services Act 2000 are exercisable by the Council in relation to the matter, and any agreement between the Consumer Council for Postal Services and the Commission under section 56(3) of that Act has effect as if agreed between the Council and the Commission.
- (3) Sub-paragraph (2) applies—
 - (a) notwithstanding the repeal of sections 56 and 57 of the Postal Services Act 2000 by this Act;
 - (b) whether or not the matter is within section 11 or 16.
- (4) “The appointed day” is the day on which section 30(2) comes into force.

Annual reports of the Consumer Council for Postal Services

- 5 (1) After the abolition of the Consumer Council for Postal Services under section 30(2), any duty of the Consumer Council for Postal Services to make an annual report, in relation to any financial year for which such a report has not been made, is to be discharged by the Council.
- (2) The period between the abolition of the Consumer Council for Postal Services and the end of the preceding financial year (if less than 12 months) is to be treated as the financial year for which the last annual report is required.
- (3) If that period is 9 months or longer the Council must make the last annual report as soon as practicable after the end of that period.
- (4) If that period is shorter than 9 months the last annual report must be made no later than the first report of the Council under section 7.
- (5) In this paragraph—
 - “annual report” means a report required by section 55(1) of the Postal Services Act 2000 (c. 26);
 - “financial year” means a year ending with 31 March.

Status: This is the original version (as it was originally enacted).

SCHEDULE 4

Section 35

TRANSFER OF PROPERTY ETC TO COUNCIL

Preliminary

- 1 In this Schedule—
- “transfer scheme” has the meaning given by section 35;
 - “transferor” means the body to which section 35 applies and to which the transfer scheme relates.

Contents of transfer schemes

- 2 (1) The property, rights and liabilities that may be transferred by a transfer scheme include property, rights and liabilities that would not otherwise be capable of being transferred or assigned.
- (2) The transfers authorised by sub-paragraph (1) include transfers of interests and rights that are to take effect in accordance with the scheme as if there were—
- (a) no such requirement to obtain a person’s consent or concurrence,
 - (b) no such liability in respect of a contravention of any other requirement, and
 - (c) no such interference with any interest or right,
- as there would otherwise be by reason of a provision within sub-paragraph (3).
- (3) A provision is within this sub-paragraph to the extent that it has effect (whether under an enactment or agreement or otherwise) in relation to the terms on which the transferor is entitled or subject to anything to which the transfer relates.
- 3 A transfer scheme may define the property, rights and liabilities to be transferred by specifying them or describing them.
- 4 A transfer scheme may contain supplementary, incidental, transitional and consequential provision.

Effect of transfers

- 5 (1) On the day appointed by a transfer scheme the property, rights and liabilities which are the subject of the scheme are transferred to the Council in accordance with the provisions of the scheme.
- (2) Sub-paragraph (1) has effect in relation to property, rights or liabilities to which it applies in spite of any provision (of whatever nature) which would prevent or restrict the transfer of the property, rights or liabilities otherwise than by virtue of that sub-paragraph.
- 6 (1) So far as is appropriate in consequence of the transfer, anything done by the transferor for the purposes of or in connection with anything transferred which is in effect immediately before it is transferred is to be treated as if done by the Council.
- (2) A transfer does not affect the validity of anything done by or in relation to the transferor before the transfer takes effect.
- (3) There may be continued by or in relation to the Council anything (including legal proceedings) relating to anything transferred which is in the process of being done by or in relation to the transferor immediately before it is transferred.

Status: This is the original version (as it was originally enacted).

- (4) So far as is appropriate in consequence of the transfer, the Council is substituted for the transferor in any agreement, instrument or other document relating to anything transferred.

Staff

- 7 The Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246) apply to a transfer which relates to rights or liabilities under a contract of employment whether or not the transfer would, apart from this paragraph, be a relevant transfer for the purposes of those regulations.
- 8 Where an employee of the transferor becomes an employee of the Council by virtue of a transfer scheme—
- (a) a period of employment with the transferor is to be treated as a period of employment with the Council, and
 - (b) the transfer to the Council is not to be treated as a break in service.

Chargeable gains: asset to be treated as disposed of without a gain or loss

- 9 For the purposes of the Taxation of Chargeable Gains Act 1992 (c. 12), a transfer of an asset by a transfer scheme is to be treated as a disposal of that asset to the Council for a consideration of such amount as would secure that, on the disposal, neither a gain nor a loss accrues to the transferor.

Continuity in relation to transfer of intangible assets

- 10 (1) For the purposes of Schedule 29 to the Finance Act 2002 (c. 23)—
- (a) a transfer by a transfer scheme of a chargeable intangible asset of the transferor is to be treated as a tax-neutral transfer, and
 - (b) an intangible fixed asset which is an existing asset of the transferor at the time of the transfer is to be treated, on and after the transfer, as an existing asset in the hands of the Council.
- (2) Expressions used in this paragraph and in that Schedule have the same meanings in this paragraph as in that Schedule.

Corporation Tax Acts

- 11 So far as it relates to corporation tax, this Schedule is to be construed as one with the Corporation Tax Acts.

Modification of transfer schemes after appointed day

- 12 (1) If, after the day appointed by a transfer scheme, the transferor and the Council so agree in writing, the scheme shall for all purposes be deemed to have come into force on that day with such modifications as may be agreed.
- (2) An agreement under this paragraph may, in connection with giving effect to modifications to the scheme, include supplementary, incidental, transitional and consequential provision.

SCHEDULE 5

Section 45

INFORMATION RELATING TO COMPLIANCE WITH COMPLAINTS HANDLING STANDARDS

- 1 (1) The Gas Act 1986 (c. 44) is amended as follows.
- (2) In section 28 (orders for securing compliance with certain provisions), in the definition of “relevant requirement” in subsection (8), after “33D” insert “, 33DB”.
- (3) After section 33DA insert—

“33DB Information relating to complaints handling standards

- (1) This section applies in relation to standards prescribed by the Authority by regulations under section 43 of the Consumers, Estate Agents and Redress Act 2007 (standards for complaints handling) in relation to licence holders (or some of them).
- (2) The Authority must from time to time collect information with respect to the levels of compliance with the standards which those licence holders have achieved.
- (3) At such times as the Authority may direct, each of those licence holders must give the Authority such information as the Authority may direct with respect to the levels of compliance with the standards which the licence holder has achieved.”

- 2 (1) The Electricity Act 1989 (c. 29) is amended as follows.
- (2) In section 25 (orders for securing compliance), in the definition of “relevant requirement” in subsection (8), after “42A” insert “, 42AB”.
- (3) After section 42AA insert—

“42AB Information relating to complaints handling standards

- (1) This section applies in relation to standards prescribed by the Authority by regulations under section 43 of the Consumers, Estate Agents and Redress Act 2007 (standards for complaints handling) in relation to licence holders (or some of them).
- (2) The Authority must from time to time collect information with respect to the levels of compliance with the standards which those licence holders have achieved.
- (3) At such times as the Authority may direct, each of those licence holders must give the Authority such information as the Authority may direct with respect to the levels of compliance with the standards which the licence holder has achieved.”

- 3 (1) The Postal Services Act 2000 (c. 26) is amended as follows.
- (2) In section 22 (final orders), in the definition of “relevant requirement” in subsection (5) (as substituted by paragraph 3(2) of Schedule 2 and amended by section 52), after “or” at the end of paragraph (a) insert—
- “(aa) an obligation imposed under section 61A, or”.

(3) After section 61 insert—

“Information

61A Information relating to complaints handling standards

- (1) This section applies in relation to standards prescribed by the Commission by regulations under section 43 of the Consumers, Estate Agents and Redress Act 2007 (standards for complaints handling) in relation to licence holders under Part 2 (or some of them).
- (2) The Commission must from time to time collect information with respect to the levels of compliance with the standards which those licence holders have achieved.
- (3) At such times as the Commission may direct, each of those licence holders must give the Commission such information as the Commission may direct with respect to the levels of compliance with the standards which the licence holder has achieved.”

SCHEDULE 6

Section 53

ESTATE AGENTS' REDRESS SCHEMES

1 The Estate Agents Act 1979 (c. 38) is amended as follows.

2 After section 23 insert—

“Redress schemes

23A Redress schemes

- (1) The Secretary of State may by order require persons who engage in estate agency work in relation to residential property (“relevant estate agency work”) to be members of an approved redress scheme for dealing with complaints in connection with that work.
- (2) An order may provide for the duty to apply—
 - (a) only to specified descriptions of persons who engage in estate agency work; and
 - (b) in relation to any relevant estate agency work carried out by a person to whom the duty applies or only in relation to specified descriptions of work (which may be framed by reference to descriptions of residential property).
- (3) An order may also provide for the duty not to apply in relation to complaints of any specified description (which may be framed by reference to a description of person making a complaint).

Status: This is the original version (as it was originally enacted).

- (4) In subsections (1) and (2)(a), the reference to persons who engage in estate agency work does not include a reference to persons who engage in that work in the course of their employment.
- (5) The power to make an order shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) Before making an order the Secretary of State must be satisfied that all persons who are to be subject to the duty will be eligible to join a suitable approved redress scheme before the duty applies to them.

For this purpose the Secretary of State may disregard persons who cannot lawfully engage in the relevant estate agency work to which the duty applies.

- (7) Nothing in this section prevents an approved redress scheme from providing—
 - (a) for membership to be open to persons who are not subject to the duty;
 - (b) for the investigation and determination of any complaints in relation to which the duty does not apply, where the members concerned have voluntarily accepted the jurisdiction of the scheme over those complaints;
 - (c) for the exclusion from investigation and determination under the scheme of any complaint in such cases or circumstances as may be specified in or determined under the scheme.
- (8) For the purposes of this section—
 - (a) a “redress scheme” is a scheme which provides for complaints against members of the scheme to be investigated and determined by an independent person (“the ombudsman”);
 - (b) a redress scheme is “approved” if—
 - (i) it is for the time being approved by the OFT under Schedule 3; or
 - (ii) it is administered by or on behalf of the Secretary of State and designated by him as an approved redress scheme for the purposes of this section;
 - (c) a “complaint” is a complaint made by a person by virtue of his being or having been a seller or buyer of residential property;
 - (d) “seller”, in relation to residential property, means a person who claims that he is or may become interested in disposing of an interest in land in respect of that property (and includes a person who disposes of such an interest);
 - (e) “buyer”, in relation to residential property, means a person who claims that he is or may become interested in acquiring an interest in land in respect of that property (and includes a person who acquires such an interest).
- (9) The Secretary of State may not designate a scheme as an approved redress scheme for the purposes of this section unless the Secretary of State is satisfied that the scheme is one which could be approved by the OFT in accordance with paragraphs 2 to 5 of Schedule 3.

Status: This is the original version (as it was originally enacted).

- (10) Schedule 3 (which makes further provision in connection with the approval of redress schemes etc.) shall have effect.
- (11) In this section—
- “order” means an order under subsection (1);
 - “the duty” means the requirement under an order to be a member of an approved redress scheme.

23B Enforcement

- (1) If a duly authorised officer of an enforcement authority other than the OFT believes that a person has engaged (or is engaging) in estate agency work in relation to residential property in breach of the duty imposed by an order under section 23A(1) he may give a penalty charge notice to that person.
- (2) A penalty charge notice may not be given after the end of the period of six months beginning with the day (or in the case of a continuing breach the last day) on which the breach of duty was committed.
- (3) Schedule 4 (which makes further provision in connection with penalty charge notices) shall have effect.
- (4) An enforcement authority other than the OFT must notify the OFT if it believes that a person has engaged (or is engaging) in estate agency work in relation to residential property in breach of the duty imposed by an order under section 23A(1).

23C Meaning of residential property

- (1) For the purposes of sections 23A and 23B “residential property”—
- (a) has the meaning given by subsection (2); but
 - (b) does not include land of a description specified in an order made by the Secretary of State for the purposes of this section.
- (2) “Residential property” means any land that consists of or includes a building or part of a building—
- (a) the whole or part of which is used as a dwelling or as more than one dwelling; or
 - (b) that is (or is to be) offered for sale on the basis that the whole or part of it is suitable for such use or is intended to be so suitable by the time the seller disposes of his interest in it.
- (3) In subsection (2), the reference to a building or part of a building (so far as relating to paragraph (b) of that subsection) includes a reference to a building or part that is being or is to be constructed.
- (4) A description of land specified by order under subsection (1)(b) may be framed by reference to the purpose or purposes for which the land (or part of it) is or is intended to be used.
- (5) The power to make an order under subsection (1)(b) shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

3 After Schedule 2 insert—

“SCHEDULE 3

Section 23A(10)

REDRESS SCHEMES

Approval of redress schemes

- 1 A redress scheme may be approved for the purposes of section 23A by the OFT acting in accordance with paragraphs 2 to 8.
- 2 (1) A scheme may not be approved unless the OFT considers that—
 - (a) the provisions of the scheme; and
 - (b) the manner in which it will be operated (so far as can be judged from facts known to the authority);are satisfactory for the purposes of section 23A.
- (2) Without prejudice to the generality of sub-paragraph (1), a scheme must not be approved unless the OFT considers that it makes satisfactory provision about—
 - (a) the complaints which may be made under the scheme (which may include complaints about non-compliance with the provisions of a code of practice or other document);
 - (b) the ombudsman’s duties and powers in relation to the investigation and determination of complaints (which may include power to decide not to investigate or determine a particular complaint);
 - (c) the redress which the ombudsman may require members to provide to complainants, which must include the types of redress specified in sub-paragraph (3);
 - (d) the enforcement of any requirement to provide redress imposed on a member in accordance with the scheme.
- (3) The types of redress mentioned in sub-paragraph (2)(c) are—
 - (a) providing an apology or explanation;
 - (b) paying compensation; and
 - (c) taking such other actions in the interests of the complainant as the ombudsman may specify.
- 3 (1) In determining whether a scheme, or any provisions mentioned in paragraph 2(2), are satisfactory the OFT must have regard to—
 - (a) the interests of members of the scheme and of sellers and buyers of residential properties; and
 - (b) such principles as—
 - (i) in the opinion of the OFT constitute generally accepted principles of best practice in relation to consumer redress schemes, and
 - (ii) it is reasonable to regard as applicable to the scheme.
- (2) In considering the interests mentioned in sub-paragraph (1)(a), the OFT may have regard to the number of other redress schemes which are (or are likely to become) approved redress schemes.

Status: This is the original version (as it was originally enacted).

- 4 The OFT must not approve a scheme unless it considers that the scheme makes satisfactory provision about the provision of information by the ombudsman or the scheme administrator to—
 - (a) persons exercising functions under other approved schemes;
 - (b) persons exercising functions under other consumer redress schemes; and
 - (c) the OFT or any other person exercising regulatory functions in relation to the activities of persons engaging in estate agency work.
- 5 The OFT must not approve a scheme if it considers that the scheme provides for membership to be revoked on any unfair grounds.

Applications for approval to the OFT

- 6 An application for approval by the OFT of a redress scheme must—
 - (a) be made in such manner as the OFT may determine; and
 - (b) be accompanied by such information as the OFT may require.
- 7 Where the OFT is proposing to refuse an application for approval it must give the applicant a notice stating—
 - (a) that it is proposing to refuse the application;
 - (b) the grounds for the proposed refusal; and
 - (c) that representations about the proposed refusal may be made within such period of not less than 30 days as is specified in the notice.
- 8 If the OFT decides to refuse an application for approval, it must give the applicant a notice stating—
 - (a) the OFT's decision to refuse the application; and
 - (b) the reasons for the decision.

Notification of changes to an approved scheme

- 9 The scheme administrator of a redress scheme which is approved by the OFT must notify the OFT of any change to the scheme before the end of the period of 14 days beginning with the day on which the change is made.

Withdrawal of approval by the OFT

- 10 The OFT may withdraw approval of a redress scheme which is for the time being approved by it.
- 11 Before withdrawing approval of a scheme, the OFT must give the scheme administrator a notice stating—
 - (a) that it proposes to withdraw its approval;
 - (b) the grounds for the proposed withdrawal of approval; and
 - (c) that representations about the proposed withdrawal may be made within such period of not less than 30 days as is specified in the notice.
- 12 The OFT must give the scheme administrator a notice stating—

Status: This is the original version (as it was originally enacted).

- (a) its decision on a proposal to withdraw approval; and
 - (b) the reasons for its decision.
- 13 If the OFT decides to withdraw approval of a scheme—
- (a) the withdrawal has effect from such date as may be specified in the notice under paragraph 12;
 - (b) the scheme administrator must give a copy of the notice under paragraph 12 to every member of the scheme.

Revocation of designation by the Secretary of State

- 14 If the Secretary of State decides to revoke his designation of a scheme for the purposes of section 23A, he must give every member of the scheme a notice stating—
- (a) that he has decided to revoke the designation;
 - (b) the reasons for his decision; and
 - (c) the date from which the revocation has effect.

Defamation proceedings

- 15 For the purposes of the law relating to defamation, proceedings under an approved redress scheme in relation to the investigation and determination of a complaint are to be treated in the same way as proceedings before a court.

Interpretation

- 16 In this Schedule—
- “redress scheme” has the meaning given in section 23A(8)(a);
 - “approved redress scheme” has the meaning given in section 23A(8)(b);
 - “buyer”, in relation to residential property, has the meaning given in section 23A(8)(e);
 - “complaint” has the meaning given in section 23A(8)(c);
 - “ombudsman” means the independent person mentioned in section 23A(8)(a);
 - “residential property” has the meaning given in section 23C;
 - “scheme administrator”, in relation to a redress scheme, means the person who administers the scheme;
 - “seller”, in relation to residential property, has the meaning given by section 23A(8)(d).”

- 4 After Schedule 3 (as inserted by paragraph 3) insert—

“SCHEDULE 4

Section 23B(3)

PENALTY NOTICES UNDER SECTION 23B(1)

- 1 A penalty charge notice given to a person under section 23B(1) by a duly authorised officer of an enforcement authority other than the OFT must—

Status: This is the original version (as it was originally enacted).

- (a) state the officer's belief that that person has committed a breach of the duty imposed by an order under section 23A(1);
 - (b) give such other particulars of the circumstances as may be necessary to give reasonable notice of the breach of duty;
 - (c) require that person, within a period specified in the notice—
 - (i) to pay a penalty charge specified in the notice; or
 - (ii) to give notice to the enforcement authority that he wishes to review the notice;
 - (d) state the effect of paragraph 8;
 - (e) specify the person to whom and the address at which the penalty charge may be paid and the method or methods by which payment may be made; and
 - (f) specify the person to whom and the address at which a notice requesting a review may be sent (and to which any representations relating to the review may be addressed).
- 2 The penalty charge specified in the notice shall be of such amount (not exceeding £1,000) as may be prescribed for the time being by regulations made by the Secretary of State.
- 3 (1) The period specified under paragraph 1(c) must not be less than 28 days beginning with the day after that on which the penalty charge notice was given.
 - (2) The enforcement authority may extend the period for complying with the requirement mentioned in paragraph 1(c) in any particular case if they consider it appropriate to do so.
- 4 The enforcement authority may, if they consider that the penalty charge notice ought not to have been given, give the recipient a notice withdrawing the penalty charge notice.
- 5 (1) If, within the period specified under paragraph 1(c) (or that period as extended under paragraph 3(2)), the recipient of the penalty charge notice gives notice to the enforcement authority requesting a review, the authority shall—
 - (a) consider any representations made by the recipient and all other circumstances of the case;
 - (b) decide whether to confirm or withdraw the notice; and
 - (c) give notice of their decision to the recipient.(2) A notice under sub-paragraph (1)(c) confirming the penalty charge notice must also state the effect of paragraphs 6(1) to (3) and 8(1) and (3).
 - (3) If the authority are not satisfied—
 - (a) that the recipient committed the breach of duty specified in the notice;
 - (b) that the notice was given within the time allowed by section 23B(2) and complies with the other requirements imposed by or under this Schedule; and
 - (c) that in the circumstances of the case it was appropriate for a penalty charge notice to be given to the recipient;

Status: This is the original version (as it was originally enacted).

- they shall withdraw the penalty charge notice.
- 6 (1) If after a review the penalty charge notice is confirmed by the enforcement authority, the recipient may, within the period of 28 days beginning with the day after that on which the notice under paragraph 5(1)(c) is given, appeal to a county court or, in Scotland, to the sheriff against the penalty charge notice.
- (2) The county court or the sheriff may extend the period for appealing against the notice.
- (3) Such an appeal must be on one (or more) of the following grounds—
- (a) that the recipient did not commit the breach of duty specified in the penalty charge notice;
 - (b) that the notice was not given within the time allowed by section 23B(2) or does not comply with any other requirement imposed by or under this Schedule; or
 - (c) that in the circumstances of the case it was inappropriate for the notice to be given to the recipient.
- (4) An appeal against a penalty charge notice shall be by way of a rehearing; and the county court or sheriff shall either uphold the notice or quash it.
- 7 If the penalty charge notice is withdrawn or quashed, the authority shall repay any amount previously paid as a penalty charge in pursuance of the notice.
- 8 (1) The amount of the penalty charge is recoverable from the recipient of the penalty charge notice as a debt owed to the authority unless—
- (a) the notice has been withdrawn or quashed; or
 - (b) the charge has been paid.
- (2) Proceedings for the recovery of the penalty charge may not be commenced before the end of the period mentioned in paragraph 5(1).
- (3) And if within that period the recipient of the penalty charge notice gives notice to the authority that he wishes the authority to review the penalty charge notice, such proceedings may not be commenced—
- (a) before the end of the period mentioned in paragraph 6(1); and
 - (b) where the recipient appeals against the penalty charge notice, before the end of the period of 28 days beginning with the day on which the appeal is withdrawn or determined.
- 9 In proceedings for the recovery of the penalty charge, a certificate which—
- (a) purports to be signed by or on behalf of the person having responsibility for the financial affairs of the enforcement authority; and
 - (b) states that payment of the penalty charge was or was not received by a date specified in the certificate;
- is evidence of the facts stated.
- 10 Section 29 (service of notices etc.) applies in relation to—

Status: This is the original version (as it was originally enacted).

- (a) any penalty charge notice which is to be given under section 23B(1) by a duly authorised officer of an enforcement authority other than the OFT; and
 - (b) any notice which is to be given under paragraph 5(1)(c) of this Schedule by such an enforcement authority;
- as it applies in relation to any notice which under this Act is to be given to any person by the OFT.
- 11 The Secretary of State may by regulations make provision supplementary or incidental to the provisions of this Schedule, including in particular provision prescribing—
- (a) the form of penalty charge notices or of any other notice mentioned in this Schedule;
 - (b) circumstances in which penalty charge notices may not be given;
 - (c) the method or methods by which penalty charges may be paid.
- 12 Any power to make regulations under this Schedule shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

SCHEDULE 7

Section 63

MINOR AND CONSEQUENTIAL AMENDMENTS

Estate Agents Act 1979 (c. 38)

- 1 In section 3 of the Estate Agents Act 1979 (prohibition orders), in subsection (3) for “paragraphs (c) and (d)” substitute “paragraphs (ba) to (d)”.
- 2 In section 6 of that Act (revocation and variation of orders)—
- (a) in subsection (4) in paragraph (b), for the words from “again fail to comply” to the end of the paragraph substitute “engage in further conduct as mentioned in subsection (1A)(b) or (1B)(b) of that section or engage again in the practice specified in the order, as the case may be.”; and
 - (b) omit subsection (7).
- 3 In section 30(2) of that Act (orders and regulations to which duty to consult applies), after “19” insert “, 21A”.

Gas Act 1986 (c. 44)

- 4 The Gas Act 1986 is amended as follows.
- 5 In section 4AB (guidance on social and environmental matters), for subsection (3) (b) substitute—
- “(b) the Council;”.
- 6 In section 28 (orders for securing compliance with certain provisions), in subsection (6) for first “and” substitute “or”.

Status: This is the original version (as it was originally enacted).

Electricity Act 1989 (c. 29)

- 7 The Electricity Act 1989 is amended as follows.
- 8 In section 3B (guidance on social and environmental matters), for subsection (3)(b) substitute—
- “(b) the Council;”.
- 9 In section 25 (orders for securing compliance), in subsection (6) for first “and” substitute “or”.

Water Industry Act 1991 (c. 56)

- 10 In Schedule 15 to the Water Industry Act 1991 (disclosure of information)—
- (a) in Part 1 (persons in respect of whose functions disclosure may be made), at the end insert—
- “The National Consumer Council.”, and
- (b) in Part 2 (enactments etc in respect of which disclosure may be made), after the entry for the Railways Act 2005 insert—
- “The Consumers, Estate Agents and Redress Act 2007.”

Taxation of Chargeable Gains Act 1992 (c. 12)

- 11 In section 35(3)(d) of the Taxation of Chargeable Gains Act 1992 (no gain no loss disposals), after sub-paragraph (xvi) insert—
- “(xvii) paragraph 9 of Schedule 4 to the Consumers, Estate Agents and Redress Act 2007.”

Postal Services Act 2000 (c. 26)

- 12 The Postal Services Act 2000 is amended as follows.
- 13 In section 44 (review and information), in subsection (5) for “section 58(1)” substitute “section 24(1) of the Consumers, Estate Agents and Redress Act 2007”.
- 14 In section 61 (forward work programme)—
- (a) in subsection (1) omit—
- (i) “and the Council”, and
- (ii) “each” (in the second place),
- (b) in subsection (2)(b) omit “or the Council”,
- (c) in subsection (3) omit “or the Council”, and
- (d) in subsection (5)—
- (i) in paragraph (a) omit “or (as the case may be) the Commission”, and
- (ii) in paragraph (b) omit “or (as the case may be) the Council”.
- 15 In section 126 (index of defined expressions), in the entry for “The Council”, in the second column for “Section 2(1)” substitute “Section 125(1)”.
- 16 (1) Schedule 7 (disclosure of information) is amended as follows.
- (2) In paragraph 1, after sub-paragraph (1)(b) insert “, and

Status: This is the original version (as it was originally enacted).

- (c) it is not information within section 29(3) of the Consumers, Estate Agents and Redress Act 2007 (application of disclosure regime in Part 9 of the Enterprise Act 2002 to information obtained by the Council).”
- (3) In paragraph 3—
 - (a) for sub-paragraph (2)(u) substitute—
 - “(u) the National Consumer Council.”, and
 - (b) at the end of sub-paragraph (3) of that paragraph insert—
 - “(rr) the Consumers, Estate Agents and Redress Act 2007.”
- (4) In paragraph 5(1)—
 - (a) after paragraph (b) insert “or”, and
 - (b) omit paragraph (d) and the “or” immediately preceding it.
- 17 In Schedule 8 (amendments of enactments), in paragraph 10 for “that Schedule to that Act” substitute “Schedule 2 to the Parliamentary Commissioner Act 1967”.

Utilities Act 2000 (c. 27)

- 18 The Utilities Act 2000 is amended as follows.
- 19 In section 4 (forward work programmes)—
 - (a) in subsection (1) omit—
 - (i) “and the Council”, and
 - (ii) “each” (in the second place),
 - (b) in subsection (3) omit “or the Council”,
 - (c) in subsection (4) omit “or the Council”,
 - (d) in subsection (5) omit “or the Council”, and
 - (e) omit subsection (7).
- 20 In section 105 (general restrictions on disclosure of information)—
 - (a) in subsection (5) omit “and” immediately preceding paragraph (l) and after that paragraph insert “, and
 - (m) the National Consumer Council.”,
 - (b) in subsection (6), at the end insert—
 - “(x) the Consumers, Estate Agents and Redress Act 2007.”,
 - (c) in subsection (8) omit—
 - (i) in paragraph (a) “33DA or”, and “42AA or”, and
 - (ii) in paragraph (c) “, the Council”, and
 - (d) after subsection (11) insert—
 - “(11A) Nothing in this section applies to information within section 29(3) of the Consumers, Estate Agents and Redress Act 2007 (application of disclosure regime in Part 9 of the Enterprise Act 2002 to information obtained by the Council).”

Warm Homes and Energy Conservation Act 2000 (c. 31)

- 21 In section 2 (strategy relating to fuel poverty) in subsection (4)(c) for “Gas and Electricity Consumer Council” substitute “National Consumer Council”.

Status: This is the original version (as it was originally enacted).

Criminal Justice and Police Act 2001 (c. 16)

- 22 In the Criminal Justice and Police Act 2001 —
- (a) in section 66 (general interpretation of Part 2), in subsection (4)(e) for “section 11(1) of the Estate Agents Act 1979” substitute “section 11(1) to (1C) of the Estate Agents Act 1979”, and
 - (b) in Part 1 of Schedule 1 (powers of seizure to which section 50 applies), in paragraph 24 for “section 11(1)(c) of the Estate Agents Act 1979” substitute “section 11(1B) of the Estate Agents Act 1979”.

Housing Act 2004 (c. 34)

- 23 (1) The Housing Act 2004 is amended as follows.
- (2) In section 166 (enforcement authorities), in subsection (2) for the words from “to enforce” to the end of the subsection substitute “to enforce the duties under sections 155 to 159 and 167(4) in their area.”
 - (3) In section 168 (penalty charge notices), in subsection (1) for the words from “a breach of” to the end of the subsection substitute “a breach of any duty under sections 155 to 159 and 167(4), give a penalty charge notice to that person.”

SCHEDULE 8

Section 64

REPEALS

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Public Records Act 1958 (c. 51)	In Schedule 1, in the Table at the end of paragraph 3, the entries relating to the Consumer Council for Postal Services and the Gas and Electricity Consumer Council.
Parliamentary Commissioner Act 1967 (c. 13)	In Schedule 2 the entries relating to the Consumer Council for Postal Services, the Gas and Electricity Consumer Council and the National Consumer Council.
House of Commons Disqualification Act 1975 (c. 24)	In Schedule 1— <ul style="list-style-type: none"> (a) in Part 2 the entries relating to the Consumer Council for Postal Services and the Gas and Electricity Consumer Council, and (b) in Part 3 the entries relating to the Chairman and Deputy Chairman of the National Consumer Council.
Race Relations Act 1976 (c. 74)	In Schedule 1A, in Part 2, the entries for the Consumer Council for Postal Services (“Postwatch”), the Gas and Electricity Consumer Council (Energywatch) and the National Consumer Council.
Estate Agents Act 1979 (c. 38)	Section 5(4).

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<i>Short title and chapter</i>	<i>Extent of repeal</i>
	Section 6(7).
	Section 9(4)(a).
	Section 27(1)(b).
Gas Act 1986 (c. 44)	Sections 32 and 33.
Electricity Act 1989 (c. 29)	Sections 46 and 46A.
Postal Services Act 2000 (c. 26)	Section 2. In section 39 “or of the Secretary of State in relation to the establishment of the Council”. Sections 51 to 59. In section 61— (a) in subsection (1) “and the Council” and “each” (in the second place), (b) in subsection (2)(b) “or the Council”, (c) in subsection (3) “or the Council”, (d) in subsection (5)(a) “or (as the case may be) the Commission”, and (e) in subsection (5)(b) “or (as the case may be) the Council”. Schedule 2. In Schedule 7, paragraph 5(1)(d) and the “or” immediately preceding it. In Schedule 8, paragraphs 9 and 14(2).
Utilities Act 2000 (c. 27)	Section 2. Section 3(6). In section 4— (a) in subsection (1) “and the Council” and “each” (in the second place), (b) in subsection (3) “or the Council”, (c) in subsection (4) “or the Council”, (d) in subsection (5) “or the Council”, and (e) subsection (7). In section 8— (a) subsection (3)(b) and the “and” immediately preceding it, and (b) subsection (7). Sections 17, 18(1) to (4) and (7), 19, 20(1) to (4), 21 to 27. In section 105— (a) in subsection (5) “and” immediately preceding paragraph (1), (b) in subsection (8)(a) “33DA or” and “42AA or”, and

Status: This is the original version (as it was originally enacted).

<i>Short title and chapter</i>	<i>Extent of repeal</i>
	(c) in subsection (8)(c) “, the Council”.
	Schedule 2.
	In Schedule 6, paragraphs 12(f) (and the “and” immediately preceding it), 22(b), 40(b) and 42.
	In Schedule 7—
	(a) paragraphs 24 and 25,
	(b) in paragraph 26(1), “or the Council”,
	(c) paragraphs 28 and 30,
	(d) paragraphs 31 and 32.
Freedom of Information Act 2000 (c. 36)	In Schedule 1, in Part 6, the entries for the Consumer Council for Postal Services, the Gas and Electricity Consumer Council and the National Consumer Council.
Warm Homes and Energy Conservation Act 2000 (c. 31)	Section 2(9).
Enterprise Act 2002 (c. 40)	In Schedule 25, paragraphs 15(7), 20(8) and 42(6).
Energy Act 2004 (c. 20)	Section 179(3)(b) and (e).
Housing Act 2004 (c. 34)	Sections 172 to 174.
