

## SCHEDULE 1

### TRANSFER OF FUNCTIONS OF OFT AND COMPETITION COMMISSION TO CMA AND AMENDMENTS CONSEQUENTIAL ON PARTS 3 AND 4 OF THE ACT

## PART 2

### Amendments to other Acts of Parliament

#### Health and Social Care Act 2012

**195.**—(1) Paragraph 10 of Schedule 10 (references by Monitor to the CMA: powers of investigation) is amended as follows.

(2) In sub-paragraph (1), in the wording before paragraph (a), after “sub-paragraphs” insert “(2A),”.

(3) In sub-paragraph (2), after “sub-paragraphs” insert “(2A),”.

(4) After sub-paragraph (2), insert—

“(2A) Section 109, in its application by virtue of sub-paragraph (1) or (2), has effect as if—

(a) for subsection (A1), there were substituted—

“(A1) For the purposes of this section, the permitted purposes are the following—

(a) assisting the CMA in carrying out any functions exercisable by it in connection with a reference under Schedule 10 to the Health and Social Care Act 2012;

(b) assisting the CMA in carrying out any functions exercisable by it under paragraph 8 of that Schedule.”, and

(b) subsection (8A) were omitted.”

(5) In sub-paragraph (3), after paragraph (a), insert—

“(aa) after subsection (3), there were inserted—

“(3A) No penalty shall be imposed by virtue of subsection (1), (3) or (5) if more than 4 weeks have passed since the publication of the report of the CMA on the reference concerned; but this subsection shall not apply in relation to any variation or substitution of the penalty which is permitted by virtue of this Part.”,

(6) In sub-paragraph (4)—

(a) at the end of paragraph (a) insert “and”, and

(b) for paragraphs (b) and (c), substitute—

“(b) after subsection (3), there were inserted—

“(3A) No penalty shall be imposed by virtue of subsection (1), (3) or (5) if more than 4 weeks have passed since the relevant day; but this subsection shall not apply in relation to any variation or substitution of the penalty which is permitted by virtue of this Part.

(3AB) The relevant day for the purposes of subsection (3A) is—

(a) the day on which the CMA published a notice under paragraph 8(12) of Schedule 10 to the Health and Social Care Act 2012 in connection with the reference concerned, or

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- (b) if it has not given a direction under paragraph 8(1) of that Schedule in connection with the reference and within the permitted period, the latest day on which it was possible to give such a notice within that period.””
- (7) For sub-paragraph (6) substitute—
  - “(6) Section 111(5)(b), in its application by virtue of sub-paragraph (1), has effect as if for sub-paragraph (ii) there were substituted—
    - “(ii) if earlier, the day on which the report of the CMA on the reference concerned is made or, if no such report is made within the period permitted for that purpose, the latest day on which it was possible to make the report within the permitted period.””
- (8) In sub-paragraph (7), for “110(4A)” substitute “110(3AB)”.