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## SCHEDULES

### SCHEDULE 9

#### CERTAIN AMENDMENTS OF SECTORAL ENACTMENTS

#### PART 2

#### APPLICATION OF PART 4 OF THIS ACT TO SECTORAL REGULATORS

##### Textual Amendments applied to the whole legislation

- F1** Act: for the words "solicitor of the Supreme Court of Northern Ireland" wherever they occur there is substituted (prosp.) the words "solicitor of the Court of Judicature of Northern Ireland" by virtue of [Constitutional Reform Act 2005 \(c. 4\), ss. 59, 148\(1\), Sch. 11 para. 5](#) [Editorial Note: this amendment will be carried through into the text of the Act at the same time as any other effects on the Act for the year in which the relevant commencement order (or first such order) is made]

##### *Telecommunications Act 1984 (c. 12)*

- 16 <sup>F1</sup>(1) Section 50 of the Telecommunications Act 1984 (application of monopoly provisions etc. to the Director General of Telecommunications) shall be amended as follows.
- (2) For subsection (2) (monopoly functions to be exercisable concurrently by the Director General of Telecommunications) there shall be substituted—
- “(2) The functions to which subsection (2A) below applies shall be concurrent functions of the Director and the Office of Fair Trading.
- (2A) This subsection applies to the functions of the Office of Fair Trading under Part 4 of the Enterprise Act 2002 (other than sections 166 and 171) so far as relating to commercial activities connected with telecommunications.
- (2B) So far as necessary for the purposes of, or in connection with, subsections (2) and (2A) above, references in Part 4 of the Act of 2002 to the Office of Fair Trading (including references in provisions of that Act applied by that Part) shall be construed as including references to the Director (except in sections 166 and 171 of that Act and in any other provision of that Act where the context otherwise requires).”
- (3) For subsection (4) there shall be substituted—
- “(4) Before the Office of Fair Trading or the Director first exercises in relation to any matter functions which are exercisable concurrently by virtue of subsection (2) above, that person shall consult the other.
- (4A) Neither the Office of Fair Trading nor the Director shall exercise in relation to any matter functions which are exercisable concurrently by virtue of

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subsection (2) above if functions which are so exercisable have been exercised in relation to that matter by the other.”

(4) In subsection (6)—

- (a) for the words “subsection (2)” there shall be substituted “ subsection (2A) ”;
- (b) the words from “or paragraph” to “Act 1994” shall cease to have effect; and
- (c) for the words “Part IV or section 86 or 88 of the 1973 Act” there shall be substituted “ Part 4 of the Enterprise Act 2002 ”.

(5) For subsection (6A) there shall be substituted—

“(6A) Section 117 of the Enterprise Act 2002 (offences of supplying false or misleading information) as applied by section 180 of that Act shall have effect so far as relating to functions exercisable by the Director by virtue of subsection (2) above as if the references in section 117(1)(a) and (2) to the Office of Fair Trading included references to the Director.”

(6) Subsection (7) shall cease to have effect.]

#### Textual Amendments

**F1** Sch. 9 para. 16 repealed (25.7.2003 for certain purposes and 29.12.2003 for certain purposes) by Communications Act 2003 (c. 21), ss. 406(7), 411(2)(3), Sch. 19(1) (with transitional provisions in Sch. 18 and with Sch. 19 Note 1); S.I. 2003/1900, arts. 1(2), 2(1), 3(1), Sch. 1 (with arts. 3-6 (as amended (8.12.2003) by S.I. 2003/3142, art. 1(3))); S.I. 2003/3142, art. 3(1), Sch. 1 (with arts. 3(3), 11)

#### Gas Act 1986 (c. 44)

17 (1) Section 36A of the Gas Act 1986 (application of monopoly provisions etc. to the Gas and Electricity Markets Authority) shall be amended as follows.

(2) For subsection (2) (monopoly functions to be exercisable concurrently by the Gas and Electricity Markets Authority) there shall be substituted—

“(2) The functions to which subsection (2A) below applies shall be concurrent functions of the Authority and the Office of Fair Trading.

(2A) This subsection applies to the functions of the Office of Fair Trading under Part 4 of the Enterprise Act 2002 (other than sections 166 and 171) so far as relating to commercial activities connected with the carrying on of activities to which this subsection applies.

(2B) So far as necessary for the purposes of, or in connection with, subsections (2) and (2A) above, references in Part 4 of the Act of 2002 to the Office of Fair Trading (including references in provisions of that Act applied by that Part) shall be construed as including references to the Authority (except in sections 166 and 171 of that Act and in any other provision of that Act where the context otherwise requires).”

(3) In subsection (4) for the word “(2)” there shall be substituted “ (2A) ”.

(4) For subsection (5) there shall be substituted—

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“(5) Before the Office of Fair Trading or the Authority first exercises in relation to any matter functions which are exercisable concurrently by virtue of subsection (2) above, it shall consult the other.

(5A) Neither the Office of Fair Trading nor the Authority shall exercise in relation to any matter functions which are exercisable concurrently by virtue of subsection (2) above if functions which are so exercisable have been exercised in relation to that matter by the other.”

(5) In subsection (7) for the words “Part IV or section 86 or 88 of the 1973 Act” there shall be substituted “ Part 4 of the Enterprise Act 2002 ”.

(6) For subsection (8) there shall be substituted—

“(8) Section 117 of the Enterprise Act 2002 (offences of supplying false or misleading information) as applied by section 180 of that Act shall have effect so far as relating to functions exercisable by the Authority by virtue of subsection (2) above as if the references in section 117(1)(a) and (2) to the Office of Fair Trading included references to the Authority.”

(7) Subsection (9) shall cease to have effect.

(8) In subsection (10) for the words “mentioned in subsection (2) or (3) above” there shall be substituted “ exercisable by the Authority by virtue of subsection (2) or (3) above ”.

#### *Electricity Act 1989 (c. 29)*

18 (1) Section 43 of the Electricity Act 1989 (application of monopoly provisions etc. to the Gas and Electricity Markets Authority) shall be amended as follows.

(2) For subsection (2) (monopoly functions to be exercisable concurrently by the Gas and Electricity Markets Authority) there shall be substituted—

“(2) The functions to which subsection (2A) below applies shall be concurrent functions of the Authority and the Office of Fair Trading.

(2A) This subsection applies to the functions of the Office of Fair Trading under Part 4 of the Enterprise Act 2002 (other than sections 166 and 171) so far as relating to commercial activities connected with the generation, transmission or supply of electricity.

(2B) So far as necessary for the purposes of, or in connection with, subsections (2) and (2A) above, references in Part 4 of the Act of 2002 to the Office of Fair Trading (including references in provisions of that Act applied by that Part) shall be construed as including references to the Authority (except in sections 166 and 171 of that Act and in any other provision of that Act where the context otherwise requires).”

(3) For subsection (4) there shall be substituted—

“(4) Before the Office of Fair Trading or the Authority first exercises in relation to any matter functions which are exercisable concurrently by virtue of subsection (2) above, it shall consult the other.

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(4A) Neither the Office of Fair Trading nor the Authority shall exercise in relation to any matter functions which are exercisable concurrently by virtue of subsection (2) above if functions which are so exercisable have been exercised in relation to that matter by the other.”

(4) In subsection (6)—

- (a) for the word “(2)” there shall be substituted “ (2A) ”;
- (b) the words from “or paragraph” to “Act 1994” shall cease to have effect; and
- (c) for the words “Part IV or section 86 or 88 of the 1973 Act” there shall be substituted “ Part 4 of the Enterprise Act 2002 ”.

(5) For subsection (6A) there shall be substituted—

“(6A) Section 117 of the Enterprise Act 2002 (offences of supplying false or misleading information) as applied by section 180 of that Act shall have effect so far as relating to functions exercisable by the Authority by virtue of subsection (2) above as if the references in section 117(1)(a) and (2) to the Office of Fair Trading included references to the Authority.”

(6) Subsection (7) shall cease to have effect.

*Water Industry Act 1991 (c. 56)*

19 (1) Section 31 of the Water Industry Act 1991 (application of monopoly provisions etc. to the Director General of Water Services) shall be amended as follows.

(2) For subsection (2) (monopoly functions to be exercisable concurrently by the Director General of Water Services) there shall be substituted—

“(2) The functions to which subsection (2A) below applies shall be concurrent functions of the Director and the OFT.

(2A) This subsection applies to the functions of the OFT under Part 4 of the 2002 Act (other than sections 166 and 171) so far as relating to commercial activities connected with the supply of water or the provision of sewerage services.”

(3) For subsection (4) there shall be substituted—

“(4) So far as necessary for the purposes of, or in connection with, subsections (2) and (2A) above, references in Part 4 of the 2002 Act to the OFT (including references in provisions of that Act applied by that Part) shall be construed as including references to the Director (except in sections 166 and 171 of that Act and in any other provision of that Act where the context otherwise requires).”

(4) For subsections (5) and (6) there shall be substituted—

“(5) Before the OFT or the Director first exercises in relation to any matter functions which are exercisable concurrently by virtue of subsection (2) above, that person shall consult the other.

(6) Neither the OFT nor the Director shall exercise in relation to any matter functions which are exercisable concurrently by virtue of subsection (2) above if functions which are so exercisable have been exercised in relation to that matter by the other.”

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- (5) In subsection (8)—
- (a) the words from “or paragraph” to “Act 1994” shall cease to have effect; and
  - (b) for the words “Part IV or section 86 or 88 of the 1973 Act” there shall be substituted “ Part 4 of the 2002 Act ”.
- (6) For subsection (8A) there shall be substituted—
- “(8A) Section 117 of the 2002 Act (offences of supplying false or misleading information) as applied by section 180 of that Act shall have effect so far as relating to functions exercisable by the Director by virtue of subsection (2) above as if the references in section 117(1)(a) and (2) to the OFT included references to the Director.”
- (7) Subsection (9) shall cease to have effect.

*Electricity (Northern Ireland) Order 1992 (S.I. 1992/231 (N.I. 1))*

- 20 (1) Article 46 of the Electricity (Northern Ireland) Order 1992 (application of monopoly provisions etc. to the Director General of Electricity Supply for Northern Ireland) shall be amended as follows.
- (2) For paragraph (2) (monopoly functions to be exercisable concurrently by the Director) there shall be substituted—
- “(2) The functions to which paragraph (2A) applies shall be concurrent functions of the Director and the Office of Fair Trading.
- (2A) This paragraph applies to the functions of the Office of Fair Trading under Part 4 of the Enterprise Act 2002 (other than sections 166 and 171) so far as relating to commercial activities connected with the generation, transmission or supply of electricity.
- (2B) So far as necessary for the purposes of, or in connection with, paragraphs (2) and (2A), references in Part 4 of the Act of 2002 to the Office of Fair Trading (including references in provisions of that Act applied by that Part) shall be construed as including references to the Director (except in sections 166 and 171 of that Act and in any other provision of that Act where the context otherwise requires).”
- (3) For paragraph (4) there shall be substituted—
- “(4) Before the Office of Fair Trading or the Director first exercises in relation to any matter functions which are exercisable concurrently by virtue of paragraph (2), it or he shall consult the other.
- (4A) Neither the Office of Fair Trading nor the Director shall exercise in relation to any matter functions which are exercisable concurrently by virtue of paragraph (2) if functions which are so exercisable have been exercised in relation to that matter by the other.”
- (4) In paragraph (6)—
- (a) for the words “paragraph (2)” there shall be substituted “ paragraph (2A) ”;
  - (b) the words from “or paragraph” to “Act 1994” shall cease to have effect; and
  - (c) for the words “Part IV or section 86 or 88 of the 1973 Act” there shall be substituted “ Part 4 of the Enterprise Act 2002 ”.

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(5) For paragraph (6A) there shall be substituted—

“(6A) Section 117 of the Enterprise Act 2002 (offences of supplying false or misleading information) as applied by section 180 of that Act shall have effect so far as relating to functions exercisable by the Director by virtue of paragraph (2) as if the references in section 117(1)(a) and (2) to the Office of Fair Trading included references to the Director.”

(6) Paragraph (7) shall cease to have effect.

*Railways Act 1993 (c. 43)*

21 (1) Section 67 of the Railways Act 1993 (application of monopoly provisions etc. to the Rail Regulator) shall be amended as follows.

(2) For subsection (2) (monopoly functions to be exercisable concurrently by the Rail Regulator) there shall be substituted—

“(2) The functions to which subsection (2A) below applies shall be concurrent functions of the Regulator and the OFT.

(2A) This subsection applies to the functions of the OFT under Part 4 of the Enterprise Act 2002 (other than sections 166 and 171) so far as relating to the supply of services relating to railways.

(2B) So far as necessary for the purposes of, or in connection with, subsections (2) and (2A) above, references in Part 4 of the Act of 2002 to the OFT (including references in provisions of that Act applied by that Part) shall be construed as including references to the Regulator (except in sections 166 and 171 of that Act and in any other provision of that Act where the context otherwise requires).”

(3) In subsection (3ZA) for the words “subsection (3)” there shall be substituted “subsections (2A) and (3) ”.

(4) For subsection (4) there shall be substituted—

“(4) Before the OFT or the Regulator first exercises in relation to any matter functions which are exercisable concurrently by virtue of subsection (2) above, that person shall consult the other.

(4A) Neither the OFT nor the Regulator shall exercise in relation to any matter functions which are exercisable concurrently by virtue of subsection (2) above if functions which are so exercisable have been exercised in relation to that matter by the other.”

(5) In subsection (7)—

(a) for the words “on a monopoly reference” there shall be substituted “ under section 136 or 142 of the Enterprise Act 2002 ”;

(b) the words from “was made” to “that it” shall cease to have effect; and

(c) for the word “him” there shall be substituted “ the Regulator ”.

(6) In subsection (8)—

(a) for the word “(2)” there shall be substituted “ (2A) ”;

(b) the words from “or paragraph” to “Act 1994” shall cease to have effect; and

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(c) for the words “Part IV or section 86 or 88 of the 1973 Act” there shall be substituted “ Part 4 of the Enterprise Act 2002 ”.

(7) For subsection (9) there shall be substituted—

“(9) Section 117 of the Enterprise Act 2002 (offences of supplying false or misleading information) as applied by section 180 of that Act shall have effect so far as relating to functions exercisable by the Regulator by virtue of subsection (2) above as if the references in section 117(1)(a) and (2) to the OFT included references to the Regulator.”

(8) Subsection (10) shall cease to have effect.

*Gas (Northern Ireland) Order 1996 (S.I. 1996/275 (N.I. 2))*

22 (1) Article 23 of the Gas (Northern Ireland) Order 1996 (application of monopoly provisions etc. to the Director General of Gas for Northern Ireland) shall be amended as follows.

(2) For paragraph (2) (monopoly functions to be exercisable concurrently by the Director) there shall be substituted—

“(2) The functions to which paragraph (2A) applies shall be concurrent functions of the Director and the Office of Fair Trading.

(2A) This paragraph applies to the functions of the Office of Fair Trading under Part 4 of the Enterprise Act 2002 (other than sections 166 and 171) so far as relating to commercial activities connected with the conveyance, storage or supply of gas.

(2B) So far as necessary for the purposes of, or in connection with, paragraphs (2) and (2A), references in Part 4 of the Act of 2002 to the Office of Fair Trading (including references in provisions of that Act applied by that Part) shall be construed as including references to the Director (except in sections 166 and 171 of that Act and in any other provision of that Act where the context otherwise requires).”

(3) For paragraph (4) there shall be substituted—

“(4) Before the Office of Fair Trading or the Director first exercises in relation to any matter functions which are exercisable concurrently by virtue of paragraph (2), it or he shall consult the other.

(4A) Neither the Office of Fair Trading nor the Director shall exercise in relation to any matter functions which are exercisable concurrently by virtue of paragraph (2) if functions which are so exercisable have been exercised in relation to that matter by the other.”

(4) In paragraph (6) for the words “Part IV or section 86 or 88 of the 1973 Act” there shall be substituted “ Part 4 of the Enterprise Act 2002 ”.

(5) For paragraph (7) there shall be substituted—

“(7) Section 117 of the Enterprise Act 2002 (offences of supplying false or misleading information) as applied by section 180 of that Act shall have effect so far as relating to functions exercisable by the Director by virtue of

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paragraph (2) as if the references in section 117(1)(a) and (2) to the Office of Fair Trading included references to the Director.”

(6) Paragraph (8) shall cease to have effect.

(7) In paragraph (9) for the words “mentioned in paragraph (2) or (3)” there shall be substituted “exercisable by the Director by virtue of paragraph (2) or (3)”.

*Transport Act 2000 (c. 38)*

23 (1) Section 85 of the Transport Act 2000 (interpretation of Chapter V) shall be amended as follows.

(2) In subsection (1) for paragraph (a) there shall be substituted—  
“(a) the 2002 Act is the Enterprise Act 2002;”.

(3) In subsection (3)—

(a) the words “the 1973 Act or” shall cease to have effect; and

(b) for the words “Act concerned” there shall be substituted “1998 Act”.

24 (1) Section 86 of that Act (functions exercisable by the CAA and the Director) shall be amended as follows.

(2) For subsection (2) there shall be substituted—

“(2) This subsection applies to the OFT’s functions under Part 4 of the 2002 Act (other than sections 166 and 171) so far as they relate to the supply of air traffic services.”

(3) In subsection (4)(a) for the words from the beginning to “Act” there shall be substituted “Part 4 of the 2002 Act (except for sections 166 and 171 but including provisions of that Act applied by that Part)”.

(4) In subsection (7)(a) for the words from the beginning to “Act” there shall be substituted “Part 4 of the 2002 Act”.

25 In section 87 of that Act (CAA’s 1973 Act functions) for the word “1973”, wherever it appears, there shall be substituted “2002”.

26 In section 89 of that Act (carrying out functions) for the word “1973”, wherever it appears, there shall be substituted “2002”.



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