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STATUTORY INSTRUMENTS

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**2014 No. 892**

**COMPETITION**

**The Enterprise and Regulatory Reform Act 2013 (Competition)  
(Consequential, Transitional and Saving Provisions) Order 2014**

*Made* - - - - *31st March 2014*

*Coming into force* - - *1st April 2014*

The Secretary of State, in exercise of the powers conferred by section 99(1), (2) and (3) of the Enterprise and Regulatory Reform Act 2013<sup>(1)</sup>, makes the following Order:

In accordance with section 99(5) of that Act, a draft of this instrument was laid before Parliament and approved by a resolution of each House of Parliament:

**Citation, commencement, interpretation and extent**

1. (1) This Order may be cited as the Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 and comes into force on 1st April 2014.

(2) In this Order—

“the Act” means the Enterprise and Regulatory Reform Act 2013;

“CMA” means the Competition and Markets Authority;

“Commission” means the Competition Commission;

“enactment” includes—

(a) an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978<sup>(2)</sup>), and

(b) an enactment comprised in (or in an instrument made under) an Act of the Scottish Parliament, a Measure or Act of the National Assembly for Wales or Northern Ireland legislation;

“OFT” means the Office of Fair Trading.

(3) An amendment or repeal made by this Order has the same extent as the enactment to which it relates.

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(1) 2013 c. 24.

(2) 1978 c. 30.

### **Consequential amendments to other legislation etc.**

2. Schedule 1 (which amends various enactments to make provision for the transfer of certain functions from the OFT and the Commission to the CMA and contains amendments consequential on Parts 3 and 4 of the Act) has effect.

### **Continuity of functions**

3. (1) Anything which, immediately before the commencement date, is in the process of being done by or in relation to the transferor may, so far as it relates to a relevant function, be continued by or in relation to the transferee.

(2) Anything done (or having effect as if done) by or in relation to the transferor for the purposes of or in connection with a relevant function is, if in force or effective immediately before the commencement date, to have effect as if done by or in relation to the transferee so far as that is required for continuing its effect on or after the commencement date.

(3) In the application of paragraph (1) or (2)—

- (a) any reference made before the commencement date under section 32 of the Water Industry Act 1991<sup>(3)</sup> to the Commission is to be treated, so far as provided by those paragraphs, as a reference under that section to the chair of the CMA for the constitution of a CMA group,
- (b) where any functions exercisable immediately before the commencement date by a Commission group are to be exercisable on or after that date by a CMA group—
  - (i) any person who, immediately before the commencement date, is a member of the Commission group is to be treated, on or after that date, as a member of the CMA group concerned if the person is a member of the CMA panel,
  - (ii) any person who, immediately before the commencement date, is the chairman of the Commission group is to be treated, on or after that date, as the chair of the CMA group if the person is a member of the CMA panel, and
  - (iii) the persons treated as mentioned in paragraph (i) or (ii) are to be treated, on or after the commencement date, as if they have been constituted in accordance with Part 3 of Schedule 4 to the Act as the chair and other members of the CMA group (and that Part applies accordingly in relation to the operation of the group), and
- (c) an authorisation given (whether by warrant or otherwise) before the commencement date, so far as it authorises a named member, or member of staff, of the OFT or the Commission, continues to authorise that individual (but no other) on or after the commencement date if, and only if, the individual is a member, or (as the case may be, a member of staff, of the CMA.

(4) Paragraphs (1) to (3)—

- (a) do not apply in relation to any matter dealt with by a transfer scheme under section 27 of the Act or by any other transitional provision made by virtue of the Act; and
- (b) do not apply so as to convert an appointment as a member of the OFT or the Commission into an appointment as a member of the CMA.

(5) Any enactment, instrument or other document passed or made before the commencement date is to have effect, so far as necessary for the purposes of or in consequence of its continued effect by virtue of Schedule 2, as if any references (however expressed) to the transferor were references to the transferee.

(6) Any enactment, instrument or other document passed or made before the commencement date is to have effect, so far as necessary for the purposes of or in consequence of—

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(3) 1991 c. 56. Sections 32 to 35 of the Water Industry Act 1991 were substituted by section 70 of the Enterprise Act 2002.

(a) anything transferred from the transferor to the transferee by virtue of this Order or Part 3 or 4 of the Act, or

(b) the abolition of the OFT or the Commission,

as if any references (however expressed) to the transferor were references to the transferee

(7) The repeals of section 45(4) of the Competition Act 1998 and section 2(3) of the Enterprise Act 2002 by Parts 3 and 4 of Schedule 5 to the Act do not apply so far as those sections create references to the transferor to which paragraph (5) or (6) above are capable of applying.

(8) The abolition of the OFT or the Commission does not affect the validity of anything done (or having effect as if done) by or in relation to the transferor before the commencement date.

(9) In this article—

“CMA Board” has the same meaning as in Schedule 4 to the Act (see Part 2 of that Schedule);

“CMA group” means a group constituted in accordance with Part 3 of Schedule 4 to the Act;

“CMA panel” has the same meaning as in Schedule 4 to the Act (see Part 3 of that Schedule);

“commencement date” means 1st April 2014;

“Commission group” means a group constituted under any enactment to perform functions of the Commission;

“relevant function” means any function of the transferor which is transferred to the transferee by this Order;

“transferee” means the CMA, the CMA Board, a CMA group, the chair of the CMA or another member of the CMA or (as the case may be) a member of staff of the CMA;

“transferor” means the OFT, the Commission, a Commission group, the chairman of the OFT or Commission, another member of the OFT or Commission, or a member of staff of the OFT or the Commission;

and references in this article to things done include references to things omitted to be done.

(10) Schedule 2 (which makes further transitional provision in relation to amendments in Schedule 1 to the investigation powers of the CMA) has effect.

31st March 2014

*Jenny Willott*  
Parliamentary Under-Secretary of State for  
Employment Relations and Consumer Affairs  
Department for Business, Innovation and Skills

## SCHEDULE 1

Article 2

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

## PART 1

## Amendments to the Enterprise Act 2002

1. The Enterprise Act 2002(4) is amended as follows.
2. In section 8A (exclusion of public consumer advice scheme)(5), for “OFT” substitute “CMA”.
3. In section 109 (attendance of witnesses and production of documents etc), in subsection (1) (b), for “Commission” (in both places where it occurs) substitute “CMA”.
4. In section 205 (super-complaints to regulators other than OFT), in subsection (1) and in the heading, for “OFT” substitute “CMA”.
5. In section 206 (power to modify Schedule 8), in subsection (9) for “OFT and the Commission” substitute “CMA”.
6. In section 213 (enforcers)(6), in subsections (1)(a) and (5A)(a), for “OFT” substitute “CMA”.
7. In section 214 (consultation)(7), in subsections (1)(b) and (3), for “OFT” (in each place where it occurs) substitute “CMA”.
8. In section 215 (applications)(8), in subsection (9), for “OFT” (in both places where it occurs) substitute “CMA”.
9. In section 216 (applications: directions by OFT), in subsections (1) to (5) and in the heading, for “OFT” (in each place where it occurs) substitute “CMA”.
10. In section 219 (undertakings)(9), in subsection (6), for “OFT” substitute “CMA”.
11. In section 220 (further proceedings), in subsections (2) and (6), for “OFT” (in each place where it occurs) substitute “CMA”.
12. In section 224 (OFT), in subsections (1) and (2) and in the heading, for “OFT” substitute “CMA”.
13. In section 225 (other enforcers)(10), in subsections (1)(a) and (c), for “OFT” substitute “CMA”.
14. (1) Section 229 (advice and information)(11) is amended as follows.
  - (2) In subsection (1)—
    - (a) for the words from the beginning to “the OFT” substitute “The CMA”, and
    - (b) in paragraph (b), for “OFT” substitute “CMA”.
  - (3) In subsections (2) to (5), for “OFT” substitute “CMA”.

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(4) 2002 c.40.

(5) Inserted by S.I. 2013/783.

(6) Subsection (5A) was inserted by S.I. 2006/3363 and further amended by Schedule 18 to the Financial Services Act 2012 (c. 21). There are other amendments to section 213 but they are not relevant to this Order.

(7) Amended by S.I. 2013/783.

(8) There are amendments to section 215 but none is relevant to this Order.

(9) There are amendments to section 219 but none is relevant to this Order.

(10) Subsection (1)(c) was inserted by S.I. 2006/3363.

(11) There is an amendment to section 229 but it is not relevant to this Order.

15. (1) Section 230 (notice to OFT of intended prosecution) is amended as follows.

(2) In subsection (2)—

- (a) in the wording before paragraph (a), for “OFT” substitute “CMA”, and
- (b) omit paragraph (b).

(3) In subsection (3), in paragraph (b)—

- (a) for “OFT” (in both places where it occurs) substitute “CMA”, and
- (b) omit “and summary”.

(4) In subsection (4), for “OFT” substitute “CMA”.

16. In section 231 (notice of convictions and judgments to OFT), in subsection (2) and in the heading, for “OFT” (in each place where it occurs) substitute “CMA”.

17. In Schedules 14 and 15 (provisions concerning disclosure of information)(12), at the appropriate place, insert—

“Parts 3 and 4 of the Enterprise and Regulatory Reform Act 2013.”

18. (1) Schedule 24 (transitional and transitory provisions and savings)(13) is amended as follows.

(2) Omit paragraphs 1 and 3 to 5.

(3) In paragraph 15 (transitional provisions regarding enforcement undertakings and orders)—

(a) after sub-paragraph (2), insert—

“(2A) Subject to sub-paragraph (3), the functions of the CMA under section 94(6) as applied by virtue of sub-paragraph (1) or (2) are to be carried out on its behalf by the CMA Board (within the meaning of Schedule 4 to the Enterprise and Regulatory Reform Act 2013).”, and

(b) in sub-paragraph (3), in the wording after paragraph (b), for “the Commission” substitute “a group constituted for the purpose by the chair of the CMA under Schedule 4 to the Enterprise and Regulatory Reform Act 2013”.

(4) In paragraph 16 (powers to supersede, vary or release undertakings)—

(a) in sub-paragraphs (2) and (3), for “relevant authority” (in each place where it occurs) substitute “CMA”,

(b) in sub-paragraph (4), for “OFT” substitute “CMA”,

(c) in sub-paragraph (5), for “relevant authority” substitute “CMA”, and

(d) for sub-paragraph (6) substitute—

“(6) The functions of the CMA under this paragraph are to be carried out on its behalf—

(a) in the case of an undertaking accepted in pursuance of a proposal under section 56A of the 1973 Act or an undertaking under section 56F or 75G of that Act, by the CMA Board (within the meaning of Schedule 4 to the Enterprise and Regulatory Reform Act 2013), and

(b) in the case of an undertaking accepted under section 88 of that Act, by a group constituted for the purpose by the chair of the CMA under Schedule 4 to the Enterprise and Regulatory Reform Act 2013.”

(5) In paragraph 17—

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(12) There are amendments to Schedules 14 and 15 but none is relevant to this Order.

(13) There is an amendment to Schedule 24 but it is not relevant to this Order.

- (a) in sub-paragraph (1), for “Commission” substitute “CMA”,
- (b) in sub-paragraph (2), for “OFT” substitute “CMA”,
- (c) in sub-paragraph (3)—
  - (i) for “Commission” substitute “CMA”, and
  - (ii) for the words from “sub-paragraph (1)” to “sub-paragraph (2),” substitute “sub-paragraphs (1) and (2)”,
- (d) in sub-paragraph (4)—
  - (i) for “Commission” substitute “CMA”, and
  - (ii) for the words from “sub-paragraph (1)” to “sub-paragraph (2),” substitute “sub-paragraphs (1) and (2)”,
- (e) in sub-paragraph (5), for “Commission or the OFT” substitute “CMA”, and
- (f) after sub-paragraph (5) insert—
  - “(6) The functions of the CMA under this paragraph are to be carried out on its behalf—
    - (a) in the case of an order under sub-paragraph (1), by a group constituted for the purpose by the chair of the CMA under Schedule 4 to the Enterprise and Regulatory Reform Act 2013, and
    - (b) in the case of an order under sub-paragraph (2), by the CMA Board (within the meaning of Schedule 4 to the Enterprise and Regulatory Reform Act 2013).”
- (6) In paragraph 18—
  - (a) after sub-paragraph (1), insert—
    - “(1A) Subject to sub-paragraph (2), the functions of the CMA under section 94(6) as applied by virtue of sub-paragraph (1) are to be carried out on its behalf by the CMA Board (within the meaning of Schedule 4 to the Enterprise and Regulatory Reform Act 2013).”,
  - (b) in sub-paragraph (2)—
    - (i) for “the Commission” (where it first appears) substitute “a group constituted by the chair of the CMA under Schedule 4 to the Enterprise and Regulatory Reform Act 2013 (“CMA group)”,
    - (ii) for “it” substitute “a CMA group”,
    - (iii) for “the Commission” (where it next appears) substitute “a CMA group”.

## PART 2

### Amendments to other Acts of Parliament

#### **Registered Designs Act 1949**

**19.** The Registered Designs Act 1949(14) is amended as follows.

**20.** (1) Section 11A (powers exercisable for protection of the public interest)(15) is amended as follows.

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(14) 1949 c. 88. The text of this Act is taken from Schedule 4 to the Copyright, Designs and Patents Act 1988 (c. 48).

(15) Amended by Schedule 25 to the Enterprise Act 2002 (c. 40) and S.I. 1999/506. There are other amendments to section 11A but none is relevant to this Order.

(2) In subsections (1) and (7), for “Competition Commission” (in each place where it occurs) substitute “Competition and Markets Authority”.

(3) In subsection (3), for “Commission’s report as being those which in the Commission’s opinion”, substitute “Competition and Markets Authority’s report as being those which in the opinion of the Competition and Markets Authority”.

**21.** (1) Section 11AB (powers exercisable following merger and market investigations)(**16**) is amended as follows.

(2) In subsection (1)—

(a) in paragraph (a), after “147(2)” insert “, 147A(2)”, and

(b) in paragraph (b), for “Competition Commission” substitute “Competition and Markets Authority”.

(3) In subsections (2) and (3), for “Competition Commission” substitute “Competition and Markets Authority”.

(4) For subsection (6) substitute—

“(6) References in this section to the Competition and Markets Authority are references to a CMA group except where—

(a) section 75(2) of the Enterprise Act 2002 applies; or

(b) any other enactment mentioned in subsection (1)(a) above applies and the functions of the Competition and Markets Authority under that enactment are being performed by the CMA Board by virtue of section 34C(3) or 133A(2) of the Enterprise Act 2002.”

(5) In subsection (7)—

(i) for “or 141” substitute “, 141 or 141A”,

(ii) for “Competition Commission” substitute “Competition and Markets Authority”, and

(iii) for “or 147” substitute “, 147 or 147A”.

(6) After subsection (8), insert—

“(9) In subsection (6) “CMA Board” and “CMA group” have the same meaning as in Schedule 4 to the Enterprise and Regulatory Reform Act 2013.”

### **Agricultural Marketing Act 1958**

**22.** The Agricultural Marketing Act 1958(**17**) is amended as follows.

**23.** In section 19A (agricultural marketing schemes – intervention on competition grounds)(**18**)—

(a) in subsection (1B), after “147(2)”, insert “or 147A(2)”, and

(b) in subsection (1C)(a), for “Competition Commission” substitute “Competition and Markets Authority”.

**24.** In section 47(2) (restrictions on disclosing certain information obtained under Act)(**19**), for paragraph (aa) substitute—

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(16) Inserted by Schedule 25 to the Enterprise Act 2002.

(17) 1958 c. 47.

(18) Inserted by section 127 of the Fair Trading Act 1973 (c. 41), repealed in relation to milk and potatoes by sections 21 and 46 respectively of the Agriculture Act 1993 (c. 37) and amended by Schedule 25 to the Enterprise Act 2002.

(19) Paragraph (aa) was inserted into section 47(2) by Schedule 12 to the Fair Trading Act 1973 and subsequently amended by section 19(4)(a) of the Competition Act 1980 (c. 21), Schedule 25 to the Enterprise Act 2002 and S.I. 1999/506.

- “(aa) “(aa) made to the Competition and Markets Authority, if it is made for the purpose of enabling the Authority to perform any of its functions under—
- (i) the Fair Trading Act 1973;
  - (ii) the Competition Act 1980;
  - (iii) the Enterprise Act 2002; or
  - (iv) Part 3 of the Enterprise and Regulatory Reform Act 2013.”

### **Public Records Act 1958**

25. In Schedule 1 to the Public Records Act 1958 (definition of public records)(20), in Part 2 of the Table at the end of paragraph 3, omit “Competition Commission” and “Office of Fair Trading”.

### **Parliamentary Commissioner Act 1967**

26. In Schedule 2 to the Parliamentary Commissioner Act 1967 (departments etc subject to investigation)(21), omit the entries for “Competition Commission” and “Office of Fair Trading”.

### **Superannuation Act 1972**

27. In Schedule 1 to the Superannuation Act 1972 (kinds of employment to which section 1 of that Act applies)(22), in the list of Royal Commissions and other Commissions, omit the entry for the “Competition Commission”.

### **Fair Trading Act 1973**

28. In section 137 of the Fair Trading Act 1973 (general interpretation)(23), in subsection (2)—
- (a) omit the definition of “the Commission”,
  - (b) in the definition of “Minister” for “establishment consisting of the Director and his staff” substitute “Competition and Markets Authority”.

### **House of Commons Disqualification Act 1975**

29. In Part 2 of Schedule 1 to the House of Commons Disqualification Act 1975 (bodies of which all members are disqualified)(24), omit “The Competition Commission” and “The Office of Fair Trading”.

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(20) 1958 c 51. An entry for “Competition and Markets Authority” is inserted into Part 2 of the Table in Schedule 2 by Schedule 4 to the Enterprise and Regulatory Reform Act 2013. There are other amendments to Schedule 2 not relevant to this Order.

(21) 1967 c. 13. Schedule 2 was substituted by S.I. 2011/2986 and an entry for “Competition and Markets Authority” is inserted by Schedule 4 to the Enterprise and Regulatory Reform Act 2013. There are other amendments to Schedule 2 not relevant to this Order.

(22) 1972 c. 11. Amended by S.I. 1999/506. An entry for “Competition and Markets Authority” was inserted into Schedule 1 by Schedule 4 to the Enterprise and Regulatory Reform Act 2013. There are other amendments to Schedule 1 not relevant to this Order.

(23) 1973 c. 41. The definition of “the Commission” was amended by S.I. 1999/506. References to the Director General of Fair Trading in section 137 have effect as references to the OFT by virtue of section 2 of the Enterprise Act 2002. The definition of “the Director” was repealed by Schedule 26 to the Enterprise Act 2002. There are other amendments to this section which are not relevant to this Order.

(24) 1975 c. 24. An entry for “Competition and Markets Authority” is inserted into Part 2 of Schedule 1 to the 1975 Act by Schedule 4 to the Enterprise and Regulatory Reform Act 2013. There are other amendments to Schedule 1 not relevant to this Order.



### **Northern Ireland Assembly Disqualification Act 1975**

**30.** In Part 2 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (bodies of which all members are disqualified)(**25**) omit “The Competition Commission” and “The Office of Fair Trading”.

### **Patents Act 1977**

**31.** The Patents Act 1977(**26**) is amended as follows.

**32.** (1) Section 50A (powers exercisable following merger and market investigations)(**27**) is amended as follows.

(2) In subsection (1)(a), after “147(2)” insert “, 147A(2)”.

(3) In subsections (1)(b), (2) and (3), for “Competition Commission” substitute “Competition and Markets Authority”.

(4) For subsection (5) substitute—

“(5) References in this section to the Competition and Markets Authority are references to a CMA group except where—

(a) section 75(2) of the Enterprise Act 2002 applies; or

(b) any other enactment mentioned in subsection (1)(a) above applies and the functions of the Competition and Markets Authority under that enactment are being performed by the CMA Board by virtue of section 34C(3) or 133A(2) of the Enterprise Act 2002.”.

(5) In subsection (6)—

(a) for “or 141” substitute “, 141 or 141A”;

(b) for “Competition Commission” substitute “Competition and Markets Authority”; and

(c) for “or 147” substitute “, 147 or 147A”.

(6) After subsection (7), insert—

“(8) In subsection (5) “CMA Board” and “CMA group” have the same meaning as in Schedule 4 to the Enterprise and Regulatory Reform Act 2013.”

**33.** (1) Section 51 (powers exercisable in consequence of report of Competition Commission)(**28**) is amended as follows.

(2) In subsection (1), for “Competition Commission” substitute “Competition and Markets Authority”.

(3) In subsection (3) for “Commission’s report as being those which in the Commission’s opinion”, substitute “Competition and Markets Authority’s report as being those which in the opinion of the Competition and Markets Authority”.

(4) In subsection (4) for “Commission” substitute “Competition and Markets Authority”.

(5) In the heading, for “Competition Commission” substitute “Competition and Markets Authority”.

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(25) 1975 c. 25. An entry for “Competition and Markets Authority” is inserted into Part 2 of Schedule 1 to the 1975 Act by Schedule 4 to the Enterprise and Regulatory Reform Act 2013. There are other amendments to Schedule 1 not relevant to this Order.

(26) 1977 c. 37.

(27) Inserted by Schedule 25 to the Enterprise Act 2002.

(28) Substituted by Schedule 5 to the Copyright, Designs and Patents Act 1988 and subsequently amended by s. 45 of the Competition Act 1998 (c. 41), Schedule 25 to the Enterprise Act 2002 and S.I. 1999/506.

**34.** In section 53 (compulsory licences; supplementary provisions)(**29**), in subsection (2), for “Competition Commission” substitute “Competition and Markets Authority”.

### **Competition Act 1980**

**35.** The Competition Act 1980(**30**) is amended as follows.

**36.** (1) Section 11B (references under section 11: powers of investigation and penalties)(**31**) is amended as follows.

(2) In subsection (1)—

- (a) in the words before paragraph (a), for “(2) and” substitute “(1A) to”, and
- (b) after paragraph (b), insert—

“(ba) “(ba) section 110A (restriction on powers to impose penalties under section 110)(**32**);”.

(3) After subsection (1), insert—

“(1A) Section 109 shall in its application by virtue of subsection (1) above, have effect as if—

(a) in subsection (A1)(**33**), for paragraphs (a) and (b) there were substituted—

- “(a) “(a) assisting the CMA in carrying out any functions, including enforcement functions, in connection with a reference under section 11 of the Competition Act 1980 (the “1980 Act”) (references of public bodies and certain other persons to the CMA);
- (b) assisting the Secretary of State in carrying out any functions, including enforcement functions, in connection with an order under section 11D of that Act (interim orders) or section 12 of that Act (orders following report under section 11 of that Act).”.

(b) in subsection (8A)(**34**), for paragraphs (a) and (b) there were substituted—

- “(a) “(a) in relation to the CMA, functions conferred by virtue of section 87 on the CMA by orders under section 11D or 12 of the 1980 Act;
- (b) in relation to the Secretary of State—
  - (i) functions conferred by virtue of section 87 on the Secretary of State by orders under section 11D or 12 of the 1980 Act;
  - (ii) the functions of the Secretary of State in relation to the variation or revocation of orders under section 11D or 12 of the 1980 Act.”.

(4) In subsection (2), omit paragraph (b).

(5) After subsection (2), insert—

“(2A) Section 110A shall, in its application by virtue of subsection (1) above, have effect as if for subsections (5) to (8) there were substituted—

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(**29**) Amended by Schedule 5 to the Copyright, Designs and Patents Act 1988, Schedule 25 to the Enterprise Act 2002 and [S.I. 1999/506](#).

(**30**) [1980 c. 21](#).

(**31**) Inserted by Schedule 25 to the Enterprise Act 2002.

(**32**) Section 110A was inserted into Part 3 of the Enterprise Act 2002 by section 29 of the Enterprise and Regulatory Reform Act 2013.

(**33**) Subsection (A1) was inserted into section 109 by section 29 of the Enterprise and Regulatory Reform Act 2013.

(**34**) Subsection (8A) was inserted into section 109 by section 29 of the Enterprise and Regulatory Reform Act 2013.

“(5) Where the section 109 power is exercised for the purpose mentioned in subsection (A1)(a) of that section, in connection with a reference under section 11 of the 1980 Act, the relevant day is the day when the report of the CMA on the reference concerned is laid before both Houses of Parliament.

(6) Where the section 109 power is exercised for the purpose mentioned in subsection (A1)(b) of that section, in connection with an order under section 11D of the 1980 Act (interim orders) or section 12 of that Act (orders following report under section 11 of that Act), the relevant day is the day when the Secretary of State makes the order concerned or decides not to make an order under section 11D or 12 of that Act, as the case may be.””

(6) For subsection (3) substitute—

“(3) Section 111(5)(b) shall, in its application by virtue of subsection (1) above, have 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 the report may be made within the permitted period.””

**37.** In section 11D (interim orders)(**35**), in subsection (7)—

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

(b) after paragraph (c), insert—

“; and

(d) section 94A (interim orders: penalties).”

#### **Civil Aviation Act 1982**

**38.** In section 4 of the Civil Aviation Act 1982 (general objectives of CAA)(**36**), in subsections (3) and (4), for “Office of Fair Trading” substitute “Competition and Markets Authority”.

#### **Telecommunications Act 1984**

**39.** The Telecommunications Act 1984(**37**) is amended as follows.

**40.** (1) Section 101 (general restrictions on disclosure of information)(**38**) is amended as follows.

(2) In subsection (2)(b), for “the Office of Fair Trading, the Commission” substitute “the Competition and Markets Authority”.

(3) In subsection (3), after paragraph (v), insert—

“(w) “(w) Parts 3 and 4 of the Enterprise and Regulatory Reform Act 2013”

(4) In subsection (6), for “the Office of Fair Trading” substitute “the Competition and Markets Authority”.

**41.** In section 106 (general interpretation)(**39**), omit the definition of “the Commission”.

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(35) Inserted by Schedule 25 to the Enterprise Act 2002.

(36) 1982 c. 16. Section 4(3) and (4) were inserted by Schedule 8 to the Transport Act 2000 (c. 38) and amended by Schedule 25 to the Enterprise Act 2002.

(37) 1984 c.12.

(38) Amended by Schedule 10 to the Competition Act 1998, Schedule 25 to the Enterprise Act 2002, S.I. 1988/915 and S.I. 1999/506. There are other amendments to section 101 but none is relevant to this Order.

(39) The definition of “the Commission” was inserted by S.I. 1999/506. There are other amendments to section 106 but none is relevant to this Order.

### Companies Act 1985

- 42.** (1) Schedule 15D to the Companies Act 1985 (disclosures)(**40**) is amended as follows.
- (2) In paragraph 17—
- (a) for “Office of Fair Trading” substitute “Competition and Markets Authority”, and
- (b) after sub-paragraph (k), insert—
- “(l) “(l) Parts 3 and 4 of the Enterprise and Regulatory Reform Act 2013.”.
- (3) Omit paragraph 18.

### Airports Act 1986

- 43.** (1) Section 74 of the Airports Act 1986 (restriction on disclosure of information)(**41**) is amended as follows.
- (2) In subsection (2), for “the Commission, the Office of Fair Trading” substitute “the Competition and Markets Authority”.
- (3) In subsection (3), after paragraph (x), insert—
- “(y) “(y) Parts 3 and 4 of the Enterprise and Regulatory Reform Act 2013”.
- (4) In subsection (4)(b), at the end, insert “(prior to the abolition of the Competition Commission by section 26 of the Enterprise and Regulatory Reform Act 2013)”.
- (5) Omit subsection (6).

### Gas Act 1986

- 44.** The Gas Act 1986(**42**) is amended as follows.
- 45.** In section 4B (exceptions from sections 4AA to 4A)(**43**), in subsection (3), for “the Office of Fair Trading”, substitute “the CMA”.
- 46.** In section 4D (Authority to consult and cooperate with other authorities)(**44**), in subsection (3), in the definition of “relevant national authority”—
- (a) omit paragraph (a), and
- (b) in paragraph (c), for “the Office of Fair Trading” substitute “the CMA”.
- 47.** In section 27 (modification by order under other enactments)(**45**), in subsection (1ZA)(b), after “the market” insert “or markets”.
- 48.** In section 34 (general functions)(**46**), in subsection (4), for “the Office of Fair Trading” (in each place where it occurs) substitute “the CMA”.

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(40) 1985 c.6. Schedule 15D was inserted by Schedule 2 to the Companies (Audit, Investigations and Community Enterprise) Act 2004 (c.27) and subsequently amended by S.I. 2008/1277. There are other amendments to Schedule 15D but none is relevant to this Order.

(41) 1986 c. 31. Section 74 was amended by Schedule 25 to the Enterprise Act 2002, Schedule 9 to the Civil Aviation Act 2012 (c. 19) and S.I. 1999/506. There are other amendments to section 74 but none is relevant to this Order.

(42) 1986 c. 44.

(43) Inserted by section 12 of the Utilities Act 2000 (c. 27) and subsequently amended by Schedule 25 to the Enterprise Act 2002. There are other amendments to section 4B but none is relevant to this Order.

(44) Inserted by S.I. 2011/2704.

(45) Section 27 was substituted by Schedule 3 to the Gas Act 1995 (c. 45) and subsequently amended by Schedule 9 to the Enterprise Act 2002 and Schedule 6 to the Enterprise and Regulatory Reform Act 2013. There are other amendments to section 27 but none is relevant to this Order.

(46) Amended by Schedule 25 to the Enterprise Act 2002. There are other amendments to section 34 but none is relevant to this Order.

**49.** In section 35 (publication of advice and information about consumer matters)**(47)**, in subsection (3A), for “the Office of Fair Trading” substitute “the CMA”.

**50.** (1) Section 36A (functions with respect to competition)**(48)** 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 34(1) and (2) 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 34(1) or (2) of the Gas Act 1986 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 (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

**(47)** Section 35 was substituted by section 6 of the Utilities Act 2000 and subsection (3A) was subsequently inserted by Schedule 25 to the Enterprise Act 2002.

**(48)** Section 36A was inserted by the Gas Act 1995 and subsequently amended by 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 36A but none is relevant to this Order.

substituted “commercial activities connected with the carrying on of activities to which section 36A(2A) of the Gas Act 1986 applies”.

(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 (5) and (5A), for “Office of Fair Trading” (in each place where it occurs) substitute “CMA”.

(9) In subsection (6)—

(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 (6) insert—

“(6A) In subsection (6) “CMA group” has the same meaning as in Schedule 4 to the Enterprise and Regulatory Reform Act 2013.”

(11) In subsection (7), for “the Office of Fair Trading” substitute “the CMA”.

(12) In subsection (8), for “Office of Fair Trading” substitute “CMA”.

**51.** (1) Section 41EB (references under section 41E: application of Enterprise Act 2002)(49) is amended as follows.

(2) In subsection (1), after “subsections” insert “(1A)”,

(3) After subsection (1), insert—

“(1A) Section 109 shall, in its application by virtue of subsection (1) above, have effect as if—

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

“(A1) For the purposes of this section, a permitted purpose is assisting the CMA in carrying out any functions exercisable by it in connection with a reference under section 41E of the Gas Act 1986.”, and

(b) subsection (8A) were omitted.”

(4) In subsection (2)—

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

(b) after that paragraph, insert—

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

“(3A) No penalty shall be imposed by virtue of subsection (1) or (3) 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.”; and”.

(5) For subsection (3) substitute—

“(3) Section 111(5)(b) shall, in its application by virtue of subsection (1) above, have effect as if for sub-paragraph (ii) there were substituted—

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(49) Section 41EB was inserted by Schedule 25 to the Enterprise Act 2002 and subsequently amended by Schedule 16 to the Communications Act 2003 and Schedule 6 to the Enterprise and Regulatory Reform Act 2012.

“(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 the report may be made within the permitted period.””

### **Company Directors Disqualification Act 1986**

**52.** The Company Directors Disqualification Act 1986(**50**) is amended as follows.

**53.** In the following provisions, for “OFT” (in each place where it occurs) substitute “Competition and Markets Authority”—

- (a) section 8A(2A) (variation etc of disqualification undertaking)(**51**),
- (b) section 9A(10) (competition disqualification order),
- (c) section 9B(1), (2) and (7) (competition undertakings),
- (d) section 9C(1) to (4) (competition investigations)(**52**),
- (e) section 16(4)(c) (application for disqualification order)(**53**),
- (f) section 17(7) (application for leave under an order or undertaking)(**54**), and
- (g) section 18(2A)(b) (register of disqualification orders and undertakings)(**55**).

**54.** In section 9D (co-ordination)(**56**), in subsection (2), after paragraph (b), insert—

“(ba) “(ba) the reference in subsection (6A)(b) to notice under section 31(1) of the Competition Act 1998 that the regulator proposes to make a decision within the meaning given by section 31(2) of that Act is to be read as notice under section 9C(4) that the specified regulator proposes to apply under section 9A for a disqualification order.””.

### **Copyright, Designs and Patents Act 1988**

**55.** The Copyright, Designs and Patents Act 1988(**57**) is amended as follows.

**56.** In section 98 (undertaking to take licence of right in infringement proceedings)(**58**), in subsection (1), for “Competition Commission” substitute “Competition and Markets Authority”.

**57.** (1) Section 144 (powers exercisable in consequence of report of Competition Commission)(**59**) is amended as follows.

(2) In subsection (1)—

- (a) for “, the Office of Fair Trading or (as the case may be) the Competition Commission” substitute “or (as the case may be) the Competition and Markets Authority”;
- (b) after “147(2)” insert “, 147A(2)”; and

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(50) 1986 c. 46.

(51) Inserted by section 6 of the Insolvency Act 2000 (c. 39) and amended by section 204 of the Enterprise Act 2002.

(52) Sections 9A to 9C and subsection (4) of section 16 were inserted by section 204 of the Enterprise Act 2002. Section 9A was amended by S.I. 2012/1809. There are other amendments to sections 9A but none is relevant to this Order.

(53) Amended by section 204 of the Enterprise Act 2002. There are other amendments to section 16 but none is relevant to this Order.

(54) Inserted by Schedule 4 to the Insolvency Act 2000 and amended by section 204 of the Enterprise Act 2002.

(55) Subsection (2A) was inserted by the Insolvency Act 2000 and subsequently substituted by section 204 of the Enterprise Act 2002. There are other amendments to section 18 but none is relevant to this Order.

(56) Section 9D was inserted by section 204 of the Enterprise Act 2002.

(57) 1988 c. 48.

(58) Amended by S.I. 1999/506.

(59) By virtue of section 45(4) of the Competition Act 1998 the reference to the Monopolies and Mergers Commission in the heading to section 144 has effect as a reference to the Competition Commission. Section 144 was also amended by Schedule 25 to the Enterprise Act 2002.

(c) for “Commission” substitute “Competition and Markets Authority”.

(3) In subsection (3), for “, the Office of Fair Trading or (as the case may be) the Competition Commission” substitute “or (as the case may be) the Competition and Markets Authority”.

(4) In the heading, for “Monopolies and Mergers Commission” substitute “Competition and Markets Authority”.

**58.** In section 238 (powers exercisable for protection of the public interest)(**60**), in subsection (1)

(a) for “, the Competition Commission or (as the case may be) the Office of Fair Trading” substitute “or (as the case may be) the Competition and Markets Authority”;

(b) after “147(2)” insert “, 147A(2)”; and

(c) for “Commission” substitute “Competition and Markets Authority”.

**59.** In paragraph 17 of Schedule 2A (licensing of performer’s rights: powers exercisable in consequence of competition report)(**61**)—

(a) in sub-paragraph (1)—

(i) for “, the Competition Commission or (as the case may be) the Office of Fair Trading” substitute “or (as the case may be) the Competition and Markets Authority”;

(ii) after “147(2)” insert “, 147A(2)”; and

(iii) for “Commission” substitute “Competition and Markets Authority”;

(b) in sub-paragraph (3), for “, the Competition Commission or (as the case may be) the Office of Fair Trading” substitute “or (as the case may be) the Competition and Markets Authority”.

### **Water Act 1989**

**60.** (1) Section 174 of the Water Act 1989 (general restrictions on disclosure of information)(**62**) is amended as follows.

(2) In subsection (2)—

(a) in paragraph (a) and (d)(iii), for “Competition Commission” (in each place where it occurs) substitute “Competition and Markets Authority”; and

(b) omit paragraph (d)(ii).

(3) In subsection (3), after paragraph (n) insert—

“(o) “(o) Parts 3 and 4 of the Enterprise and Regulatory Reform Act 2013.”

(4) In subsection (4), for “Competition Commission” substitute “Competition and Markets Authority”.

### **Electricity Act 1989**

**61.** The Electricity Act 1989(**63**) is amended as follows.

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(60) Subsections (1), (1A) and (2) were substituted by Schedule 25 to the Enterprise Act 2002.

(61) Schedule 2A was inserted by [S.I. 1996/2967](#) and paragraph 17 was subsequently amended by Schedule 25 to the Enterprise Act 2002.

(62) [1989 c. 15](#). Section 174 was amended by Schedule 10 to the Competition Act 1998, Schedule 25 to the Enterprise Act 2002 and [SI 1999/506](#). There are other amendments to section 174 but none is relevant to this Order.

(63) [1989 c. 29](#).



**62.** In section 3D (exceptions from sections 3A to 3C)(**64**), in subsection (4), for “the Office of Fair Trading”, substitute “the CMA”.

**63.** In section 3F (Authority to consult and cooperate with other authorities)(**65**), in subsection (3), in the definition of “relevant national authority”—

- (a) omit paragraph (a), and
- (b) in paragraph (c), for “the Office of Fair Trading” substitute “the CMA”.

**64.** In section 15 (modification by order under other enactments)(**66**), in subsection (2)(b), after “the market” insert “or markets”.

**65.** (1) Section 43 (functions with respect to competition)(**67**) 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

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(64) Inserted by section 16 of the Utilities Act 2000 and subsequently amended by Schedule 25 to the Enterprise Act 2002. There are other amendments to section 3D but none is relevant to this Order.

(65) Inserted by [S.I. 2011/2704](#).

(66) Subsection (2) was substituted by Schedule 9 to the Enterprise Act 2002. There are other amendments to section 15 but none is relevant to this Order.

(67) 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.

(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 (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”.

**66.** In section 47 (general functions)(**68**), in subsection (3), for “the Office of Fair Trading” (in each place where it occurs) substitute “the CMA”.

**67.** In section 48 (publication of information and advice)(**69**), in subsection (3), for “The Office of Fair Trading” substitute “The CMA”.

**68.** (1) Section 56CB (references under section 56C: application of Enterprise Act 2002)(**70**) is amended as follows.

(2) In subsection (1), after “subsections” insert “(1A),”.

(3) After subsection (1), insert—

“(1A) Section 109 shall, in its application by virtue of subsection (1) above, have effect as if—

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

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**(68)** Subsection (3) was amended by Schedule 25 to the Enterprise Act 2002. There are other amendments to section 47 but none is relevant to this Order.

**(69)** Amended by section 3 of the Utilities Act 2000 and Schedule 25 to the Enterprise Act 2002. There are other amendments to section 48 but none is relevant to this Order.

**(70)** Inserted by Schedule 25 to the Enterprise Act 2002 and subsequently amended by Schedule 16 to the Communications Act 2003 (c. 21) and Schedule 6 to the Enterprise and Regulatory Reform Act 2013.

- “(A1) For the purposes of this section, a permitted purpose is assisting the CMA in carrying out any functions exercisable by it in connection with a reference under section 56C of the Electricity Act 1989.”, and
- (b) subsection (8A) were omitted.”
- (4) In subsection (2)—
- (a) at the end of paragraph (a), omit “and”, and
- (b) after that paragraph, insert—
- “(aa) “(aa) after subsection (3), there were inserted—
- “(3A) No penalty shall be imposed by virtue of subsection (1) or (3) 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.”; and”.
- (5) For subsection (3) substitute—
- “(3) Section 111(5)(b) shall, in its application by virtue of subsection (1) above, have 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 the report may be made within the permitted period.”.”

### **Companies Act 1989**

**69.** In section 87 of the Companies Act 1989 (exceptions from restrictions on disclosure)(**71**), in subsection (4), in the Table, in the entry relating to the Office of Fair Trading, for “The Office of Fair Trading” substitute “The Competition and Markets Authority”.

### **Broadcasting Act 1990**

**70.** The Broadcasting Act 1990(**72**) is amended as follows.

**71.** In section 193 (modification of networking arrangements in consequence of competition legislation)(**73**)—

- (a) in subsection (2)(b), after “the market” insert “or markets”, and
- (b) in subsection (2A), for “Office of Fair Trading, the Competition Commission” (in each place where it occurs) substitute “Competition and Markets Authority”.

**72.** (1) Section 194A (modification of Restrictive Trade Practices Act 1976 in its application to agreements relating to Channel 3 news provision)(**74**) is amended as follows.

- (2) In subsections (2) and (5) to (8), for “OFT” (in each place where it occurs) substitute “CMA”.
- (3) In subsection (9)—
- (a) in the definition of “Chapter III powers”, for “OFT” substitute “CMA”,

(71) 1989 c. 40. Section 87(4) was amended by Schedule 25 to the Enterprise Act 2002 and S.I. 2001/3649. There are other amendments to section 87 but none is relevant to this Order.

(72) 1990 c. 42.

(73) Section 193 was substituted by Schedule 9 to the Enterprise Act 2002 and subsection (2A) was subsequently inserted by Schedule 15 to the Communications Act 2003. There are other amendments to section 193 but none is relevant to this Order.

(74) Section 194A was inserted by section 77(1) of the Broadcasting Act 1996 (c. 55) and subsequently amended by section 3 of and Schedule 2 to the Competition Act 1998, Schedule 25 to the Enterprise Act 2002 and section 372 of the Communications Act 2003.

(b) omit the definition of “OFT”, and

(c) in the appropriate place insert—

““CMA” means the Competition and Markets Authority;”.

### **Water Industry Act 1991**

**73.** The Water Industry Act 1991(**75**) is amended as follows.

**74.** In section 2 (general duties with respect to water industry)(**76**), in subsection (6B), for “the Office of Fair Trading (in this Act referred to as “the OFT”)” substitute “the CMA”.

**75.** (1) Section 14B (references under section 14: powers of investigation)(**77**) is amended as follows.

(2) In subsection (1), after “subsections” insert “(1A),”.

(3) After subsection (1), insert—

“(1A) Section 109 shall, in its application by virtue of subsection (1) above, have effect as if—

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

“(A1) For the purposes of this section, a permitted purpose is assisting the CMA in carrying out any functions exercisable by it in connection with a reference under section 14 of the Water Industry Act 1991.”, and

(b) subsection (8A) were omitted.”

(4) In subsection (2)—

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

(b) after that paragraph, insert—

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

“(3A) No penalty shall be imposed by virtue of subsection (1) or (3) 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.”; and”.

(5) For subsection (3) substitute—

“(3) Section 111(5)(b) shall, in its application by virtue of subsection (1) above, have 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 the report may be made within the permitted period.”.”

**76.** (1) Section 16B (competition authority’s power of veto following report: supplementary)(**78**) is amended as follows.

(2) In subsection (6), after “subsections” insert “(6A),”.

(3) After subsection (6), insert—

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(75) 1991 c. 56.

(76) Subsections (6A) and (6B) were inserted by Schedule 10 to the Competition Act 1998 and subsequently amended by Schedule 25 to the Enterprise Act 2002 and by virtue of section 36 and by section 39 of the Water Act 2003 (c. 37). There are other amendments to section 2 but none is relevant to this Order.

(77) Inserted by Schedule 25 to the Enterprise Act 2002.

(78) Inserted by section 55 of the Water Act 2003 and amended by Schedule 6 to the Enterprise and Regulatory Reform Act 2013.

“(6A) Section 109 shall, in its application by virtue of subsection (6) above, have effect as if—

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

“(A1) For the purposes of this section, a permitted purpose is assisting the CMA in carrying out any functions exercisable by it in connection with an investigation for the purposes of the exercise of its functions under section 16A of the Water Industry Act 1991.”, and

(b) subsection (8A) were omitted.”

(4) In subsection (7), for paragraph (b), substitute—

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

“(3A) No penalty shall be imposed by virtue of subsection (1) or (3) if more than 4 weeks have passed since the publication by the CMA of a notice under section 16A(9) of the Water Industry Act 1991 in connection with the reference concerned or, if no direction has been given by the CMA under section 16A(1) of that Act in connection with the reference concerned and within the period permitted for that purpose, the latest day on which it was possible to give such a direction within the permitted period; but this subsection shall not apply in relation to any variation or substitution of the penalty which is permitted by virtue of this Part.”; and”.

**77.** In section 17 (modification by order under other enactments)(**79**), in subsection (2)(b), after “the market” insert “or markets”.

**78.** (1) Section 17M (references under section 17K: powers of investigation)(**80**) is amended as follows.

(2) In subsection (1), after “subsections” insert “(1A),”.

(3) After subsection (1), insert—

“(1A) Section 109 shall, in its application by virtue of subsection (1) above, have effect as if—

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

“(A1) For the purposes of this section, a permitted purpose is assisting the CMA in carrying out any functions exercisable by it in connection with a reference under section 17K of the Water Industry Act 1991.”, and

(b) subsection (8A) were omitted.”

(4) In subsection (2)—

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

(b) after that paragraph, insert—

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

“(3A) No penalty shall be imposed by virtue of subsection (1) or (3) 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.”; and”.

(5) For subsection (3) substitute—

(79) Amended by Schedule 9 to the Enterprise Act 2002 and by Schedule 6 to the Enterprise and Regulatory Reform Act 2013.

(80) Inserted by Schedule 4 to the Water Act 2003.

“(3) Section 111(5)(b) shall, in its application by virtue of subsection (1) above, have 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 the report may be made within the permitted period.””

**79.** (1) Section 17Q (section 17P: supplementary)(**81**) is amended as follows.

(2) In subsection (6), after “subsections” insert “(6A),”.

(3) After subsection (6), insert—

“(6A) Section 109 shall, in its application by virtue of subsection (6) above, have effect as if—

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

“(A1) For the purposes of this section, a permitted purpose is assisting the CMA in carrying out any functions exercisable by it in connection with an investigation for the purposes of the exercise of its functions under section 17P of the Water Industry Act 1991.”, and

(b) subsection (8A) were omitted.”

(4) In subsection (7), for paragraph (b), substitute—

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

“(3A) No penalty shall be imposed by virtue of subsection (1) or (3) if more than 4 weeks have passed since the publication by the CMA of a notice under section 17P(9) of the Water Industry Act 1991 in connection with the reference concerned or, if no direction has been given by the CMA under section 17P(1) of that Act in connection with the reference concerned and within the period permitted for that purpose, the latest day on which it was possible to give such a direction within the permitted period; but this subsection shall not apply in relation to any variation or substitution of the penalty which is permitted by virtue of this Part.”; and”.

**80.** In section 17R (modification by order under other enactments)(**82**), in subsection (2)(b), after “the market” insert “or markets”.

**81.** In section 27 (general duty of Authority to keep matters under review)(**83**), in subsection (4), for “the OFT” (in each place where it occurs) substitute “the CMA”.

**82.** In section 27E (provision of advice and information to public authorities)(**84**), in subsection (7), for “Competition Commission” substitute “CMA”.

**83.** In section 29A (power of Council to investigate other matters)(**85**), in subsection (3), for “OFT” substitute “CMA”.

**84.** (1) Section 31 (functions of Authority with respect to competition)(**86**) is amended as follows.

(2) In subsection (2), for “OFT” substitute “CMA”.

(3) In subsection (2A)—

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(**81**) Inserted by Schedule 4 to the Water Act 2003 and amended by Schedule 6 to the Enterprise and Regulatory Reform Act 2013.

(**82**) Inserted by Schedule 4 to the Water Act 2003 and amended by Schedule 6 to the Enterprise and Regulatory Reform Act 2013.

(**83**) Subsection (4) was amended by Schedule 25 to the Enterprise Act 2002 and by section 36 of and Schedule 8 to the Water Act 2003. There are other amendments to section 27 but none is relevant to this Order.

(**84**) Inserted by section 43 of the Water Act 2003.

(**85**) Inserted by section 47 of the Water Act 2003.

(**86**) Amended by Schedule 10 to the Competition Act 1998, S.I. 1999/506, Schedules 9 and 25 to the Enterprise Act 2002, by virtue of section 36 of the Water Act 2003, by S.I. 2004/1261, S.I. 2012/1809 and by Schedule 15 to the Enterprise and Regulatory Reform Act 2013.

- (a) for “OFT” 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 (3), for “OFT” (in each place where it occurs) substitute “CMA”.
- (5) In subsection (4)—
- (a) for “above, references” substitute—
    - “above—
      - (a) references”,
  - (b) for “OFT” 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 2002 Act are to be construed as including references to section 27(1) and (2) of this Act.”
- (6) After subsection (4) insert—
- “(4ZA) Section 130A of the 2002 Act 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 Water Services Regulation Authority—
      - (a) is proposing to carry out its functions under section 27(1) and (2) of the Water Industry Act 1991 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 (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 supply of water or the provision of sewerage services (within the meaning given by section 219(1) of the Water Industry Act 1991)”.
- (7) In subsection (4A), for “the OFT” substitute “the CMA”.
- (8) In subsections (5) and (6), for “OFT” (in each place where it occurs) substitute “CMA”.
- (9) In subsection (7)—
- (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 2002 Act)”, and
- (b) for “Commission” (in each place where it occurs) substitute “group”.
- (10) After subsection (7) insert—
- “(7A) In subsection (7) “CMA group” has the same meaning as in Schedule 4 to the Enterprise and Regulatory Reform Act 2013.”
- (11) In subsection (8), for “the OFT” substitute “the CMA”.
- (12) In subsection (8A), for “OFT” substitute “CMA”.
- 85.** In section 32 (duty to refer merger of water or sewerage undertaking)(**87**), for the words from “OFT” (where it first appears) to “believes” substitute “CMA to make a reference to its chair for the constitution of a group under Schedule 4 to the Enterprise and Regulatory Reform Act 2013 if the CMA believes”.
- 86.** In section 33 (exclusion of small mergers from duty to make reference), in subsections (1) and (6), for “OFT” (in each place where it occurs) substitute “CMA”.
- 87.** In section 35 (construction of merger provisions)(**88**), in subsections (3) and (5), for “OFT” (in each place where it occurs) substitute “CMA”.
- 88.** In section 66D (sections 66A to 66C: determinations and agreements)(**89**), in subsection (9), for “OFT” substitute “CMA”.
- 89.** In section 192B (annual and other reports)(**90**), in subsection (1), in paragraph (b)—
- (a) for “Competition Commission” substitute “CMA”, and
- (b) for “by it” substitute “by the Authority”.
- 90.** In section 195 (the Authority’s register)(**91**), in subsection (2)(b), for “Competition Commission” substitute “CMA”.
- 91.** In section 201 (publication of certain information and advice)(**92**), in subsection (4), for “OFT” substitute “CMA”.
- 92.** (1) Section 206 (restriction on disclosure of information)(**93**) is amended as follows.
- (2) In subsections (3)(a) and (4)(a), for “Competition Commission” (in each place where it occurs) substitute “CMA”.
- (3) In subsection (9A), for “OFT” substitute “CMA”.
- 93.** (1) Schedule 4ZA (application of provisions of Enterprise Act 2002 to mergers of water enterprises)(**94**) is amended as follows.
- (2) In paragraph 2, for “3 to 6” substitute “2A to 6”.
- (3) After paragraph 2, insert—

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(87) Sections 32 to 35 of the Water Industry Act 1991 were substituted by section 70 of the Enterprise Act 2002.

(88) There is an amendment to section 35 (as substituted by section 70 of the Enterprise Act 2002) but it is not relevant to this Order.

(89) Inserted by Schedule 4 to the Water Act 2003.

(90) Inserted by section 38 of the Water Act 2003.

(91) Amended by virtue of section 36 of the Water Act 2003 and by [S.I. 1999/506](#). There are other amendments to section 195 but none is relevant to this Order.

(92) Amended by virtue of section 36 of the Water Act 2003 and by Schedule 25 to the Enterprise Act 2002. There are other amendments to section 201 but none is relevant to this Order.

(93) Amended by virtue of section 36 of the Water Act 2003, by Schedule 25 to the Enterprise Act 2002 and by [S.I. 1999/506](#). There are other amendments to section 206 but none is relevant to this Order.

(94) Inserted by section 70(2) of and Schedule 6 to the Enterprise Act 2002. There are amendments to Schedule 4ZA but none is relevant to this Order.



“2A. Where a reference is made to the chair of the CMA under section 32 for the constitution of a group under Schedule 4 to the Enterprise and Regulatory Reform Act 2013, the functions of the CMA in relation to the matter are to be carried out on behalf of the CMA by the group so constituted in any case where those functions would be carried out by a group so constituted in relation to a reference under Part 3 of that Act.”

- (4) In paragraph 3—
- (a) in sub-paragraphs (1) and (2), for “Competition Commission” substitute “CMA”, and
  - (b) in sub-paragraphs (3) to (6)—
    - (i) for “Competition Commission” substitute “CMA”, and
    - (ii) for the words from “in pursuance” to the end substitute “under Schedule 4 to the Enterprise and Regulatory Reform Act 2013”.
- (5) In paragraph 4, for “Competition Commission” (in each place where it occurs) substitute “CMA”.
- (6) In paragraph 5, for “OFT” substitute “CMA”.
- (7) In paragraphs 6 and 7, for “Competition Commission” substitute “CMA”.
94. In Schedule 15 (disclosure of information)(95)—
- (a) in Part 1 (persons in respect of whose functions disclosure may be made), omit “The OFT.” and for “Competition Commission” substitute “CMA”, and
  - (b) in Part 2 (enactments etc in respect of which disclosure may be made), at the end insert—  
“Parts 3 and 4 of the Enterprise and Regulatory Reform Act 2013.”

### **Water Resources Act 1991**

95. The Water Resources Act 1991(96) is amended as follows.
96. In section 204 (restriction on disclosure of information)(97), in subsections (2)(a) and (3)(a), for “Competition Commission” (in each place where it occurs) substitute “Competition and Markets Authority”.
97. In Schedule 24 (disclosure of information)(98)—
- (a) in Part 1 (persons in respect of whose functions disclosure may be made), omit “The Office of Fair Trading” and for “The Competition Commission” substitute “The Competition and Markets Authority”, and
  - (b) in Part 2 (enactments etc in respect of which disclosure may be made), at the end insert—  
“Parts 3 and 4 of the Enterprise and Regulatory Reform Act 2013.”

### **Tribunals and Inquiries Act 1992**

98. In section 14(1) of the Tribunals and Inquiries Act 1992 (restricted application of Act in relation to certain tribunals)(99)—
- (a) at the end of paragraph (a), insert “or”, and

(95) Amended by Schedule 25 to the Enterprise Act 2002 and by [S.I. 1999/506](#). There are other amendments to Schedule 15 but none is relevant to this Order.

(96) [1991 c. 57](#).

(97) Amended by [S.I. 1999/506](#). There are other amendments to section 204 but none is relevant to this Order.

(98) Amended by Schedule 25 to the Enterprise Act 2002 and by [S.I. 1999/506](#). There are other amendments to Schedule 24 but none is relevant to this Order.

(99) Amended by Schedule 25 to the Enterprise Act 2002 and Schedule 8 to the Tribunals, Courts and Enforcement Act 2007 ([c. 15](#)). There are other amendments to section 14 but none is relevant to this Order.

(b) omit paragraph (b).

### **Railways Act 1993**

**99.** The Railways Act 1993(**100**) is amended as follows.

**100.** In section 4 (general duties of the Secretary of State and the Office of Rail Regulation)(**101**), in subsection (7B), for “the Office of Fair Trading” substitute “the CMA”.

**101.** (1) Section 13B (references under section 13: application of Enterprise Act 2002)(**102**) is amended as follows.

(2) In subsection (1), after “subsections” insert “(1A),”.

(3) After subsection (1), insert—

“(1A) Section 109 shall, in its application by virtue of subsection (1) above, have effect as if—

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

“(A1) For the purposes of this section, a permitted purpose is assisting the CMA in carrying out any functions exercisable by it in connection with a reference under section 13 of the Railways Act 1993.”, and

(b) subsection (8A) were omitted.”

(4) In subsection (2)—

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

(b) after that paragraph, insert—

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

“(3A) No penalty shall be imposed by virtue of subsection (1) or (3) 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.”; and”.

(5) For subsection (3) substitute—

“(3) Section 111(5)(b) shall, in its application by virtue of subsection (1) above, have 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 the report may be made within the permitted period.”.”

**102.** (1) Section 15C (sections 15A and 15B: supplementary)(**103**) is amended as follows.

(2) In subsection (2D), after “subsections” insert “(2DA),”.

(3) After subsection (2D), insert—

“(2DA) Section 109 shall, in its application by virtue of subsection (2D) above, have effect as if—

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(100) 1993 c. 43.

(101) Subsection (7B) was inserted by Schedule 10 to the Competition Act 1998 and amended by Schedule 25 to the Enterprise Act 2002 and by Schedule 2 to the Railways and Transport Safety Act 2003 (c. 20). There are other amendments to section 4 but none is relevant to this Order.

(102) Inserted by Schedule 25 to the Enterprise Act 2002 and amended by Schedule 16 to the Communications Act 2003 and by Schedule 6 to the Enterprise and Regulatory Reform Act 2013.

(103) Inserted by section 242 of the Transport Act 2000 and amended by Schedule 25 to the Enterprise Act 2002 and Schedule 6 to the Enterprise and Regulatory Reform Act 2013. There are other amendments to section 15C but none is relevant to this Order.

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

“(A1) For the purposes of this section, a permitted purpose is assisting the CMA in carrying out any functions exercisable by it in connection with an investigation for the purposes of the exercise of its functions under section 15A or 15B of the Railways Act 1993.”, and

(b) subsection (8A) were omitted.”

(4) In subsection (2E)—

(a) for paragraph (b), substitute—

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

“(3A) No penalty shall be imposed by virtue of subsection (1) or (3) if more than 4 weeks have passed since the sending of a copy to the Office of Rail Regulation under section 15B(5) of the Railways Act 1993 of the modifications made by the CMA in connection with the reference concerned or, if no direction has been given by the CMA under section 15A(1) of that Act in connection with the reference concerned and within the period permitted for that purpose, the latest day on which it was possible to give such a direction within the permitted period; but this subsection shall not apply in relation to any variation or substitution of the penalty which is permitted by virtue of this Part.”; and”.

**103.** In section 16 (modification by order under other enactments)(**104**), in subsection (2)(b), after “the market” insert “or markets”.

**104.** In section 22 (amendment of access agreements)(**105**), in subsection (6A), for “the Office of Fair Trading” substitute “the CMA”.

**105.** (1) Section 67 (competition functions)(**106**) is amended as follows.

(2) In subsection (2), for “OFT” substitute “CMA”.

(3) In subsection (2A)—

(a) for “OFT” 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”,

**(104)** Amended by Schedule 9 to the Enterprise Act 2002 and Schedule 6 to the Enterprise and Regulatory Reform Act 2013. There are other amendments to section 16 but none is relevant to this Order.

**(105)** Inserted by Schedule 10 to the Competition Act 1998 and amended by Schedule 25 to the Enterprise Act 2002 and by Schedule 2 to the Railways and Transport Safety Act 2003. There are other amendments to section 22 but none is relevant to this Order.

**(106)** Amended by Schedules 4 and 17 to the Deregulation and Contracting Out Act 1994, Schedule 10 to the Competition Act 1998, S.I. 1999/506, Schedules 9 and 25 to the Enterprise Act 2002, by Schedule 2 to the Railways and Transport Safety Act 2003, by S.I. 2003/1398, S.I. 2004/1261, S.I. 2012/1809 and by Schedules 14 and 15 to the Enterprise and Regulatory Reform Act 2013. There are other amendments to section 67 but none is relevant to this Order.

- (b) for “OFT” 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 69(1) of this Act.”
- (5) After subsection (2B) insert—
  - “(2C) Section 130A of the Act of 2002 is to have effect in its application in relation to the Office of Rail Regulation by virtue of subsections (2) and (2A)—
    - (a) as if for subsection (1) of that section there were substituted—
      - “(1) Where the Office of Rail Regulation—
        - (a) is proposing to carry out its functions under section 69(1) of the Railways Act 1993 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 it to exercise its powers under section 174 (investigation) in connection with deciding whether to make a reference under section 131,
    - the Office of Rail Regulation 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 “the supply of services relating to railways within the meaning of section 67(3ZA) of the Railways Act 1993”.
- (6) In subsections (3), (4) and (4A), for “OFT” (in each place where it occurs) substitute “CMA”.
- (7) In subsection (3A), for “the OFT” substitute “the CMA”
- (8) In subsection (5)—
  - (a) in the words before paragraph (a), for “the Competition Commission” substitute “a CMA group”, and
  - (b) for “Commission” (in each place where it occurs) substitute “group”.
- (9) In subsection (6)—
  - (a) in paragraph (a) for “reference made to the Competition Commission by the Office of Rail Regulation” substitute “market investigation reference made by the Office of Rail Regulation (under section 131 of the Enterprise Act 2002)”, and
  - (b) in paragraph (b) for “Commission” substitute “CMA”.
- (10) After subsection (6) insert—
  - “(6A) In subsection (5) “CMA group” has the same meaning as in Schedule 4 to the Enterprise and Regulatory Reform Act 2013.”
- (11) In subsection (7)—
  - (a) for “Competition Commission” substitute “CMA”, and
  - (b) for “Commission” substitute “CMA”.
- (12) In subsection (8), for “the OFT” substitute “the CMA”.
- (13) In subsection (9), for “OFT” substitute “CMA”.

(14) For the heading substitute “Competition functions of the Office of Rail Regulation”.

**106.** In section 69 (general functions)(**107**), in subsection (3), for “the OFT” (in each place where it occurs) substitute “the CMA”.

**107.** In section 71 (publication of information and advice)(**108**), in subsection (3), for “The OFT” substitute “The CMA”.

**108.** In section 72 (keeping of register by the Office of Rail Regulation)(**109**), in subsection (2) (b)(vb), for “Competition Commission” substitute “CMA”.

**109.** (1) Section 145 (general restrictions on disclosure of information)(**110**) is amended as follows.

(2) In subsection (2)—

(a) in paragraph (a), for “Competition Commission” substitute “Competition and Markets Authority”,

(b) in paragraph (b)—

(i) omit sub-paragraph (ii), and

(ii) in sub-paragraph (iii) for “Competition Commission” substitute “Competition and Markets Authority”.

(3) In subsection (3), after paragraph (s), insert—

“(t) “(t) Parts 3 and 4 of the Enterprise and Regulatory Reform Act 2013”.

(4) In subsection (5)(a), for “Competition Commission” substitute “Competition and Markets Authority”.

(5) In subsection (6A), for “the Office of Fair Trading” substitute “the Competition and Markets Authority”.

**110.** Schedule 4A (review of access charges by the Regulator)(**111**) is amended as follows.

**111.** (1) Paragraph 10A (references under paragraph 9: application of Enterprise Act 2002)(**112**) is amended as follows.

(2) In sub-paragraph (1), after “sub-paragraphs” insert “(1A),”.

(3) After sub-paragraph (1), insert—

“(1A) Section 109 shall, in its application by virtue of sub-paragraph (1) above, have effect as if—

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

“(A1) For the purposes of this section, a permitted purpose is assisting the CMA in carrying out any functions exercisable by it in connection with a reference under paragraph 9 of Schedule 4A to the Railways Act 1993.”, and

(b) subsection (8A) were omitted.”

(4) In sub-paragraph (2)—

(**107**) Amended by Schedule 25 to the Enterprise Act 2002 and by Schedule 2 to the Railways and Transport Safety Act 2003. There are other amendments to section 69 but none is relevant to this Order.

(**108**) Amended by Schedule 25 to the Enterprise Act 2002 and by Schedule 2 to the Railways and Transport Safety Act 2003.

(**109**) Section 72(2)(b)(vb) was inserted by Schedule 27 to the Transport Act 2000. There are other amendments to section 72 but none is relevant to this Order.

(**110**) Amended by Schedule 10 to the Competition Act 1998, Schedule 25 to the Enterprise Act 2002, Schedule 2 to the Railways and Transport Safety Act 2003 and by S.I. 1999/506. There are other amendments to section 145 but none is relevant to this Order.

(**111**) Schedule 4A was inserted by Schedule 24 to the Transport Act 2000.

(**112**) Substituted by Schedule 25 to the Enterprise Act 2002 and amended by Schedule 16 to the Communications Act 2003 and Schedule 6 to the Enterprise and Regulatory Reform Act 2013.

- (a) at the end of paragraph (a), omit “and”,
  - (b) after that paragraph, insert—
    - “(aa) “(aa) after subsection (3), there were inserted—
      - “(3A) No penalty shall be imposed by virtue of subsection (1) or (3) 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.”; and”.
  - (5) For sub-paragraph (3) substitute—
    - “(3) Section 111(5)(b) shall, in its application by virtue of sub-paragraph (1) above, have 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 the report may be made within the permitted period.””
- 112.** (1) Paragraph 15 (paragraphs 13 and 14: supplementary)(**113**) is amended as follows.
- (2) In subsection (2D), after “subsections” insert “(2DA),”.
  - (3) After sub-paragraph (2D), insert—
    - “(2DA) Section 109 shall, in its application by virtue of sub-paragraph (2D) above, have effect as if—
      - (a) for subsection (A1), there were substituted—
        - “(A1) For the purposes of this section, a permitted purpose is assisting the CMA in carrying out any functions exercisable by it in connection with an investigation for the purposes of the exercise of its functions under paragraphs 13 or 14 of Schedule 4A to the Railways Act 1993.”; and
      - (b) subsection (8A) were omitted.”
  - (4) In sub-paragraph (2E)—
    - (a) for paragraph (b), substitute—
      - “(b) “(b) after subsection (3), there were inserted—
        - “(3A) No penalty shall be imposed by virtue of subsection (1) or (3) if more than 4 weeks have passed since the sending of a copy to the Office of Rail Regulation under paragraph 14 of Schedule 4A to the Railways Act 1993 of the relevant changes made by the CMA in connection with the reference concerned or, if no direction has been given by the CMA under paragraph 13 of that Schedule to that Act in connection with the reference concerned and within the period permitted for that purpose, the latest day on which it was possible to give such a direction within the permitted period; but this subsection shall not apply in relation to any variation or substitution of the penalty which is permitted by virtue of this Part.”; and”.

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(113) Substituted by Schedule 25 to the Enterprise Act 2002 and amended by Schedule 16 to the Communications Act 2003 and Schedule 6 to the Enterprise and Regulatory Reform Act 2013. There are other amendments not relevant to this Order

### **Coal Industry Act 1994**

**113.** In section 59 of the Coal Industry Act 1994 (information to be kept confidential by the Authority)(**114**)—

(a) in subsection (3)(e)—

(i) omit sub-paragraph (iv), and

(ii) in sub-paragraph (v), for “the Office of Fair Trading” substitute “the Competition and Markets Authority”; and

(b) in subsection (4), after paragraph (r), insert—

“(s) “(s) Parts 3 and 4 of the Enterprise and Regulatory Reform Act 2013”.

### **Channel Tunnel Rail Link Act 1996**

**114.** In section 21 of the Channel Tunnel Rail Link Act 1996 (duties as to exercise of regulatory functions)(**115**), in subsection (7), for “the Office of Fair Trading” substitute “the Competition and Markets Authority”.

### **Police Act 1997**

**115.** The Police Act 1997(**116**) is amended as follows.

**116.** (1) Section 93 (authorisations to interfere with property etc)(**117**) is amended as follows.

(2) In subsection (1B), for “or an officer of the Office of Fair Trading” substitute “or the chair of the Competition and Markets Authority”.

(3) In subsection (2AA), for “chairman of the Office of Fair Trading” substitute “chair of the Competition and Markets Authority”.

(4) In subsection (3)(e), for “Office of Fair Trading” substitute “Competition and Markets Authority”.

(5) In subsection (5)(i), for “chairman of the Office of Fair Trading” substitute “chair of the Competition and Markets Authority”.

**117.** In section 94 (authorisations given in absence of authorising officer)(**118**), in subsection (2) (g), for “Office of Fair Trading” substitute “Competition and Markets Authority”.

### **Data Protection Act 1998**

**118.** (1) Section 31 of the Data Protection Act 1998 (regulatory activity)(**119**) is amended as follows.

(2) In subsection (5), for “the Office of Fair Trading” substitute “the Competition and Markets Authority”.

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(**114**) [1994 c. 21](#). Section 59 is amended by Schedule 25 to the Enterprise Act 2002 and by [S.I. 1999/506](#). There are other amendments to section 59 but none is relevant to this Order.

(**115**) [1996 c. 61](#). Section 21 is amended by Schedule 10 to the Competition Act 1998, Schedule 25 to the Enterprise Act 2002 and Schedule 2 to the Railways and Transport Safety Act 2003. There are other amendments to section 21 but none is relevant to this Order.

(**116**) [1997 c. 50](#).

(**117**) Amended by section 75 of the Regulation of Investigatory Powers Act [2000 \(c. 23\)](#) and section 200 of the Enterprise Act 2002. There are other amendments to section 93 but none is relevant to this Order.

(**118**) Amended by section 200 of the Enterprise Act 2002. There are other amendments to section 94 but none is relevant to this Order.

(**119**) [1998 c. 29](#). Section 31 was amended by Schedule 25 to the Enterprise Act 2002 and by [S.I. 2006/3363](#). There are other amendments to section 31 but none is relevant to this Order.

(3) In subsection (5B), for “Office of Fair Trading” substitute “Competition and Markets Authority”.

### **Greater London Authority Act 1999**

**119.** (1) Section 235 of the Greater London Authority Act 1999 (restrictions on disclosure of information)(**120**) is amended as follows.

(2) In subsection (2)(b), for “Competition Commission” substitute “Competition and Markets Authority”.

(3) In subsection (2)(c), omit sub-paragraph (ii) and for sub-paragraph (iii) substitute—  
“(iii) the Competition and Markets Authority”.

(4) In subsection (3), after paragraph (t) insert—

“(u) “(u) Parts 3 and 4 of the Enterprise and Regulatory Reform Act 2013”.

### **Financial Services and Markets Act 2000**

**120.** The Financial Services and Markets Act 2000(**121**) is amended as follows.

**121.** (1) Section 140A (interpretation)(**122**) is amended as follows.

(2) In subsection (1)—

(i) omit the definition of “the OFT”, and

(ii) in the appropriate place, insert—

““the CMA” means the Competition and Markets Authority.”.

(3) Omit subsection (2).

**122.** Section 140B (advice about effect of regulating provision or practice) is amended as follows.

(1) For subsection (2) substitute—

“(2) The CMA gives “section 140B advice” to a regulator if—

(a) it gives advice to the regulator under section 7 of the Enterprise Act 2002 (provision of competition advice to Ministers etc) and the advice states that in the opinion of the CMA one or more of the things mentioned in subsection (4) may cause, or contribute to, the effect mentioned in subsection (5), or might be expected to do so in the future;

(b) a report published by it under section 136 of the Enterprise Act 2002 (investigations and reports on market investigation reference) contains—

(i) a decision that one or more of the things mentioned in subsection (4) may cause, or contribute to, the effect mentioned in subsection (5), and

(ii) a recommendation that any action should be taken by that regulator.”

(2) Omit subsection (3).

(3) In subsection (4)(d), for “market” substitute “one or more markets”.

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(120) 1999 c. 29. Section 235 was amended by Schedule 25 to the Enterprise Act 2002, Schedule 2 to the Railways and Transport Safety Act 2003, Schedule 12 to the Railways Act 2005 and S.I. 2009/1122. There are other amendments to section 235 but none is relevant to this Order.

(121) 2000 c. 8.

(122) Part 9A of the Financial Services and Markets Act 2000 (c. 8) (including sections 140A to 140H) was substituted by section 24 of the Financial Services Act 2012.



**123.** In section 140C (consultation with regulator), for “a competition authority” substitute “the CMA”.

**124.** (1) Section 140D (investigation powers of OFT) is amended as follows.

(2) The existing provision becomes subsection (1) of that section.

(3) In that subsection—

(a) in the words before paragraph (a), for “OFT” substitute “CMA”,

(b) for paragraphs (a) and (b) substitute—

“(a) “(a) for subsection (1) there were substituted—

“(1) For the purposes of this section, a permitted purpose is assisting the CMA in deciding whether to exercise its power under section 7 to give advice which for the purposes of Chapter 4 of Part 9A of the Financial Services and Markets Act 2000 would be section 140B advice.”, and

(b) subsection (9A) were omitted.”

(4) After that subsection, insert—

“(2) Where the CMA has exercised any of its powers under section 174 of the Enterprise Act 2002, as applied by subsection (1), section 174B of that Act has effect as if, after subsection (9), there were inserted—

“(10) Where the section 174 power is exercised for the purpose of assisting the CMA in deciding whether to exercise its power under section 7 to give advice which for the purposes of Chapter 4 of Part 9A of the Financial Services and Markets Act 2000 would be section 140B advice, the relevant day is the day when the CMA publishes that advice.””

(5) In the heading, for “OFT” substitute “CMA”.

**125.** For section 140E (publication by OFT of section 140B advice) substitute—

**“Publication by CMA of section 140B advice**

**140E.** Where the giving of advice under section 7 of the Enterprise Act 2002 to either regulator constitutes the giving of section 140B advice, the CMA must publish that advice in such manner as it thinks fit.”

**126.** (1) Section 140F (duty of Competition Commission to send report to regulator) is amended as follows.

(2) In subsection (1)—

(a) for “Competition Commission” substitute “CMA”, and

(b) for “Commission” substitute “CMA”.

(3) In the heading, for “Competition Commission” substitute “CMA”.

**127.** (1) Section 140H (role of the Treasury) is amended as follows.

(2) In subsection (1)—

(a) in paragraph (a), for “a competition authority” substitute “the CMA”, and

(b) in paragraph (b), for “competition authority” substitute “CMA”.

(3) In subsections (2), (3) and (5), for “competition authority” (in each place where it occurs) substitute “CMA”.

**128.** (1) Section 234H (power of FCA to make request to Office of Fair Trading)(**123**) is amended as follows.

(2) In subsection (1), for “Office of Fair Trading (“the OFT”)” substitute “Competition and Markets Authority (“the CMA”)”.

(3) After subsection (1) insert—

“(1A) In a case where the feature or each of the features concerned is—

- (a) any conduct (whether or not in the market concerned) of one or more than one person who supplies or acquires goods or services in the market concerned, or
- (b) any conduct relating to the market concerned of customers of any person who supplies or acquires goods or services,

a request under subsection (1) may be made in relation to more than one market in the United Kingdom for financial services.”

(4) In subsections (2) and (3), for “OFT” (in each place where it occurs) substitute “CMA”.

(5) In the heading, for “Office of Fair Trading” substitute “Competition and Markets Authority”.

**129.** In section 313 (interpretation of Part 18)(**124**), omit the definition of “OFT”.

**130.** In section 399 (misleading the OFT)(**125**)—

- (a) for “the Office of Fair Trading” substitute “the Competition and Markets Authority”, and
- (b) in the heading, for “the OFT” substitute “the CMA”.

**131.** In section 417 (definitions)(**126**), in the definition of “the Commission” omit “(except in provisions relating to the Competition Commission)”.

**132.** In section 427 (transitional provisions)(**127**), in subsection (3)(a), for “, the Competition Commission or the Office of Fair Trading” substitute “or the Competition and Markets Authority”.

### **Regulation of Investigatory Powers Act 2000**

**133.** The Regulation of Investigatory Powers Act 2000(**128**) is amended as follows.

**134.** In section 32 (authorisation of intrusive surveillance), in subsections (3A) and (6)(n), for “chairman of the OFT” (in each place where it occurs) substitute “chair of the CMA”.

**135.** (1) Section 33 (rules for grant of authorisations) is amended as follows.

(2) In subsection (4A)—

- (a) for “chairman of the OFT” substitute “chair of the CMA”, and
- (b) for “OFT” (where it occurs at the end of the subsection) substitute “CMA”.

(3) In subsection (5)(a), for “or the chairman or an officer of the OFT” substitute “or the chair or an officer of the CMA”.

**136.** (1) Section 34 (grant of authorisations in the senior officer’s absence) is amended as follows.

(2) In subsection (1)(a), for “an officer of the OFT” substitute “an officer of the CMA”.

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(123) Inserted by section 43 of the Financial Services Act 2012.

(124) Amended by Schedule 25 to the Enterprise Act 2002. There are other amendments to section 313 but none is relevant to this Order.

(125) Amended by Schedule 25 to the Enterprise Act 2002.

(126) Section 417 has been amended but none of the amendments is relevant to this Order.

(127) Amended by Schedule 25 to the Enterprise Act 2002.

(128) 2000 c. 23. Sections 32 to 37, 40, 46 and 48 of the Regulation of Investigatory Powers Act 2000 were amended by s. 199 of the Enterprise Act 2002. There are other amendments to those sections but none is relevant to this Order.

(3) In subsection (2)(a), for “as the chairman of the OFT or”, substitute “as the chair of the CMA or”.

(4) In subsection (4)(m), for “chairman of the OFT if he is an officer of the OFT” substitute “chair of the CMA if he is an officer of the CMA”.

**137.** (1) Section 35 (notification of authorisations for intrusive surveillance) is amended as follows.

(2) In subsection (1), for “or OFT” substitute “or CMA”.

(3) In subsection (10)—

(a) in the words before paragraph (a), for “or OFT” substitute “or CMA”, and

(b) for paragraph (ba), substitute—

“(ba) “(ba) the chair of the CMA; or”.

**138.** (1) Section 36 (approval required for authorisations to take effect) is amended as follows.

(2) In subsection (1)(e), for “an officer of the OFT” substitute “an officer of the CMA”.

(3) In subsection (6)(h)—

(a) for “chairman of the OFT” substitute “chair of the CMA”,

(b) for “him” substitute “the chair of the CMA”, and

(c) for “that chairman” substitute “that chair”.

**139.** In section 37 (quashing of police and Revenue and Customs authorisations etc), in subsection (1), for paragraph (e) substitute—

“(e) “(e) an officer of the CMA.”

**140.** In section 40 (information to be provided to Surveillance Commissioners), for paragraph (e) substitute—

“(e) “(e) every officer of the CMA;”.

**141.** In section 46 (restrictions on authorisations extending to Scotland), in subsection (3), for paragraph (da) substitute—

“(da) “(da) the CMA;”.

**142.** In section 48 (interpretation of Part 2)—

(a) omit the definition of “OFT”, and

(b) in the appropriate place insert—

““CMA” means the Competition and Markets Authority;”.

**143.** In Part 1 of Schedule 1 (relevant authorities for the purposes of sections 28 and 29)(**129**), for paragraph 20B substitute—

“**20B.** The Competition and Markets Authority.”

## Utilities Act 2000

**144.** The Utilities Act 2000(**130**) is amended as follows.

(129) Amended by S.I. 2003/3171. There are other amendments to Schedule 1 but none is relevant to this Order.  
(130) 2000 c. 27.

**145.** In section 8 (payments by licence holders relating to new arrangements)(**131**), in subsection (3C), for “Office of Fair Trading” substitute “Competition and Markets Authority”.

**146.** (1) Section 105 (general restrictions on disclosure of information)(**132**) is amended as follows.

(2) In subsection (3)(a), for “Competition Commission” substitute “Competition and Markets Authority”.

(3) In subsection (5)—

(a) in paragraph (b), for “Competition Commission” substitute “Competition and Markets Authority”, and

(b) omit paragraph (c).

(4) In subsection (6), at the end, insert—

“(y) “(y) Parts 3 and 4 of the Enterprise and Regulatory Reform Act 2013;”;

(5) In subsection (8)(c), for “Competition Commission” substitute “Competition and Markets Authority”.

(6) In subsection (11), for “the Office of Fair Trading” substitute “the Competition and Markets Authority”.

### **Freedom of Information Act 2000**

**147.** In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (definition of other public bodies and offices)(**133**), omit the entry “The Competition Commission, in relation to information held by it otherwise than as a tribunal.”(**134**).

### **Terrorism Act 2000**

**148.** In Part 2 of Schedule 3A to the Terrorism Act 2000 (supervisory authorities)(**135**), in paragraph 4(1), omit sub-paragraph (e).

### **Transport Act 2000**

**149.** The Transport Act 2000(**136**) is amended as follows.

**150.** (1) Section 12B (references under section 12: application of Enterprise Act 2002)(**137**) is amended as follows.

(2) In subsection (1), after “subsections” insert “(1A),”.

(3) After subsection (1), insert—

“(1A) Section 109 shall, in its application by virtue of subsection (1) above, have effect as if—

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

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(**131**) Amended by Schedule 1 to the Consumers, Estate Agents and Redress Act 2007 (c. 17) and S.I. 2013/783.

(**132**) Amended by Schedule 25 to the Enterprise Act 2002. There are other amendments to section 105 but none is relevant to this Order.

(**133**) 2000 c. 36. Schedule 1 has been amended but none of the amendments is relevant to this Order.

(**134**) An entry for the Competition and Markets Authority was inserted into Schedule 1 of the 2000 Act by Schedule 4 to the Enterprise and Regulatory Reform Act 2013.

(**135**) 2000 c. 11. Substituted by S.I. 2007/3288 and amended by Schedule 18 to the Financial Services Act 2012 (c. 21).

(**136**) 2000 c. 38.

(**137**) Inserted by Schedule 25 to the Enterprise Act 2002 and amended by Schedule 6 to the Enterprise and Regulatory Reform Act 2013.

“(A1) For the purposes of this section, a permitted purpose is assisting the CMA in carrying out any functions exercisable by it in connection with a reference under section 12 of the Transport Act 2000.”, and

(b) subsection (8A) were omitted.”

(4) In subsection (2)—

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

(b) after that paragraph, insert—

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

“(3A) No penalty shall be imposed by virtue of subsection (1) or (3) 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.”; and”.

(5) For subsection (3) substitute—

“(3) Section 111(5)(b) shall, in its application by virtue of subsection (1), have 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 the report may be made within the permitted period.”.”

**151.** (1) Section 18 (sections 15 and 16: general)(**138**) is amended as follows.

(2) In subsection (6), after “subsections” insert “(6A),”.

(3) After subsection (6), insert—

“(6A) Section 109 shall, in its application by virtue of subsection (6), have effect as if—

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

“(A1) For the purposes of this section, a permitted purpose is assisting the CMA in carrying out any functions exercisable by it in connection with an investigation for the purposes of the exercise of its functions under section 15 or 16 of the Transport Act 2000.”, and

(b) subsection (8A) were omitted.”

(4) In subsection (7)—

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

(b) for paragraph (b), substitute—

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

“(3A) No penalty shall be imposed by virtue of subsection (1) or (3) if more than 4 weeks have passed since the publication by the CMA of a notice under section 16(6) of the Transport Act 2000 in connection with the reference concerned or, if no direction has been given by the CMA under section 15(2) of that Act in connection with the reference concerned and within the period permitted for that purpose, the latest day on which it was possible to give such a direction within the permitted period; but this subsection shall not apply in relation to any variation or substitution of the penalty which is permitted by virtue of this Part.”; and”.

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(138) Substituted by Schedule 25 to the Enterprise Act 2002 and amended by Schedule 6 to the Enterprise and Regulatory Reform Act 2013. There are other amendments but none is relevant to this Order.

**152.** In section 19 (modification by order under other enactments)(**139**), in subsection (2)(b), after “the market” insert “or markets”.

**153.** In section 85(1) (interpretation of Chapter 5)(**140**), for paragraph (c) substitute—  
“(c) “(c) the CMA is the Competition and Markets Authority.”

**154.** (1) Section 86 (concurrent competition functions)(**141**) is amended as follows.

(2) In subsection (1), for “the OFT” substitute “the CMA”.

(3) In subsection (2)—

- (a) for “OFT’s” substitute “CMA’s”,
- (b) for “and 171” substitute “, 171 and 174E”, and
- (c) for “they” 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)”.

(4) In subsection (3), for “OFT’s” substitute “CMA’s”.

(5) In subsection (4)—

- (a) for “the OFT” substitute “the CMA”, and
- (b) for “and 171” substitute “, 171 and 174E”.

(6) After subsection (4) insert—

“(4A) References to section 5 of the 2002 Act in Part 4 of that Act must be read as including a reference to section 91(1) of this Act.”

(7) In subsection (5)—

- (a) omit “subsection (4) applies”,
- (b) in paragraph (a), for “only so far as it is” substitute “subsections (4) and (4A) apply only so far as they are”, and
- (c) in paragraph (b), at the beginning, insert “subsection (4) applies”.

(8) After subsection (5) insert—

“(5A) Section 130A of the 2002 Act is to have effect in its application in relation to the CAA by virtue of subsections (1) and (2)—

- (a) as if for subsection (1) of that section there were substituted—

“(1) Where the Civil Aviation Authority—

- (a) is proposing to carry out its functions under section 91(1) of the Transport Act 2000 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 (investigation) in connection with deciding whether to make a reference under section 131,

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(139) Amended by Schedule 9 to the Enterprise Act 2002 and Schedule 6 to the Enterprise and Regulatory Reform Act 2013.

(140) Amended by Schedules 9 and 25 to the Enterprise Act 2002.

(141) Amended by Schedules 9 and 25 to the Enterprise Act 2002, by [S.I. 2004/1261](#), [S.I. 2012/1809](#) and by Schedules 15 to the Enterprise and Regulatory Reform Act 2013.

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 “the supply of air traffic services (within the meaning given by section 98 of the Transport Act 2000)”.

(9) In subsection (7), for “the OFT” substitute “the CMA”.

(10) In the heading, for “OFT” substitute “CMA”.

**155.** (1) Section 89 (carrying out functions)(**142**) is amended as follows.

(2) In subsections (1) to (3), for “the OFT” (in each place where it occurs) substitute “the CMA”.

(3) In subsection (4)—

- (a) for “reference to the Competition Commission” substitute “market investigation reference (under section 131 of the 2002 Act)”,
- (b) for “Commission in its” substitute “CMA group (constituted under Schedule 4 to the Enterprise and Regulatory Reform Act 2013) which is to conduct the”, and
- (c) in paragraphs (a) and (c) for “Commission” (in each place where it occurs) substitute “CMA group”.

(4) In subsection (5) for “Commission” substitute “CMA group”.

**156.** In section 90 (publication of information and advice)(**143**), in subsection (6), for “Office of Fair Trading” substitute “Competition and Markets Authority”.

**157.** In section 91 (review and information)(**144**), in subsections (3) and (4), for “the Office of Fair Trading” (in each place where it occurs) substitute “the Competition and Markets Authority”.

**158.** In Schedule 9 (air traffic: information)(**145**)—

- (a) in paragraph 3(1)(a), for “Competition Commission” substitute “Competition and Markets Authority”,
- (b) in paragraph 3(2)—
- (i) omit paragraph (b), and
- (ii) in paragraph (c), for “Competition Commission” substitute “Competition and Markets Authority”,
- (c) in paragraph 3(3), after paragraph (rf), insert—
- “(rg) “(rg) Parts 3 and 4 of the Enterprise and Regulatory Reform Act 2013;”,
- (d) in paragraph 5(1)(a), for “Competition Commission” substitute “Competition and Markets Authority”, and
- (e) in paragraph 5(3), for “the Office of Fair Trading” substitute “the Competition and Markets Authority”.

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(142) Amended by Schedules 9 and 25 to the Enterprise Act 2002.

(143) Amended by Schedule 25 to the Enterprise Act 2002.

(144) Amended by Schedule 25 to the Enterprise Act 2002.

(145) Amended by Schedule 25 to the Enterprise Act 2002 and [S.I. 2003/1400](#). There are other amendments to Schedule 9 but none is relevant to this Order.

### Proceeds of Crime Act 2002

**159.** In Part 2 of Schedule 9 to the Proceeds of Crime Act 2002 (supervisory authorities)(**146**), in paragraph 4(1), omit sub-paragraph (e).

### Communications Act 2003

**160.** The Communications Act 2003(**147**) is amended as follows.

**161.** (1) Section 370 (OFCOM's functions under Part 4 of the Enterprise Act 2002)(**148**) is amended as follows.

(2) In subsection (1), for "Office of Fair Trading" substitute "Competition and Markets Authority (referred to in this Part as "the CMA")".

(3) In subsection (2)—

- (a) for "and 171" substitute ", 171 and 174E",
- (b) for "Office of Fair Trading" substitute "CMA", 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 (3)—

- (a) for "(1) and (2), references" substitute—
- "(1) and (2)—
- (a) references",
  - (b) for "Office of Fair Trading" substitute "CMA", and
  - (c) for the words from "except" to "requires." substitute—

"(except in sections 166, 171 and 174E and where the context otherwise requires);

- (b) references in that Part to the CMA carrying out functions under section 5 of the Enterprise Act 2002 are to be construed as including references to OFCOM exercising powers under section 1(3) of this Act to obtain, compile and keep under review information about matters relating to the carrying out of its functions."

(5) After subsection (3) insert—

"(3A) Section 130A of the Enterprise Act 2002 is to have effect in its application in relation to OFCOM by virtue of subsections (1) and (2)—

- (a) as if for subsection (1) of that section there were substituted—

"(1) Where the Office of Communications—

- (a) is proposing to fulfil its duties under section 3(1) of the Communications Act 2003 by obtaining, compiling and keeping under review information in relation to a matter for the purposes mentioned in subsection (2), and

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**(146)** 2000 c. 29. Substituted by [S.I. 2007/3287](#) and amended by Schedule 18 to the Financial Services Act 2012.

**(147)** 2003 c. 21.

**(148)** Amended by Schedule 12 to the Postal Services Act 2011 (c. 5).



- (b) considers that the matter is one in respect of which it would be appropriate for it to exercise its powers under section 174 (investigation) in connection with deciding whether to make a reference under section 131,
- the Office of Communications 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 communications matters (within the meaning given by section 369(1) of the Communications Act 2003)”.
- (6) In subsection (4), in the wording before paragraph (a)—
- (a) for “subsection (2) the reference” substitute “subsections (2) and (3A) the references”,
- (b) for “it is a reference” substitute “they are references”, and
- (c) for “includes” substitute “include”.
- (7) In subsections (5) and (6), for “Office of Fair Trading” (in each place where it occurs) substitute “CMA”.
- (8) In subsection (7)—
- (a) in the words before paragraph (a), for “the Competition Commission” substitute “a CMA group”,
- (b) also in those words, for “reference made to them by OFCOM” substitute “market investigation reference made by OFCOM (under section 131 of the Enterprise Act 2002)”, and
- (c) for “Commission” (in each place where it occurs) substitute “group”.
- (9) After subsection (7) insert—
- “(7A) In subsection (7) “CMA group” has the same meaning as in Schedule 4 to the Enterprise and Regulatory Reform Act 2013.”
- (10) In subsections (9), (10) and (12), for “Office of Fair Trading” (in each place where it occurs) substitute “CMA”.
- 162.** (1) In section 371 (OFCOM’s functions under the Competition Act 1998)(**149**), for “Office of Fair Trading” (in each place where it occurs) substitute “CMA”.
- 163.** Omit section 388 (alterations concerning newspaper panel of Competition Commission).
- 164.** (1) In section 393 (general restrictions on disclosure of information)(**150**)—
- (a) in subsection (3)—
- (i) in paragraph (d), for “Office of Fair Trading” substitute “Competition and Markets Authority”, and
- (ii) omit paragraph (e),
- (b) in subsection (5), at the end, insert—
- “(r) “(r) Parts 3 and 4 of the Enterprise and Regulatory Reform Act 2013.”, and
- (c) in subsection (8), for “Office of Fair Trading” substitute “Competition and Markets Authority”.

(149) Amended by S.I. 2004/1261, Schedule 12 to the Postal Services Act 2011, S.I. 2012/1809 and Schedule 15 to the Enterprise and Regulatory Reform Act 2013.

(150) Section 393 has been amended but none of the amendments is relevant to this Order.

**165.** In Schedule 11 (approval, imposition and modification of networking arrangements)(**151**), for “Office of Fair Trading” (in each place where it occurs) substitute “Competition and Markets Authority”.

### **Gambling Act 2005**

**166.** In Part 2 of Schedule 6 to the Gambling Act 2005 (exchange of information: enforcement and regulatory bodies)(**152**), for “The Office of Fair Trading” substitute “the Competition and Markets Authority”.

### **Companies Act 2006**

**167.** The Companies Act 2006(**153**) is amended as follows.

**168.** In Part 2 of Schedule 2 (specified descriptions of disclosures), in section (A) (United Kingdom)(**154**)—

(a) in paragraph 25—

(i) for “Office of Fair Trading” substitute “Competition and Markets Authority”, and

(ii) after sub-paragraph (j), insert—

“(k) “(k) Parts 3 and 4 of the Enterprise and Regulatory Reform Act 2013.”, and

(b) omit paragraph 26.

**169.** In Part 2 of Schedule 11A (specified descriptions of disclosures)(**155**)—

(a) in paragraph 39—

(i) for “Office of Fair Trading” substitute “Competition and Markets Authority”, and

(ii) after sub-paragraph (i), insert—

“(j) “(j) Parts 3 and 4 of the Enterprise and Regulatory Reform Act 2013.”, and

(b) omit paragraph 40.

### **Compensation Act 2006**

**170.** In section 15 of the Compensation Act 2006 (provision of regulated claims management services: orders and regulations)(**156**), in subsection (3)(a)(i), for “Office of Fair Trading” substitute “Competition and Markets Authority”.

### **Wireless Telegraphy Act 2006**

**171.** (1) Section 111 of the Wireless Telegraphy Act 2006 (disclosure of information: general restrictions)(**157**) is amended as follows.

(2) In subsection (4)—

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(151) Schedule 11 has been amended but the amendment is not relevant to this Order.

(152) 2005 c. 19. There are amendments to Schedule 6 but none is relevant to this Order.

(153) 2006 c. 46.

(154) Substituted by S.I. 2009/1208 and subsequently amended by S.I. 2013/1881. There are other amendments to Part 2 of Schedule 2 but none is relevant to this Order.

(155) Inserted by S.I. 2007/3494 and subsequently amended by S.I. 2013/1881. There are other amendments to Part 2 of Schedule 11A but none is relevant to this Order.

(156) 2006 c. 29. Section 15 has been amended but the amendment is not relevant to this Order.

(157) 2006 c. 36. Section 111(6) has been amended but none of the amendments is relevant to this Order.

- (i) in paragraph (d), for “Office of Fair Trading” substitute “Competition and Markets Authority”, and
- (ii) omit paragraph (e).
- (3) In subsection (6), at the end, insert—
  - “(p) “(p) Parts 3 and 4 of the Enterprise and Regulatory Reform Act 2013.”

### **Consumers, Estate Agents and Redress Act 2007**

**172.** The Consumers, Estate Agents and Redress Act 2007(**158**) is amended as follows.

**173.** In section 24 (provision of information to the Council)(**159**), in subsection (3)(a), for “Office of Fair Trading” substitute “Competition and Markets Authority”.

**174.** In section 27 (provision of information by the Council), in subsection (3)(a), for “Office of Fair Trading” substitute “Competition and Markets Authority”.

### **Legal Services Act 2007**

**175.** The Legal Services Act 2007(**160**) is amended as follows.

**176.** (1) Section 57 (reports by competition authority)(**161**) is amended as follows.

(2) In subsection (5)—

- (a) after “to (5)” insert “and (6A)”, and
- (b) at the end, insert “and references in section 174 of the Enterprise Act 2002 to a “permitted purpose” are to be construed accordingly”.

(3) After subsection (5) insert—

“(5A) Where the CMA exercises any of its powers under section 174 of the Enterprise Act 2002 for the purpose referred to in subsection (5), “the relevant day” for the purposes of section 174B of the Enterprise Act 2002 is the day on which the CMA publishes its report.”

**177.** In section 60(9) (duties of the competition authority)(**162**)—

- (a) in the wording before paragraph (a), for “109 to 115” substitute “109 to 110A and 111 to 115”, and
- (b) for paragraphs (a) and (b) substitute—
  - “(a) “(a) references in section 109 of that Act (attendance of witnesses and production of documents etc) to a permitted purpose were references to the purpose of assisting the CMA in carrying out any of its functions in connection with an investigation under this section, and
  - (b) the relevant day in any case for the purposes of section 110A of that Act (restriction on powers to impose penalties under section 110) were the day on which the CMA makes a report under subsection (2) or a statement under subsection (3) in connection with that case.”

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(158)2007 c. 17.

(159)Section 24 has been amended but none of the amendments is relevant to this Order.

(160)2007 c. 29.

(161)Amended by Schedule 6 to the Enterprise and Regulatory Reform Act 2013.

(162)Amended by Schedule 6 to the Enterprise and Regulatory Reform Act 2013.

### **Regulatory Enforcement and Sanctions Act 2008**

**178.** The Regulatory Enforcement and Sanctions Act 2008(**163**) is amended as follows.

**179.** In section 12 (relationship with other regulators)(**164**), in subsection (2)(e), for “Office of Fair Trading” substitute “Competition and Markets Authority”.

**180.** In section 73 (functions to which section 72 applies)(**165**), in subsection (2)—

- (a) in paragraph (b), for “Office of Fair Trading” substitute “Competition and Markets Authority”, and
- (b) at the end of the words after paragraph (e), insert “or any function exercisable by a CMA group (within the meaning of Schedule 4 to the Enterprise and Regulatory Reform Act 2013) or a member of the CMA panel (within the meaning of that Schedule)”.

**181.** In Schedule 5 (designated regulators)(**166**), in the list of regulators—

- (a) for the entry “Competition Commission” substitute “Competition and Markets Authority”, and
- (b) omit the entry “Office of Fair Trading”.

### **Equality Act 2010**

**182.** In Part 1 of Schedule 19 to the Equality Act 2010 (public authorities: general)(**167**), under the heading “Industry, business, finance etc”, omit “The Competition Commission”.

### **Public Bodies Act 2011**

**183.** In Schedule 2 to the Public Bodies Act 2011 (power to merge: bodies and offices)(**168**), omit the entry for Group 5, including the associated references to the Competition Commission and the Office of Fair Trading (“OFT”).

### **Postal Services Act 2011**

**184.** The Postal Services Act 2011(**169**) is amended as follows.

**185.** In section 51 (consumer protection conditions)(**170**), in subsection (4A), for “Office of Fair Trading” substitute “Competition and Markets Authority”.

**186.** In section 56 (general restriction on disclosure of information), in subsection (2)(c), for “Competition Commission” substitute “Competition and Markets Authority”.

### **Health and Social Care Act 2012**

**187.** The Health and Social Care Act 2012(**171**) is amended as follows.

**188.** (1) In section 72 (functions under the Competition Act 1998)(**172**), for “Office of Fair Trading” (in each place where it occurs) substitute “CMA”.

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(**163**)2008 c. 13.

(**164**)Section 12 has been amended but none of the amendments is relevant to this Order.

(**165**)Section 72 has been amended but none of the amendments is relevant to this Order.

(**166**)Schedule 5 has been amended but none of the amendments is relevant to this Order.

(**167**)2010 c. 15. Schedule 19 was amended by Schedule 4 to the Enterprise and Regulatory Reform Act 2013. There are other amendments to Schedule 19 but none is relevant to this Order.

(**168**)2011 c. 24. There are amendments to Schedule 2 but none is relevant to this Order.

(**169**)2011 c. 5.

(**170**)Amended by S.I. 2013/783.

(**171**)2012 c. 7.

(**172**)Amended by Schedule 15 to the Enterprise and Regulatory Reform Act 2013.

- 189.** (1) Section 73 (functions under Part 4 of the Enterprise Act 2002) is amended as follows.
- (2) In subsection (1), for “Office of Fair Trading” substitute “CMA”.
- (3) In subsection (2)—
- (a) for “and 171” substitute “, 171 and 174E”,
  - (b) for “Office of Fair Trading” substitute “CMA”, 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 (3)—
- (a) for “(1) and (2), references” substitute—
    - “(1) and (2)—
    - (a) references”,
  - (b) for “Office of Fair Trading” substitute “CMA”, and
  - (c) for “166 and 171.” substitute—
    - “166, 171 and 174E;
    - (b) references in that Part to section 5 of the Enterprise Act 2002 are to be construed as including references to paragraph 14 of Schedule 8 to this Act.”
- (5) After subsection (3) insert—
- “(3A) Section 130A of the Enterprise Act 2002 is to have effect in its application in relation to Monitor by virtue of subsections (1) and (2)—
  - (a) as if for subsection (1) of that section there were substituted—
    - “(1) Where Monitor—
    - (a) is proposing to carry out its functions under paragraph 14 of Schedule 8 to the Health and Social Care Act 2012 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 it to exercise its powers under section 174 (investigation) in connection with deciding whether to make a reference under section 131,
  - Monitor 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 has or may have effects adverse to consumers” there were substituted “activities which concern the provision of health care services in England (within the meaning given by section 64 of the Health and Social Care Act 2012) has or may have effects adverse to the interests of people who use those services”.
- (6) In subsections (4) to (6), for “Office of Fair Trading” (in each place where it occurs) substitute “CMA”.

**190.** In section 74 (competition functions: supplementary), in subsections (1) and (3), for “Office of Fair Trading” (in each place where it occurs) substitute “CMA”.

**191.** In section 79 (mergers involving NHS foundation trusts), for “Office of Fair Trading” (in each place where it occurs) substitute “CMA”.

**192.** (1) Section 80 (co-operation) is amended as follows.

(2) In subsection (1), for “Office of Fair Trading” substitute “CMA”.

(3) After subsection (2), insert—

“(3) The reference in subsection (1) to the functions of the CMA is a reference to those functions which are exercisable by the CMA Board (within the meaning of Schedule 4 to the Enterprise and Regulatory Reform Act 2013).”

(4) In the heading, for “Office of Fair Trading” substitute “CMA”.

**193.** In section 97 (conditions: supplementary), in subsection (1)(d), for “Office of Fair Trading” substitute “CMA”.

**194.** In section 102 (modification by order under other enactments)(**173**), in subsection (4)(c), after “the market” insert “or markets”.

**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) “(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) “(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
- (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)”.

## **Civil Aviation Act 2012**

**196.** The Civil Aviation Act 2012(**174**) is amended as follows.

**197.** (1) Section 60 (functions under Part 4 of the Enterprise Act 2002) is amended as follows.

(2) In subsection (1)—

- (a) for “Office of Fair Trading (“the OFT”)” substitute “Competition and Markets Authority (“the CMA””, and
- (b) for “OFT” substitute “CMA”.

(3) In subsection (2)—

- (a) for “OFT’s” substitute “CMA’s”,
- (b) after “investigations)” insert “, other than functions under sections 166, 171 and 174E”,
- (c) for “they” 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)”,  
and

- (d) omit “, other than functions under sections 166 and 171”.

(4) In subsection (3)—

- (a) for “OFT” substitute “CMA”, and
- (b) for “and 171” substitute “, 171 and 174E”.

(5) After subsection (3) insert—

“(3A) References to section 5 of the Enterprise 2002 in Part 4 of that Act must be read as including a reference to section 64(1) of this Act.”

(6) In subsection (4)—

- (a) omit “subsection (3) applies”,
- (b) in paragraph (a), for “only so far as it is” substitute “subsections (3) and (3A) apply only so far as they are”, and
- (c) in paragraph (b), at the beginning, insert “subsection (3) applies”.

(7) After subsection (4) insert—

“(4A) Section 130A of the Enterprise Act 2002 is to have effect in its application to the CAA by virtue of subsections (1) and (2)—

(a) as if for subsection (1) of that section there were substituted—

“(1) Where the Civil Aviation Authority—

- (a) is proposing to carry out its functions under section 64(1) of the Civil Aviation Act 2012 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 (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 “the provision of airport operation services (within the meaning given by section 68 of the Civil Aviation Act 2012)”.

**198.** (1) Section 61 (Enterprise Act 2002: supplementary) is amended as follows.

(2) In subsection (1), for “Office of Fair Trading (“the OFT”)” substitute “Competition and Markets Authority (“the CMA”)”.

(3) In subsection (2), for “OFT” substitute “CMA”.

(4) In subsection (3) for “reference to the Competition Commission” substitute “market investigation reference (under section 131 of the 2002 Act)”.

(5) In subsection (4)—

- (a) for “the Competition Commission” substitute “to the CMA group (constituted under Schedule 4 to the Enterprise and Regulatory Reform Act 2013) which is to conduct the investigation on the reference”, and
- (b) in paragraphs (a) and (b) for “Commission” (in each place where it occurs) substitute “group”.

(6) In subsection (5)—

- (a) for “Competition Commission” substitute “CMA group”, and
- (b) for “Commission” substitute “group”.

(7) In subsection (6), for “Competition Commission” substitute “CMA group”.

(8) In subsections (8) and (9), for “OFT” (in each place where it occurs) substitute “CMA”.



**199.** (1) Section 62 (functions under Competition Act 1998)(**175**) is amended as follows.

(2) In subsection (1)—

(a) for “Office of Fair Trading (“the OFT”)” substitute “Competition and Markets Authority (“the CMA”)”, and

(b) for “OFT” substitute “CMA”.

(3) In subsection (2), for “OFT’s” substitute “CMA’s”.

(4) In subsection (4), for “OFT” substitute “CMA”.

**200.** In section 63 (Competition Act 1998: supplementary), for “Office of Fair Trading” (in each place where it occurs) substitute “Competition and Markets Authority”.

**201.** In section 64 (review etc of airport operation services), in subsection (2)—

(a) in the words before paragraph (a), for “Office of Fair Trading (“the OFT”)” substitute “Competition and Markets Authority (“the CMA”)”, and

(b) in paragraph (b), for “OFT” substitute “CMA”.

**202.** In section 65 (power to modify CAA’s competition powers) in subsection (1), in the words before paragraph (a), for “Office of Fair Trading” substitute “Competition and Markets Authority”.

**203.** (1) Schedule 6 (restrictions on disclosing information) is amended as follows.

(2) In paragraph 4(2)—

(a) for “Competition Commission” substitute “Competition and Markets Authority”, and

(b) omit the entry for the Office of Fair Trading.

(3) In paragraph 4(3), after “Postal Services Act 2011;” insert—

“Parts 3 and 4 of the Enterprise and Regulatory Reform Act 2013;”.

### **Groceries Code Adjudicator Act 2013**

**204.** The Groceries Code Adjudicator Act 2013(**176**) is amended as follows.

**205.** In section 13 (recommendations to Office of Fair Trading), at the end and in the heading, for “Office of Fair Trading” substitute “Competition and Markets Authority”.

**206.** In section 14 (annual report), in subsections (4) and (5)(b), for “Office of Fair Trading” substitute “Competition and Markets Authority”.

**207.** In section 15 (review of Adjudicator and guidance from Secretary of State), in subsection (8)

(a) in paragraph (b), for “Competition Commission” substitute “Competition and Markets Authority”, and

(b) omit paragraph (c).

**208.** In Schedule 1 (the Adjudicator), in paragraph 17 (assistance from the Office of Fair Trading), at the beginning and in the heading, for “Office of Fair Trading” substitute “Competition and Markets Authority”.

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(175) Amended by Schedule 15 to the Enterprise and Regulatory reform Act 2013.

(176) 2013 c. 19.

## PART 3

### Amendments to other enactments

#### **Agricultural Marketing Act (Northern Ireland) 1964**

**209.** In section 23 of the Agricultural Marketing Act (Northern Ireland) 1964 (restrictions on disclosing information or returns)(**177**), in subsection (2), for paragraph (aaa)(**178**) substitute—

“(aaa) “(aaa) made to the Competition and Markets Authority, if it is made for the purpose of enabling the Authority to perform any of its functions under the Fair Trading Act 1973, the Competition Act 1980 or Part 3 of the Enterprise and Regulatory Reform Act 2013;”.

#### **Agricultural Marketing (Northern Ireland) Order 1982**

**210.** (1) The Agricultural Marketing (Northern Ireland) Order 1982(**179**) is amended as follows.

(2) In Article 23 (action following report by Competition Commission)(**180**)—

(a) in paragraph (3), after “147(2)” insert “or 147A(2)”, and

(b) in paragraph (4)(a) and in the heading, for “Competition Commission” substitute “Competition and Markets Authority”.

(3) In Article 29 (restrictions on disclosing certain information obtained under Part II)(**181**), in paragraph (3), for sub-paragraph (c) substitute—

“(c) “(c) made to the Competition and Markets Authority, if it is made for the purpose of enabling the Authority to perform any of its functions under the Fair Trading Act 1973, the Competition Act 1980 or Part 3 of the Enterprise and Regulatory Reform Act 2013;”.

(4) In Article 42 (action following report by Monopolies and Mergers Commission)(**182**)—

(a) in paragraph (1B), after “147(2)” insert “or 147A(2)”, and

(b) in paragraph (1C)(a), for “Competition Commission” substitute “Competition and Markets Authority”, and

(c) in the heading, for “Monopolies and Mergers Commission” substitute “Competition and Markets Authority”.

#### **Electricity (Northern Ireland) Order 1992**

**211.** The Electricity (Northern Ireland) Order 1992(**183**) is amended as follows.

**212.** In Article 15 (modification references)(**184**), in paragraph (9A)—

(a) for “Commission’s” substitute “CMA’s”, and

(b) for “chairman of the Commission” substitute “chair of the CMA”.

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(177) 1964 c. 13. Whole Act repealed in relation to the Milk Marketing Board (SR 1989 No. 47) and the Pigs Marketing Board (SR 1984 No. 422)

(178) Sub-paragraph (aaa) was inserted by Schedule 12 to the Fair Trading Act 1973 (c. 41) and subsequently amended by section 19(4)(b) of the Competition Act 1980 (c. 21). There are other amendments to section 23 but none is relevant to this Order.

(179) SI 1982/1080 (N.I. 12).

(180) Substituted by Schedule 25 to the Enterprise Act 2002.

(181) Amended by the Natural Environment and Rural Communities Act 2006 (c. 16). There are other amendments to article 29 but none is relevant to this Order.

(182) Amended by Schedule 25 to the Enterprise Act 2002.

(183) S.I. 1992/231 (N.I. 1).

(184) Amended by Schedule 10 to the Competition Act 1998, S.I. 1999/506 and Schedule 6 to the Enterprise and Regulatory Reform Act 2013. There are other amendments to article 15 but none is relevant to this Order.

**213.** (1) Article 15B (references under Article 15: powers of investigation)(**185**) is amended as follows.

(2) In paragraph (1), after “paragraphs” insert “(1A),”.

(3) After paragraph (1), insert—

“(1A) Section 109 shall, in its application by virtue of paragraph (1), have effect as if—

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

“(A1) For the purposes of this section, a permitted purpose is assisting the CMA in carrying out any functions exercisable by it in connection with a reference under Article 15 of the Electricity (Northern Ireland) Order 1992.”, and

(b) subsection (8A) were omitted.”

(4) In paragraph (2)—

(a) at the end of sub-paragraph (a), omit “and”,

(b) after sub-paragraph (a), insert—

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

“(3A) No penalty shall be imposed by virtue of subsection (1) or (3) 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.”; and”.

(5) For paragraph (3) substitute—

“(3) Section 111(5)(b) shall, in its application by virtue of paragraph (1), have 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 the report may be made within the permitted period.”.”

**214.** (1) Article 17A (competition authority’s power to veto modifications following report)(**186**) is amended as follows.

(2) In paragraph (14), after “paragraphs” insert “(14A),”.

(3) After paragraph (14), insert—

“(14A) Section 109 shall, in its application by virtue of paragraph (14), have effect as if—

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

“(A1) For the purposes of this section, a permitted purpose is assisting the CMA in carrying out any functions exercisable by it in connection with an investigation for the purposes of the exercise of its functions under Article 17A of the Electricity (Northern Ireland) Order 1992.”, and

(b) subsection (8A) were omitted.”

(4) In paragraph (15), for sub-paragraph (b), substitute—

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

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(185) Inserted by Schedule 25 to the Enterprise Act 2002.

(186) Inserted by S.I. 2003/419 (N.I. 6) and subsequently amended by Schedule 6 to the Enterprise and Regulatory Reform Act 2013.

“(3A) No penalty shall be imposed by virtue of subsection (1) or (3) if more than 4 weeks have passed since the publication by the CMA of a notice under Article 17A(8) of the Electricity (Northern Ireland) Order 1992 in connection with the reference concerned or, if no direction has been given by the CMA under Article 17A(1) of that Order in connection with the reference concerned and within the period permitted for that purpose, the latest day on which it was possible to give such a direction within the permitted period; but this subsection shall not apply in relation to any variation or substitution of the penalty which is permitted by virtue of this Part.”; and”.

**215.** In Article 18 (modification by order under other statutory provisions)(**187**), in paragraph (2) (b), after “the market” insert “or markets”.

**216.** (1) Article 46 (functions with respect to competition)(**188**) is amended as follows.

(2) In paragraph (2), for “Office of Fair Trading” substitute “CMA”.

(3) In paragraph (2A)—

- (a) for “and 171” substitute “, 171 and 174E”,
- (b) for “Office of Fair Trading” substitute “CMA”, 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 paragraph (2B)—

- (a) for “(2) and (2A), references” substitute—

“(2) and (2A)—

- (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 Article 50(1) of this Order.”

(5) After paragraph (2B) insert—

“(2C) Section 130A of the Enterprise Act 2002 is to have effect in its application to the Authority by virtue of paragraphs (2) and (2A)—

- (a) as if for subsection (1) of that section there were substituted—

“(1) Where the Northern Ireland Authority for Utility Regulation—

- (a) is proposing to carry out its functions under Article 50(1) of the Electricity (Northern Ireland) Order 1992 in relation to a matter for the purposes mentioned in subsection (2), and

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(187) Substituted by Schedule 9 to the Enterprise Act 2002 and subsequently amended by [SR 2007/321](#) and Schedule 6 to the Enterprise and Regulatory Reform Act 2013.

(188) Amended by Schedule 2 to the Deregulation and Contracting Out Act 1994, Schedule 10 to the Competition Act 1998, [S.I. 1999/506](#), Schedules 9 and 25 to the Enterprise Act 2002 and [S.I. 2004/1261](#),

- (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 (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, distribution or supply of electricity”.
- (6) In paragraphs (3), (4), (4A) and (6A), for “Office of Fair Trading” (in each place where it occurs) substitute “CMA”.
- (7) In paragraph (3A) for “the Office of Fair Trading” substitute “the CMA”.
- (8) In paragraph (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 Director” 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”.
- (9) After paragraph (5) insert—

“(5A) In paragraph (5) “CMA group” has the same meaning as in Schedule 4 to the Enterprise and Regulatory Reform Act 2013.”
- (10) In paragraph (6)—
  - (a) for “reports of Competition Commission” substitute “market investigations”, and
  - (b) for “the Office of Fair Trading” substitute “the CMA”.
- (11) In Article 50 (general functions)(**189**), in paragraph (3), for “the Office of Fair Trading” (in each place where it occurs) substitute “the CMA”.

### **Gas (Northern Ireland) Order 1996**

**217.** The Gas (Northern Ireland) Order 1996(**190**) is amended as follows.

**218.** (1) Article 15B (references under Article 15: powers of investigation)(**191**) is amended as follows.

(2) In paragraph (1), after “paragraphs” insert “(1A)”.

(3) After paragraph (1), insert—

“(1A) Section 109 shall, in its application by virtue of paragraph (1), have effect as if—

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

“(A1) For the purposes of this section, a permitted purpose is assisting the CMA in carrying out any functions exercisable by it in connection with a reference under Article 15 of the Gas (Northern Ireland) Order 1996.”, and

(**189**) Amended by Schedule 25 to the Enterprise Act 2002 and [S.I. 2003/419 \(N.I. 6\)](#). There are other amendments to Article 50 but none is relevant to this Order.

(**190**) [S.I. 1996/275 \(N.I. 2\)](#)

(**191**) Inserted by Schedule 25 to the Enterprise Act 2002.

(b) subsection (8A) were omitted.”

(4) In paragraph (2)—

(a) at the end of sub-paragraph (a), omit “and”,

(b) after that sub-paragraph, insert—

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

“(3A) No penalty shall be imposed by virtue of subsection (1) or (3) 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.”; and”.

(5) For paragraph (3) substitute—

“(3) Section 111(5)(b) shall, in its application by virtue of paragraph (1), have 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 the report may be made within the permitted period.”.”

**219.** (1) Article 17A (competition authority’s power to veto modifications following report)(**192**) is amended as follows.

(2) In paragraph (17), after “paragraphs” insert “(17A),”.

(3) After paragraph (17), insert—

“(17A) Section 109 shall, in its application by virtue of paragraph (17), have effect as if—

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

“(A1) For the purposes of this section, a permitted purpose is assisting the CMA in carrying out any functions exercisable by it in connection with an investigation for the purposes of the exercise of its functions under Article 17A of the Gas (Northern Ireland) Order 1996.”; and

(b) subsection (8A) were omitted.”

(4) In paragraph (18)—

(a) at the end of sub-paragraph (a), omit “and”,

(b) for sub-paragraph (b), substitute—

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

“(3A) No penalty shall be imposed by virtue of subsection (1) or (3) if more than 4 weeks have passed since the publication by the CMA of a notice under Article 17A(8) of the Gas (Northern Ireland) Order 1996 in connection with the reference concerned or, if no direction has been given by the CMA under Article 17A(1) of that Order in connection with the reference concerned and within the period permitted for that purpose, the latest day on which it was possible to give such a direction within the permitted period; but this subsection shall not apply in relation to any variation or substitution of the penalty which is permitted by virtue of this Part.”; and”.

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(192) Inserted by S.I. 2003/419 (N.I. 6) and subsequently amended by S.R. 2013 No. 92 and Schedule 6 to the Enterprise and Regulatory Reform Act 2013.

**220.** In Article 18 (modification by order under other statutory provisions)(**193**), in paragraph (1A)(b), after “the market” insert “or markets”.

**221.** (1) Article 23 (functions with respect to competition)(**194**) is amended as follows.

(2) In paragraph (2), for “Office of Fair Trading” substitute “CMA”.

(3) In paragraph (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 paragraph (2B)—

(a) for “(2) and (2A), references” substitute—

“(2) and (2A)—

(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 Article 27(1) of this Order.”

(5) After paragraph (2B) insert—

“(2C) Section 130A of the Enterprise Act 2002 is to have effect in its application to the Authority by virtue of paragraphs (2) and (2A)—

(a) as if for subsection (1) of that section there were substituted—

“(1) Where the Northern Ireland Authority for Utility Regulation—

(a) is proposing to carry out its functions under Article 27(1) of the Gas (Northern Ireland) Order 1996 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 (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

(193) Amended by Schedule 9 to the Enterprise Act 2002, [SR 2007/321](#) and Schedule 6 to the Enterprise and Regulatory Reform Act 2013. There are other amendments to Article 18 but none is relevant to this Order.

(194) Amended by Schedule 10 to the Competition Act 1998, [S.I. 1999/506](#), Schedules 9 and 25 to the Enterprise Act 2002 and [S.I. 2004/1261](#).

were substituted “commercial activities connected with the conveyance, storage or supply of gas”.

(6) In paragraphs (3), (4), (4A) and (7), for “Office of Fair Trading” (in each place where it occurs) substitute “CMA”.

(7) In paragraph (3A), for “the Office of Fair Trading” substitute “the CMA”.

(8) In paragraph (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 Director” 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”.

(9) After paragraph (5) insert—

“(5A) In paragraph (5) “CMA group” has the same meaning as in Schedule 4 to the Enterprise and Regulatory Reform Act 2013.”

(10) In paragraph (6)—

(a) for “reports of Competition Commission” substitute “market investigations”, and

(b) for “Office of Fair Trading” substitute “CMA”.

(11) In Article 27 (general functions)(**195**), in paragraph (3), for “the Office of Fair Trading” (in each place where it occurs) substitute “the CMA”.

### **Water (Northern Ireland) Order 1999**

**222.** In Article 29A of the Water (Northern Ireland) Order 1999 (restriction on disclosure of information)(**196**), in paragraph (2)(a), for “Competition Commission” substitute “Competition and Markets Authority”.

### **Company Directors Disqualification (Northern Ireland) Order 2002**

**223.** The Company Directors Disqualification (Northern Ireland) Order 2002(**197**) is amended as follows.

**224.** In Article 2 (interpretation)(**198**), in paragraph (2)—

(a) omit the definition of “the OFT”, and

(b) in the appropriate place, insert—

““CMA” means the Competition and Markets Authority;”.

**225.** In Article 12 (variation etc. of disqualification undertaking)(**199**), in paragraph (3), for “OFT” substitute “CMA”.

**226.** In Article 13A (competition disqualification order)(**200**), in paragraph (10), for “OFT” substitute “CMA”.

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(**195**) Amended by Schedule 25 to the Enterprise Act 2002 and S.I. 2003/419 (N.I. 6). There are other amendments to Article 27 but none is relevant to this Order.

(**196**) S.I. 1999/662 (N.I. 6); Article 29A was inserted by S.I. 2006/3336 (N.I. 21)

(**197**) S.I. 2002/3150 (N.I. 4).

(**198**) The definition of “the OFT” was inserted by S.I. 2005/1454 (N.I. 9). There are other amendments to article 2 but none is relevant to this Order.

(**199**) Paragraph (3) was inserted by S.I. 2005/1454 (N.I. 9).

(**200**) Article 13A was inserted by S.I. 2005/1454 (N.I. 9).



**227.** In Article 13B (competition undertakings)(**201**), in paragraphs (1), (2) and (7), for “OFT” (in each place where it occurs) substitute “CMA”.

**228.** In Article 13C (competition investigations)(**202**), for “OFT” (in each place where it occurs) substitute “CMA”.

**229.** In Article 13D (co-ordination)(**203**), in paragraph (2), after sub-paragraph (a), insert—

“(aa) “(aa) the reference in subsection (6A)(b) to notice under section 31(1) of the Competition Act 1998 that the regulator proposes to make a decision within the meaning given by section 31(2) of that Act is to be read as notice under Article 13C(4) that the specified regulator proposes to apply under Article 13A for a disqualification order;”.

**230.** In Article 20 (application for disqualification order)(**204**), in paragraph (4), for “OFT” substitute “CMA”.

**231.** In Article 21 (application for leave under an order or undertaking)(**205**), in paragraph (3), for “OFT” substitute “CMA”.

**232.** In Article 22 (register of disqualification orders and undertakings)(**206**), in paragraph (3), for “OFT” substitute “CMA”.

### **Energy (Northern Ireland) Order 2003**

**233.** The Energy (Northern Ireland) Order 2003(**207**) is amended as follows.

**234.** In Article 2 (interpretation)(**208**), in paragraph (1), after the definition of “the Authority” insert—

““the CMA” means the Competition and Markets Authority;”.

**235.** In Article 7 ((publication by Authority of advice and information about consumer matters)(**209**), in paragraph (4), for “Office of Fair Trading” substitute “CMA”.

**236.** In Article 8A (duty on the Authority to have regard to the need for consultation and co-operation with other authorities)(**210**), in paragraph (3), in the definition of “relevant national authority”—

- (a) for “any” substitute “either”,
- (b) omit paragraph (a), and
- (c) in paragraph (c), for “Office of Fair Trading” substitute “CMA”.

**237.** In Article 13 (exceptions from the general duties)(**211**), in paragraph (3), for “Office of Fair Trading” substitute “CMA”.

**238.** In Article 15 (exceptions from the general duties)(**212**), in paragraph (3), for “Office of Fair Trading” substitute “CMA”.

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(**201**) Article 13B was inserted by [S.I. 2005/1454 \(N.I. 9\)](#).

(**202**) Article 13C was inserted by [S.I. 2005/1454 \(N.I. 9\)](#).

(**203**) Article 13D was inserted by [S.I. 2005/1454 \(N.I. 9\)](#).

(**204**) Paragraph (4) was inserted by [S.I. 2005/1454 \(N.I. 9\)](#).

(**205**) Paragraph (3) was inserted by [S.I. 2005/1454 \(N.I. 9\)](#).

(**206**) Paragraph (3) was inserted by [S.I. 2005/1454 \(N.I. 9\)](#). There are other amendments to article 22 but none is relevant to this Order.

(**207**) [SI 2003/419 \(N.I. 6\)](#).

(**208**) There are amendments to Article 2 but none is relevant to this Order.

(**209**) There are amendments to Article 7 but none is relevant to this Order.

(**210**) Inserted by [S.R. 2011 No. 155](#)). There are amendments to Article 8A but none is relevant to this Order.

(**211**) There are amendments to Article 13 but none is relevant to this Order.

(**212**) There are amendments to Article 15 but none is relevant to this Order.

**239.** In Article 18 (provision of advice and information to public authorities and other persons) in paragraph (5), for “Competition Commission” substitute “CMA”.

**240.** In Article 23 (power of Council to investigate other matters), in paragraph (2), for “Office of Fair Trading” substitute “CMA”.

**241.** (1) Article 63 (general restrictions on disclosure of information)(**213**) is amended as follows.

(2) In paragraph (3), in sub-paragraph (a), for “Competition Commission” substitute “CMA”.

(3) In paragraph (5)—

(a) in sub-paragraph (c), for “Competition Commission” substitute “CMA”, and

(b) omit sub-paragraph (d).

(4) In paragraph (6), after sub-paragraph (w), insert—

“(x) “(x) Parts 3 and 4 of the Enterprise and Regulatory Reform Act 2013.”

(5) In paragraph (8), in sub-paragraph (c), for “Competition Commission” substitute “CMA”.

(6) In paragraph (10), for “Office of Fair Trading” substitute “CMA”.

**242.** Schedule 2 (orders altering licensable activities)(**214**) is amended as follows.

**243.** (1) Paragraph 5 (references under paragraph 3: application of Enterprise Act 2002) is amended as follows.

(2) In sub-paragraph (1), after “sub-paragraphs” insert “(1A),”.

(3) After sub-paragraph (1), insert—

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

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

“(A1) For the purposes of this section, a permitted purpose is assisting the CMA in carrying out any functions exercisable by it in connection with a reference under paragraph 3 of Schedule 2 to the Energy (Northern Ireland) Order 2003.”, and

(b) subsection (8A) were omitted.”

(4) In sub-paragraph (2)—

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

(b) after that paragraph, insert—

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

“(3A) No penalty shall be imposed by virtue of subsection (1) or (3) 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.”; and”.

(5) For sub-paragraph (3) substitute—

“(3) Section 111(5)(b) shall, in its application by virtue of sub-paragraph (1), have effect as if for sub-paragraph (ii) there were substituted—

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(213) Amended by S.I. 2007/913 (N.I. 7). There are other amendments to Article 63 but none is relevant to this Order.

(214) Amended by Schedule 6 to the Enterprise and Regulatory Reform Act 2013.

“(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 the report may be made within the permitted period.””

## **Water Services etc. (Scotland) Act 2005 (Consequential Provisions and Modifications) Order 2005**

**244.** The Water Services etc. (Scotland) Act 2005 (Consequential Provisions and Modifications) Order 2005(**215**) is amended as follows.

**245.** (1) Article 5 (references: powers of investigation)(**216**) is amended as follows.

(2) In paragraph (1), for “(2)” substitute “(1A)”.

(3) After paragraph (1), insert—

“(1A) Section 109 shall, in its application by virtue of paragraph (1), have effect as if—

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

“(A1) For the purposes of this section, a permitted purpose is assisting the CMA in carrying out any functions exercisable by it in connection with a reference under article 3 of the Water Services etc. (Scotland) Act 2005 (Consequential Provisions and Modifications) Order 2005.”, and

(b) subsection (8A) were omitted.”

(4) In paragraph (2), after sub-paragraph (a), insert—

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

“(3A) No penalty shall be imposed by virtue of subsection (1) or (3) 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.”;”

(5) In paragraph (3), for sub-paragraph (b) substitute—

“(b) “(b) in subsection (5)(b), 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 the report may be made within the permitted period.””

**246.** (1) Article 10 (article 9: supplementary)(**217**) is amended as follows.

(2) In paragraph (3), for “(4)” substitute “(3A)”.

(3) After paragraph (3), insert—

“(3A) Section 109 shall, in its application by virtue of paragraph (3), have effect as if—

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

“(A1) For the purposes of this section, a permitted purpose is assisting the CMA in carrying out any functions exercisable by it in connection with an investigation for the purposes of the exercise of its functions under article 9 of the Water Services etc. (Scotland) Act 2005 (Consequential Provisions and Modifications) Order 2005.”, and

(b) subsection (8A) were omitted.”

(215)S.I. 2005/3172.

(216) Amended by Schedule 6 to the Enterprise and Regulatory Reform Act 2013.

(217) Amended by Schedule 6 to the Enterprise and Regulatory Reform Act 2013.

(4) In paragraph (4), for sub-paragraph (b), substitute—

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

“(3A) No penalty shall be imposed by virtue of subsection (1) or (3) if more than 4 weeks have passed since the publication by the CMA of a notice under article 9(8) of the Water Services etc. (Scotland) Act 2005 (Consequential Provisions and Modifications) Order 2005 in connection with the reference concerned or, if no direction has been given by the CMA under article 9(1) of that Order in connection with the reference concerned and within the period permitted for that purpose, the latest day on which it was possible to give such a direction within the permitted period; but this subsection shall not apply in relation to any variation or substitution of the penalty which is permitted by virtue of this Part.”; and”.

### **Water and Sewerage Services (Northern Ireland) Order 2006**

**247.** The Water and Sewerage Services (Northern Ireland) Order 2006(**218**) is amended as follows.

**248.** In Article 5 (annual report of the Authority), in paragraph (1), in sub-paragraph (b), for “Competition Commission” substitute “CMA”.

**249.** In Article 6 (general duties with respect to water industry), in paragraph (10), for “OFT” substitute “CMA”.

**250.** (1) Article 23 (references under Article 21: powers of investigation) is amended as follows.

(2) In paragraph (1), after “paragraphs” insert “(1A),”.

(3) After paragraph (1), insert—

“(1A) Section 109 shall, in its application by virtue of paragraph (1), have effect as if—

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

“(A1) For the purposes of this section, a permitted purpose is assisting the CMA in carrying out any functions exercisable by it in connection with a reference under Article 21 of the Water and Sewerage Services (Northern Ireland) Order 2006.”, and

(b) subsection (8A) were omitted.”

(4) In paragraph (2)—

(a) at the end of sub-paragraph (a), omit “and”,

(b) after that sub-paragraph, insert—

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

“(3A) No penalty shall be imposed by virtue of subsection (1) or (3) 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.”; and”.

(5) For paragraph (3) substitute—

“(3) Section 111(5)(b) shall, in its application by virtue of paragraph (1), have 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 the report may be made within the permitted period.”

**251.** (1) Article 27 (competition authority’s power to veto modifications following report)(**219**) is amended as follows.

(2) In paragraph (6), after “paragraphs” insert “(6A),”.

(3) After paragraph (6), insert—

“(6A) Section 109 shall, in its application by virtue of paragraph (6), have effect as if—

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

“(A1) For the purposes of this section, a permitted purpose is assisting the CMA in carrying out any functions exercisable by it in connection with an investigation for the purposes of the exercise of its functions under Article 26 of the Water and Sewerage Services (Northern Ireland) Order 2006.”, and

(b) subsection (8A) were omitted.”

(4) In paragraph (7), for sub-paragraph (b), substitute—

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

“(3A) No penalty shall be imposed by virtue of subsection (1) or (3) if more than 4 weeks have passed since the publication by the CMA of a notice under Article 26(9) of the Water and Sewerage Services (Northern Ireland) Order 2006 in connection with the reference concerned or, if no direction has been given by the CMA under Article 26(1) of that Order in connection with the reference concerned and within the period permitted for that purpose, the latest day on which it was possible to give such a direction within the permitted period; but this subsection shall not apply in relation to any variation or substitution of the penalty which is permitted by virtue of this Part.”; and”.

**252.** In Article 28 (modification by order under other statutory provisions)(**220**), in paragraph (2) (b), after “the market” insert “or markets”.

**253.** (1) Article 29 (functions of the Authority with respect to competition) is amended as follows.

(2) In paragraph (1), for “OFT” substitute “CMA”.

(3) In paragraph (2)—

(a) for “OFT” 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 paragraph (3) and paragraphs (5) to (7), for “OFT” (in each place where it occurs) substitute “CMA”.

(5) In paragraph (4)—

(a) for “(1) and (2), references” substitute—

(219) Amended by Schedule 6 to the Enterprise and Regulatory Reform Act 2013.

(220) Amended by Schedule 6 to the Enterprise and Regulatory Reform Act 2013.

- “(1) and (2)—
- (a) references”,
  - (b) for “OFT” 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 Article 60(1) and (2) of this Order.”
- (6) After paragraph (4) insert—
- “(4A) Section 130A of the Enterprise Act 2002 is to have effect in its application to the Authority by virtue of paragraphs (1) and (2)—
- (a) as if for subsection (1) of that section there were substituted—
    - “(1) Where the Northern Ireland Authority for Utility Regulation—
      - (a) is proposing to carry out its functions under Article 60(1) and (2) of the Water and Sewerage Services (Northern Ireland) Order 2006 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 (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 supply of water or the provision of sewerage services (within the meaning given by Article 2 of the Water and Sewerage Services (Northern Ireland) Order 2006)”.”
- (7) In paragraph (8)—
- (a) in the words before paragraph (a)—
    - (i) for “the Competition Commission” substitute “a CMA group”,
    - (ii) for “reference made to the Commission 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”.
- (8) In paragraphs (9) and (10), for “OFT” (in each place where it occurs) substitute “CMA”.
- (9) In Article 56 (power of the Council to investigate other matters), in paragraph (2), for “OFT” substitute “CMA”.
- 254.** In Article 60 (general duty of the Authority to keep matters under review) in paragraph (4), for “OFT” (in each place where it occurs) substitute “CMA”.
- 255.** In Article 253 (the Authority’s register), in paragraph (2), in sub-paragraph (b), for “Competition Commission” substitute “CMA”.

**256.** In Article 259 (publication of certain information and advice)(**221**), in paragraph (5), for “OFT” substitute “CMA”.

**257.** (1) Article 265 (restriction on disclosure of information) is amended as follows.

(2) In paragraph (3), in sub-paragraph (a), for “Competition Commission” substitute “CMA”.

(3) In paragraph (4)—

(a) in sub-paragraph (c), for “Competition Commission” substitute “CMA”, and

(b) omit sub-paragraph (d).

(4) In paragraph (5), after sub-paragraph (s), insert—

“(t) “(t) Parts 3 and 4 of the Enterprise and Regulatory Reform Act 2013.”

(5) In paragraph (7), in sub-paragraph (a), for “Competition Commission” substitute “CMA”.

(6) In paragraph (13), for “OFT” substitute “CMA”.

### **Electricity (Single Wholesale Market) (Northern Ireland) Order 2007**

**258.** In Article 10 of the Electricity (Single Wholesale Market) (Northern Ireland) Order 2007(**222**), in paragraph (3), for “Office of Fair Trading” substitute “Competition and Markets Authority”.

### **Welsh Language (Wales) Measure 2011**

**259.** In Schedule 6 to the Welsh Language (Wales) Measure 2011 (public bodies etc: standards)(**223**)—

(a) in the Welsh text, omit the entry relating to “Y Comisiwn Cystadlu (“the Competition Commission”)", and

(b) in the English text, omit the entry relating to “the Competition Commission (“Y Comisiwn Cystadlu”)”.

## SCHEDULE 2

Article 3(10)

### Transitional provision: investigation powers of the CMA

**1.** The amendments made by section 29 of the Act, to sections 109 to 111 of the Enterprise Act 2002 (“the 2002 Act”), do not have effect in relation to those sections as applied by the enactments listed in column 2 of the Table below in relation to any notice given under section 109 of the 2002 Act before 1st April 2014.

**2.** The amendments made by the paragraphs of Schedule 1 listed in column 1 of the Table below to the enactments listed in column 2 of that Table do not apply in relation to any notice given before 1st April 2014 under section 109 of the 2002 Act as applied by those enactments.

(**221**) There are amendments to Article 265 but none is relevant to this Order.

(**222**) S.I. 2007/913 (N.I. 7).

(**223**) 2011 (nawm 1).

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<i>(1)</i>	<i>(2)</i>
<i>Paragraph of Schedule 1</i>	<i>Provision of sectoral legislation amended</i>
Paragraph 36	Section 11B of the Competition Act 1980 (references under section 11: powers of investigation and penalties)( <b>224</b> )
Paragraph 51	Section 41EB of the Gas Act 1986 (references under section 41E: application of Enterprise Act 2002)( <b>225</b> )
Paragraph 68	Section 56CB of the Electricity Act 1989 (references under section 56C: application of Enterprise Act 2002)( <b>226</b> )
Paragraph 75	Section 14B of the Water Industry Act 1991 (references under section 14: powers of investigation)( <b>227</b> )
Paragraph 76	Section 16B of the Water Industry Act 1991 (competition authority's power of veto following report: supplementary)( <b>228</b> )
Paragraph 78	Section 17M of the Water Industry Act 1991 (references under section 17K: powers of investigation)( <b>229</b> )
Paragraph 79	Section 17Q of the Water Industry Act 1991 (section 17P: supplementary)( <b>230</b> )
Paragraph 101	Section 13B of the Railways Act 1993 (references under section 13: application of Enterprise Act 2002)( <b>231</b> )
Paragraph 102	Section 15C of the Railways Act 1993 (sections 15A and 15B: supplementary)( <b>232</b> )
Paragraph 111	Paragraph 10A of Schedule 4A to the Railways Act 1993 (references under paragraph 9: application of Enterprise Act 2002)( <b>233</b> )

(**224**) 1980 c. 21. Section 11B was inserted by Schedule 25 to the Enterprise Act 2002.

(**225**) 1986 c. 44. Section 41EB was inserted by Schedule 25 to the Enterprise Act 2002 and subsequently amended by Schedule 16 to the Communications Act 2003 and Schedule 6 to the Enterprise and Regulatory Reform Act 2012.

(**226**) 1989 c. 29. Section 56CB was inserted by Schedule 25 to the Enterprise Act 2002 and subsequently amended by Schedule 16 to the Communications Act 2003 and Schedule 6 to the Enterprise and Regulatory Reform Act 2013.

(**227**) 1991 c. 56. Section 14B was inserted by Schedule 25 to the Enterprise Act 2002.

(**228**) Inserted by section 55 of the Water Act 2003 and amended by Schedule 6 to the Enterprise and Regulatory Reform Act 2013.

(**229**) Inserted by Schedule 4 to the Water Act 2003.

(**230**) Inserted by Schedule 4 to the Water Act 2003 and amended by Schedule 6 to the Enterprise and Regulatory Reform Act 2013.

(**231**) 1993 c. 43. Section 13B was inserted by Schedule 25 to the Enterprise Act 2002 and amended by Schedule 16 to the Communications Act 2003 and by Schedule 6 to the Enterprise and Regulatory Reform Act 2013.

(**232**) Inserted by section 242 of the Transport Act 2000 and amended by Schedule 25 to the Enterprise Act 2002 and Schedule 6 to the Enterprise and Regulatory Reform Act 2013. There are other amendments to section 15C but none is relevant to this Order.

(**233**) Substituted by Schedule 25 to the Enterprise Act 2002 and amended by Schedule 16 to the Communications Act 2003 and Schedule 6 to the Enterprise and Regulatory Reform Act 2013.



(1)	(2)
<i>Paragraph of Schedule 1</i>	<i>Provision of sectoral legislation amended</i>
Paragraph 112	Paragraph 15 of Schedule 4A to the Railways Act 1993 (paragraphs 13 and 14: supplementary)( <b>234</b> )
Paragraph 150	Section 12B of the Transport Act 2000 (references under section 12: application of Enterprise Act 2002)( <b>235</b> )
Paragraph 151	Section 18 of the Transport Act 2000 (sections 15 and 16: general)( <b>236</b> )
Paragraph 177	Section 60(9) of the Legal Services Act 2007 (duties of the competition authority)( <b>237</b> )
Paragraph 195	Paragraph 10 of Schedule 10 to the Health and Social Care Act 2012 (references by Monitor to the CMA: powers of investigation)( <b>238</b> )
Paragraph 213	Article 15B of the Electricity (Northern Ireland) Order 1992 (references under Article 15: powers of investigation)( <b>239</b> )
Paragraph 214	Article 17A of the Electricity (Northern Ireland) Order 1992 (competition authority's power to veto modifications following report)( <b>240</b> )
Paragraph 218	Article 15B of the Gas (Northern Ireland) Order 1996 (references under Article 15: powers of investigation)( <b>241</b> )
Paragraph 219	Article 17A of the Gas (Northern Ireland) Order 1996 (competition authority's power to veto modifications following report)( <b>242</b> )
Paragraph 243	Paragraph 5 of Schedule 2 to the Energy (Northern Ireland) Order 2003 (orders altering licensable activities: references under paragraph 3: application of Enterprise Act 2002)
Paragraph 245	Article 5 of the Water Services etc. (Scotland) Act 2005 (Consequential Provisions and

(234) Substituted by Schedule 25 to the Enterprise Act 2002 and amended by Schedule 16 to the Communications Act 2003 and Schedule 6 to the Enterprise and Regulatory Reform Act 2013. There are other amendments not relevant to this Order.

(235) 2000 c. 38. Section 12B was inserted by Schedule 25 to the Enterprise Act 2002 and is amended by Schedule 6 to the Enterprise and Regulatory Reform Act 2013.

(236) Substituted by Schedule 25 to the Enterprise Act 2002 and amended by Schedule 6 to the Enterprise and Regulatory Reform Act 2013. There are other amendments but none is relevant to this Order.

(237) 2007 c. 29. Section 60 is amended by Schedule 6 to the Enterprise and Regulatory Reform Act 2013.

(238) 2012 c. 7.

(239) S.I. 1992/231 (N.I. 1). Article 15B was inserted by Schedule 25 to the Enterprise Act 2002.

(240) Inserted by S.I. 2003/419 (N.I. 6) and subsequently amended by Schedule 6 to the Enterprise and Regulatory Reform Act 2013.

(241) S.I. 1996/275 (N.I. 2). Article 15B was inserted by Schedule 25 to the Enterprise Act 2002.

(242) S.I. 2003/419 (N.I. 6). Schedule 2 was inserted by S.I. 2003/419 (N.I. 6) and subsequently amended by S.R. 2013 No. 92 and Schedule 6 to the Enterprise and Regulatory Reform Act 2013.

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(1)	(2)
<i>Paragraph of Schedule 1</i>	<i>Provision of sectoral legislation amended</i>
Paragraph 246	Modifications) Order 2005 (references: powers of investigation)( <b>243</b> ) Article 10 the Water Services etc. (Scotland) Act 2005 (Consequential Provisions and Modifications) Order 2005 (article 9: supplementary)( <b>244</b> )
Paragraph 250	Article 23 of the Water and Sewerage Services (Northern Ireland) Order 2006( <b>245</b> ) (references under Article 21: powers of investigation)
Paragraph 251	Article 27 of the Water and Sewerage Services (Northern Ireland) Order 2006 (competition authority's power to veto modifications following report)( <b>246</b> )

3. The amendments made by section 36 of, and Schedule 11 to, the Act, to sections 174 and 175 of the 2002 Act, do not have effect in relation to those sections as applied by or by virtue of—

- (a) section 140D of the Financial Services and Markets Act 2000 (investigation powers of OFT)(**247**), and
- (b) section 57 of the Legal Services Act 2007 (reports by competition authority)(**248**),

in relation to any notice given under section 174 of the 2002 Act before 1st April 2014.

4. The amendments made—

- (a) by paragraph 124 of Schedule 1 to section 140D of the Financial Services and Markets Act 2000, and
- (b) by paragraph 176 of that Schedule to section 57 of the Legal Services Act 2007,

do not apply in relation to any notice given before 1st April 2014 under section 174 of the 2002 Act as applied by those enactments.

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

Section 25 of and Schedule 4 to the Enterprise and Regulatory Reform Act 2013 (“the Act”) provide for the creation of the Competition and Markets Authority (“CMA”). Section 26 of and Schedules 5

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(243) S.I. 2005/3172. Article 5 is amended by Schedule 6 to the Enterprise and Regulatory Reform Act 2013.

(244) Amended by Schedule 6 to the Enterprise and Regulatory Reform Act 2013.

(245) S.I. 2006/3336 (N.I. 21).

(246) Amended by Schedule 6 to the Enterprise and Regulatory Reform Act 2013.

(247) 2000 c. 8. Section 140D was substituted by section 24 of the Financial Services Act 2012.

(248) 2007 c. 29. Section 57 is amended by Schedule 6 to the Enterprise and Regulatory Reform Act 2013.

and 6 to the Act provide for the abolition of the Office of Fair Trading (“OFT”) and the Competition Commission (“the Commission”) and for the transfer of functions from the OFT and the Commission to the CMA.

Part 4 of the Act makes various changes to the competition functions which the CMA will assume. In particular, the Act amends Part 3 (mergers) and Part 4 (markets studies and market investigations) of the Enterprise Act 2002.

This Order makes consequential amendments to a number of enactments in connection with the commencement of Parts 3 and 4 of the Act on 1st April 2014.

Article 1 provides for citation, commencement, interpretation and extent. Article 1(3) provides that the amendments and repeals in the Order have the same extent as the enactment amended or repealed.

Article 2 gives effect to Schedule 1. Schedule 1 makes consequential amendments in connection with the transfer of functions to the CMA and the abolition of the OFT and Commission by substituting the CMA for the OFT and the Commission in a number of enactments. It also makes amendments consequential on the amendments to competition law made under Part 4 of the Act. In particular, Schedule 1 specifies amendments to the sector specific legislation (e.g. gas, water, rail) under which regulators such as the Office of Rail Regulation, the Gas and Electricity Markets Authority, are given competition functions concurrently with the OFT under Part 4 of the Enterprise Act 2002. Schedule 1 also makes consequential amendments to the sectoral legislation in connection with the transfer to the CMA of the Commission’s role in receiving references of regulatory matters.

These amendments supplement the amendments already made to the sector specific legislation by Schedule 6 (regulatory appeals etc: minor and consequential amendments) and Schedule 14 (Regulators: use of powers under the 1998 Act) to the Act.

Article 3 and Schedule 2 make transitional and saving provision in connection with the transfer of functions from the OFT and the Commission to the CMA.

The impact assessment completed for Parts 3 and 4 of the Enterprise and Regulatory Reform Bill, introduced to Parliament on 23rd May 2012, contains an assessment of the effect that the reforms to the competition regime will have on the costs of business and the public and voluntary sector and can be found at the website: <https://www.gov.uk/government/publications/strengthening-competition-and-creating-a-single-market-authority>.