

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

Electricity Act 1989

- 65.**—(1) Section 43 (functions with respect to competition)(1) is amended as follows.
- (2) In subsection (2), for “Office of Fair Trading” substitute “CMA”.
- (3) In subsection (2A)—
- (a) for “Office of Fair Trading” substitute “CMA”,
 - (b) for “and 171” substitute “, 171 and 174E”, and
 - (c) for “relating to” substitute—
“those functions—
 - (a) are exercisable by the CMA Board (within the meaning of Schedule 4 to the Enterprise and Regulatory Reform Act 2013), and
 - (b) relate to”.
- (4) In subsection (2B)—
- (a) for “above, references” substitute—
“above—
 - (a) references”,
 - (b) for “Office of Fair Trading” substitute “CMA”,
 - (c) for “and 171” substitute “, 171 and 174E”, and
 - (d) for “requires).” substitute—
“requires);
 - (b) references in that Part to section 5 of the Act of 2002 are to be construed as including references to section 47(1) of this Act.”
- (5) After subsection (2B) insert—
- “(2C) Section 130A of the Enterprise Act 2002 is to have effect in its application in relation to the Authority by virtue of subsections (2) and (2A)—
- (a) as if for subsection (1) of that section there were substituted—
“(1) Where the Gas and Electricity Markets Authority—
 - (a) is proposing to carry out its functions under section 47(1) of the Electricity Act 1989 in relation to a matter for the purposes mentioned in subsection (2), and
 - (b) considers that the matter is one in respect of which it would be appropriate for the Authority to exercise its powers under section 174

(1) Amended by Schedules 2, 4 and 17 to the Deregulation and Contracting Out Act 1994 (c. 40), Schedule 10 to the Competition Act 1998, S.I. 1999/506, Schedules 9 and 25 to the Enterprise Act 2002, S.I. 2004/1261 and Schedule 15 to the Enterprise and Regulatory Reform Act 2013. There are other amendments to section 43 but none is relevant to this Order.

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- (investigation) in connection with deciding whether to make a reference under section 131,
- the Authority must publish a notice under this section (referred to in this Part as a “market study notice”).”, and
- (b) as if in subsection (2)(a) of that section, for “the acquisition or supply of goods or services of one or more than one description in the United Kingdom” there were substituted “commercial activities connected with the generation, transmission or supply of electricity or the use of electricity interconnectors”.
- (6) In subsection (3), for “Office of Fair Trading” (in each place where it occurs) substitute “CMA”.
- (7) In subsection (3A) for “the Office of Fair Trading” substitute “the CMA”.
- (8) In subsections (4) and (4A) for “Office of Fair Trading” (in each place where it occurs) substitute “CMA”.
- (9) In subsection (5)—
- (a) in the words before paragraph (a)—
- (i) for “the Competition Commission” substitute “a CMA group”,
- (ii) for “reference made to them by the Authority” substitute “market investigation reference made by the Authority (under section 131 of the Act of 2002)”, and
- (b) for “Commission” (in each place where it occurs) substitute “group”.
- (10) After subsection (5) insert—
- “(5A) In subsection (5) “CMA group” has the same meaning as in Schedule 4 to the Enterprise and Regulatory Reform Act 2013.”
- (11) In subsection (6), for “the Office of Fair Trading” substitute “the CMA”.
- (12) In subsection (6A), for “Office of Fair Trading” substitute “CMA”.