

*Status: Point in time view as at 06/04/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Enterprise and Regulatory Reform Act 2013, PART 1. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 4

#### THE COMPETITION AND MARKETS AUTHORITY

##### PART 1

##### GENERAL

##### *Membership*

- 1 (1) The CMA is to consist of—
- (a) a person appointed by the Secretary of State to chair the CMA and the CMA Board (the “chair”), and
  - (b) other persons appointed by the Secretary of State to membership of—
    - (i) the CMA Board (see Part 2);
    - (ii) the CMA panel (see Part 3);
    - (iii) both the CMA Board and the CMA panel.
- (2) The Secretary of State must consult the chair before making an appointment under sub-paragraph (1)(b).
- (3) At least five of the members appointed under sub-paragraph (1)(b) must be appointed to membership of the CMA Board.
- (4) At least one of the members appointed under sub-paragraph (1)(b) must be appointed to membership of the CMA Board and to membership of the CMA panel.
- (5) Of the persons appointed to membership of the CMA Board under sub-paragraph (1)(b), no more than half may be members of staff of the CMA.
- (6) In this Schedule, references to members of the CMA are to persons appointed under sub-paragraph (1).
- (7) A person holding office as a member of the Competition Appeal Tribunal is ineligible for appointment under this paragraph.

##### **Commencement Information**

**II** Sch. 4 para. 1 in force at 1.10.2013 by S.I. 2013/2227, art. 2(j) (with art. 3)

##### *Terms and conditions*

- 2 (1) The members of the CMA are to hold and vacate office in accordance with the terms and conditions of their appointments.

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(2) Those terms and conditions are to be determined by the Secretary of State.

**Commencement Information**

**I2** Sch. 4 para. 2 in force at 1.10.2013 by S.I. 2013/2227, art. 2(j) (with art. 3)

*Term of appointment*

- 3 (1) Appointment to membership of the CMA Board under paragraph 1(1)(b) is to be for a term of not more than five years.
- (2) Appointment to membership of the CMA panel under paragraph 1(1)(b) is to be for a term of not more than eight years.
- (3) Appointment as the chair is to be for a term of not more than five years.

**Commencement Information**

**I3** Sch. 4 para. 3 in force at 1.10.2013 by S.I. 2013/2227, art. 2(j) (with art. 3)

*Re-appointment*

- 4 (1) A person who has been appointed to membership of the CMA panel may be re-appointed to membership of the CMA panel only for the purpose of continuing to act as a member of a group constituted under paragraph 36 before the expiry of his or her term of office.
- (2) Subject to sub-paragraph (1), a person's previous appointment under paragraph 1 does not affect eligibility for a subsequent appointment under that paragraph.

**Commencement Information**

**I4** Sch. 4 para. 4 in force at 1.10.2013 by S.I. 2013/2227, art. 2(j) (with art. 3)

*Remuneration etc of members*

- 5 (1) The CMA must pay to its members such remuneration, allowances and expenses as the Secretary of State may determine.
- (2) The CMA must pay or make provision for the payment of such pension, allowances or gratuities as the Secretary of State may determine to or in respect of a current or former member.
- (3) If a person ceases to hold an office to which he or she has been appointed under paragraph 1, and the Secretary of State decides that there are special circumstances which mean that the person should be compensated, the CMA must pay compensation to the person of such amount as the Secretary of State may determine.

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**Commencement Information**

**I5** Sch. 4 para. 5 in force at 1.10.2013 by S.I. 2013/2227, art. 2(j) (with art. 3)

*Resignation*

- 6 (1) The chair may at any time resign from membership of the CMA by giving written notice to this effect to the Secretary of State.
- (2) A person who is a member of either the CMA Board or the CMA panel (but not of both) may at any time resign from membership of the CMA by giving written notice to this effect to the Secretary of State.
- (3) A person who is a member of both the CMA Board and the CMA panel may at any time, by giving written notice to this effect to the Secretary of State—
- (a) resign from membership of either the CMA Board or the CMA panel, or
  - (b) resign from membership of the CMA.

**Commencement Information**

**I6** Sch. 4 para. 6 in force at 1.10.2013 by S.I. 2013/2227, art. 2(j) (with art. 3)

*Termination of membership*

- 7 The Secretary of State may at any time remove a person from office as a member of the CMA on any of the following grounds—
- (a) incapacity;
  - (b) misbehaviour;
  - (c) failure to carry out his or her duties.

**Commencement Information**

**I7** Sch. 4 para. 7 in force at 1.10.2013 by S.I. 2013/2227, art. 2(j) (with art. 3)

*Status*

- 8 The CMA is to perform its functions on behalf of the Crown.

**Commencement Information**

**I8** Sch. 4 para. 8 in force at 1.10.2013 by S.I. 2013/2227, art. 2(j) (with art. 3)

*Chief executive and other staff*

- 9 (1) The CMA is to have a chief executive appointed by the Secretary of State (the “chief executive”).
- (2) The chief executive may also be a member of the CMA, but must not be—
- (a) the chair, or

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- (b) a member of the CMA panel.
- (3) Before appointing the chief executive, the Secretary of State must consult the chair.
- (4) The appointment—
  - (a) is to be for a term of not more than five years;
  - (b) subject to that, is to be on such terms and conditions as the Secretary of State considers fit.
- (5) The chief executive holds that office as a member of the staff of the CMA.
- (6) A previous appointment as chief executive does not affect a person's eligibility for re-appointment.

**Commencement Information**

**I9** Sch. 4 para. 9 in force at 1.10.2013 by S.I. 2013/2227, art. 2(j) (with art. 3)

- 10
- (1) The CMA may appoint other members of staff.
  - (2) A person appointed as a member of the CMA's staff under sub-paragraph (1) may also be a member of the CMA, but must not be—
    - (a) the chair, or
    - (b) a member of the CMA panel.
  - (3) The following are to be determined by the CMA with the approval of the Minister for the Civil Service—
    - (a) the number of members of staff appointed under sub-paragraph (1);
    - (b) their conditions of service.

**Commencement Information**

**I10** Sch. 4 para. 10 in force at 1.10.2013 by S.I. 2013/2227, art. 2(j) (with art. 3)

- 11
- A person holding office as a member of the Competition Appeal Tribunal is ineligible for appointment under paragraph 9 or 10.

**Commencement Information**

**I11** Sch. 4 para. 11 in force at 1.10.2013 by S.I. 2013/2227, art. 2(j) (with art. 3)

*Annual plan*

- 12
- (1) The CMA must prepare an annual plan for each financial year.
  - (2) The plan must—
    - (a) set out the CMA's main objectives for the year and indicate the relative priorities of each of those objectives;
    - (b) provide a summary of the proposed allocation of the CMA's financial resources to the activities to be carried on in connection with those objectives.

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- (3) The CMA must arrange for the plan to be laid before Parliament.
- (4) The CMA must publish the plan, in whatever way it considers appropriate, before the start of the financial year in question.

**Commencement Information**

**I12** Sch. 4 para. 12 in force at 1.10.2013 by S.I. 2013/2227, art. 2(j) (with art. 3)

- 13 (1) Before finalising an annual plan, the CMA must draw up proposals for it.
- (2) The CMA must arrange for the proposals to be laid before Parliament.
- (3) The CMA must—
  - (a) publish the proposals in whatever way it considers appropriate, and
  - (b) make arrangements to consult with the public about them.
- (4) Arrangements made under sub-paragraph (3)(b) may provide for consultation with the public to be effected in whatever way the CMA considers appropriate.

**Commencement Information**

**I13** Sch. 4 para. 13 in force at 1.10.2013 by S.I. 2013/2227, art. 2(j) (with art. 3)

*Performance report*

- 14 (1) As soon as practicable after the end of each financial year, the CMA must prepare and send to the Secretary of State an annual report on its activities and performance during the year.
- (2) The report must include—
  - (a) a survey of developments, during the year, in matters relating to the CMA's functions;
  - (b) an assessment of the extent to which the CMA's objectives for the year, as set out in the plan published under paragraph 12, have been met;
  - (c) a summary of the significant decisions, investigations or other activities made or carried out by the CMA during the year;
  - (d) a summary of the allocation of the CMA's financial resources to its various activities during the year;
  - (e) an assessment of the CMA's performance and practices, during the year, in relation to its enforcement functions.
- (3) The CMA must—
  - (a) arrange for the report to be laid before Parliament;
  - (b) publish the report in whatever way it considers appropriate.

**Commencement Information**

**I14** Sch. 4 para. 14 in force at 1.10.2013 by S.I. 2013/2227, art. 2(j) (with art. 3)

- 15 The CMA may—

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- (a) prepare other reports about matters relating to any of its functions;
- (b) publish a report prepared under this paragraph.

#### Commencement Information

**I15** Sch. 4 para. 15 in force at 1.10.2013 by S.I. 2013/2227, art. 2(j) (with art. 3)

#### *Concurrency report*

- 16 (1) As soon as practicable after the end of each financial year, the CMA must prepare a report containing an assessment of how the concurrency arrangements have operated during the year.
- (2) The concurrency arrangements are the arrangements for co-operation between the CMA and the sectoral regulators in respect of functions which are exercisable concurrently by the CMA and one or more of the regulators under Part 1 of the Competition Act 1998 (the “1998 Act”) and Part 4 of the Enterprise Act 2002 (the “2002 Act”).
- (3) The report must, in particular, include information about—
- (a) the exercise during the year by the CMA of its functions under Part 1 of the 1998 Act or Part 4 of the 2002 Act in cases in which the functions are or were exercisable concurrently by one or more sectoral regulators,
  - (b) the exercise during the year by each sectoral regulator of its functions under Part 1 of the 1998 Act or Part 4 of the 2002 Act, and
  - (c) any decision made during the year by a sectoral regulator, in respect of a case in relation to which the regulator considers that its functions under Part 1 of the 1998 Act were exercisable, that it was more appropriate for it to proceed by exercising functions other than those it has under that Part of that Act.
- (4) The CMA is not required to include information in a report under this paragraph if it considers that doing so would, or would be likely to, prejudice the exercise of any of the functions of the CMA or a sectoral regulator.
- (5) In preparing a report under this paragraph, the CMA must consult each sectoral regulator.
- (6) The CMA must publish a report prepared under this paragraph in whatever way it considers appropriate.
- (7) Each of the following is a sectoral regulator—
- (a) the Office of Communications;
  - (b) the Gas and Electricity Markets Authority;
  - (c) the Water Services Regulation Authority;
  - (d) the Office of Rail Regulation;
  - (e) the Northern Ireland Authority for Utility Regulation;
  - (f) the Civil Aviation Authority;
  - (g) Monitor;
  - [<sup>F1</sup>(h) the Payment Systems Regulator established under section 40 of the Financial Services (Banking Reform) Act 2013.]

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#### Textual Amendments

- F1** Sch. 4 para. 16(7)(h) inserted (1.4.2014) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#), [ss. 67\(5\)](#), [148\(5\)](#); [S.I. 2014/823](#), [art. 2\(g\)](#)

#### Commencement Information

- I16** Sch. 4 para. 16 in force at 1.10.2013 by [S.I. 2013/2227](#), [art. 2\(j\)](#) (with [art. 3](#))

#### *Documents*

- 17 (1) The application of the CMA's seal must be authenticated by the signature of—
- (a) a person who is a member of the CMA Board, or
  - (b) a person authorised (generally or specifically) for that purpose by the CMA.
- (2) A document purporting to be duly executed under the CMA's seal or signed on its behalf—
- (a) is to be received in evidence;
  - (b) is to be taken to be duly signed or sealed unless the contrary is shown.
- (3) But this paragraph does not apply in relation to a document which is, or is to be, signed in accordance with the law of Scotland.

#### Commencement Information

- I17** Sch. 4 para. 17 in force at 1.10.2013 by [S.I. 2013/2227](#), [art. 2\(j\)](#) (with [art. 3](#))

#### *Membership of committees and sub-committees*

- 18 (1) The members of a committee or sub-committee of the CMA may include persons who are not members of the CMA.
- (2) A sub-committee may include persons who are not members of the committee that established it.

#### Commencement Information

- I18** Sch. 4 para. 18 in force at 1.10.2013 by [S.I. 2013/2227](#), [art. 2\(j\)](#) (with [art. 3](#))

#### *Additional powers*

- 19 The CMA may—
- (a) if so requested by the Secretary of State, represent the government of the United Kingdom in matters relating to international relations in any field connected to its functions, and
  - (b) promote good practice outside the United Kingdom in the carrying on of activities which may affect the economic interests of consumers in the United Kingdom.

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**Commencement Information**

**I19** Sch. 4 para. 19 in force at 1.4.2014 by S.I. 2014/416, art. 2(1)(c) (with Sch.)

- 20 (1) The CMA may do anything that is calculated to facilitate, or is conducive or incidental to, the performance of its functions.
- (2) The power in sub-paragraph (1) is subject to any restrictions imposed by or under any enactment.

**Commencement Information**

**I20** Sch. 4 para. 20 in force at 1.10.2013 by S.I. 2013/2227, art. 2(j) (with art. 3)

*Public records*

- 21 In Schedule 1 to the Public Records Act 1958 (definition of public records), in Part 2 of the Table at the end of paragraph 3, at the appropriate place insert— “ Competition and Markets Authority. ”

**Commencement Information**

**I21** Sch. 4 para. 21 in force at 1.10.2013 by S.I. 2013/2227, art. 2(j) (with art. 3)

*Parliamentary Commissioner*

- 22 In Schedule 2 to the Parliamentary Commissioner Act 1967 (departments etc subject to investigation) at the appropriate place insert— “ Competition and Markets Authority. ”

**Commencement Information**

**I22** Sch. 4 para. 22 in force at 1.10.2013 by S.I. 2013/2227, art. 2(j) (with art. 3)

*Disqualification*

- 23 In Part 2 of Schedule 1 to the House of Commons Disqualification Act 1975 (bodies of which all members are disqualified) at the appropriate place insert— “ The Competition and Markets Authority. ”

**Commencement Information**

**I23** Sch. 4 para. 23 in force at 1.10.2013 by S.I. 2013/2227, art. 2(j) (with art. 3)

- 24 In Part 2 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (bodies of which all members are disqualified), at the appropriate place insert— “ The Competition and Markets Authority. ”



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**Commencement Information**

**I24** Sch. 4 para. 24 in force at 1.10.2013 by S.I. 2013/2227, art. 2(j) (with art. 3)

*Freedom of information*

- 25 In Part 1 of Schedule 1 to the Freedom of Information Act 2000 (definition of public authority: general)—
- (a) in paragraph 1 after “other than” insert “—
    - (a) the Competition and Markets Authority,
    - (b)”;
  - (b) after paragraph 1 insert—
    - “1ZA The Competition and Markets Authority, in respect of information held otherwise than as a tribunal.”

**Commencement Information**

**I25** Sch. 4 para. 25 in force at 1.10.2013 by S.I. 2013/2227, art. 2(j) (with art. 3)

*Equality*

- 26 In Part 1 of Schedule 19 to the Equality Act 2010 (public authorities: general), under the heading “*Industry, business, finance etc*” at the appropriate place insert— “ The Competition and Markets Authority. ”

**Commencement Information**

**I26** Sch. 4 para. 26 in force at 1.10.2013 by S.I. 2013/2227, art. 2(j) (with art. 3)

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