
DRAFT STATUTORY INSTRUMENTS

2014 No.

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

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⁽¹⁾ 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 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.

(1) 1991 c. 56. Sections 32 to 35 of the Water Industry Act 1991 were substituted by section 70 of the Enterprise Act 2002.

(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—

(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.