

SCHEDULE 1

Regulation 60

Amendment of other primary legislation

Company Directors Disqualification Act 1986

1.—(1) Section 9A of the Company Directors Disqualification Act 1986⁽¹⁾ is amended as follows.

(2) In subsection (4)—

(a) for “any of the following” substitute “either of the following”;

(b) omit paragraphs (c) and (d).

(3) In subsection (8), omit “or (c)”.

(4) In subsection (11), for the words from “Section 60” to “law” substitute “Section 60A of the Competition Act 1998 (certain principles etc to be considered or applied from exit day)”.

Gas Act 1986

2.—(1) Section 36A(3) of the Gas Act 1986⁽²⁾ is amended as follows.

(2) At the end of paragraph (a), insert “or”.

(3) Omit paragraphs (c) and (d).

Electricity Act 1989

3.—(1) Section 43(3) of the Electricity Act 1989⁽³⁾ is amended as follows.

(2) At the end of paragraph (a), insert “or”.

(3) Omit paragraphs (c) and (d).

Water Industry Act 1991

4.—(1) Section 31(3) of the Water Industry Act 1991⁽⁴⁾ is amended as follows.

(2) At the end of paragraph (a), insert “or”.

(3) Omit paragraphs (c) and (d).

Electricity (Northern Ireland) Order 1992

5.—(1) Article 46(3) of the Electricity (Northern Ireland) Order 1992⁽⁵⁾ is amended as follows.

(2) At the end of sub-paragraph (a), insert “or”.

(1) 1986 c. 46; section 9A was inserted by section 204(1) and (2) of the Enterprise Act 2002 and subsequently amended by S.I. 2012/1809.

(2) 1986 c. 44; section 36A was inserted by paragraph 43 of Schedule 3 to the Gas Act 1995 (c. 45); subsection (3) was substituted by section 54(2) and paragraph 3(5) of Schedule 10 to the Competition Act 1998 (c. 41), further substituted by S.I. 2004/1261, and subsequently amended paragraph 2 of Schedule 15 to the Enterprise and Regulatory Reform Act 2013 and by S.I. 2014/892.

(3) 1989 c. 29; section 43(3) was substituted by section 54(2) and paragraph 4(5) of Schedule 10 to the Competition Act 1998 (c. 41), further substituted by S.I. 2004/1261, and subsequently amended by section 147(1) and (5) of the Energy Act 2004 (c. 20), paragraph 3 of Schedule 15 to the Enterprise and Regulatory Reform Act 2013, and by S.I. 2012/1809 and S.I. 2014/892.

(4) 1991 c. 56; section 31(3) was substituted by S.I. 2004/1261 and subsequently amended by section 36(3) of the Water Act 2003 (c. 37), paragraphs 4 and 5 of Schedule 15 to the Enterprise and Regulatory Reform Act 2013, and by S.I. 2012/1809 and S.I. 2014/892.

(5) S.I. 1992/231 (N.I. 1); relevant amending instruments are S.I. 2004/1261, 2014/892, S.R. 2011 No. 155, and paragraph 53 of Schedule 15 to the Enterprise and Regulatory Reform Act 2013.

- (3) Omit sub-paragraphs (c) and (d).

Railways Act 1993

- 6.—(1) Section 67(3) of the Railways Act 1993(6) is amended as follows.
- (2) At the end of paragraph (a), insert “or”.
- (3) Omit paragraphs (c) and (d).

Gas (Northern Ireland) Order 1996

- 7.—(1) Article 23(3) of the Gas (Northern Ireland) Order 1996(7) is amended as follows.
- (2) At the end of sub-paragraph (a), insert “or”.
- (3) Omit sub-paragraphs (c) and (d).

Financial Services and Markets Act 2000

- 8.—(1) Section 234J(2) of the Financial Services and Markets Act 2000(8) is amended as follows.
- (2) At the end of paragraph (a), insert “and”.
- (3) Omit paragraphs (c) and (d).

Transport Act 2000

- 9.—(1) The Transport Act 2000(9) is amended as follows.
- (2) In section 86(3)(10)—
- (a) at the end of paragraph (a), insert “or”;
- (b) omit paragraphs (c) and (d).
- (3) In Schedule 9(11)—
- (a) in paragraph 3(1), omit paragraph (k);
- (b) in paragraph 3(3), omit paragraph (s).
- (4) In Schedule 10, in paragraph 23(2)(a)(12), for “and 11” substitute “and 10A”.

Company Directors Disqualification (Northern Ireland) Order 2002

- 10.—(1) Article 13A of the Company Directors Disqualification (Northern Ireland) Order 2002(13) is amended as follows.
- (2) In paragraph (4)—

(6) 1993 c. 43; section 67(3) was substituted by section 54(2) and paragraph 6(5) of Schedule 10 to the Competition Act 1998, further substituted by S.I. 2004/1261, and subsequently amended by paragraph 7 of Schedule 15 to the Enterprise and Regulatory Reform Act 2013 and by S.I. 2012/1809, S.I. 2014/892 and S.I. 2015/1682.

(7) S.I. 1996/275 (N.I. 2); relevant amending instruments are S.I. 2004/1261, 2014/892, and paragraph 54 of Schedule 15 to the Enterprise and Regulatory Reform Act 2013.

(8) 2000 c. 8; section 234J was inserted by paragraphs 1 and 3 of Schedule 8 to the Financial Services (Banking Reform) Act 2013 (c.33) and subsection (2) of section 234J is to be amended by section 27 of the Financial Guidance and Claims Act 2018 (c. 10) from a date to be appointed.

(9) 2000 c. 38.

(10) Section 86(3) was substituted by S.I. 2004/1261 and subsequently amended by paragraph 14 of Schedule 15 to the Enterprise and Regulatory Reform Act 2013, and by S.I. 2012/1809 and S.I. 2014/892.

(11) Paragraph 3(1)(k) and (3)(s) of Schedule 9 were amended by S.I. 2011/1043; there are other amendments to paragraph 3(1) and (3) but none is relevant to these Regulations.

(12) Part 2 of Schedule 10 was inserted by paragraphs 1 and 15 of Schedule 2 to the Local Transport Act 2008 (c. 26) and paragraph 23 was subsequently amended by S.I. 2017/385.

(13) S.I. 2002/3150 (N.I. 4); article 13A was inserted by S.I. 2005/1454 (N.I. 9) and subsequently amended by S.I. 2014/892.

- (a) for “any of the following” substitute “either of the following”;
- (b) omit sub-paragraphs (c) and (d).
- (3) In paragraph (8), omit “or (c)”.
- (4) In paragraph (11), for the words from “Section 60” to “law” substitute “Section 60A of the Competition Act 1998 (certain principles etc to be considered or applied from exit day)”.

Communications Act 2003

11.—(1) The Communications Act 2003(**14**) is amended as follows.

(2) In section 371(2)(**15**)—

- (a) at the end of paragraph (a), insert “or”;
- (b) omit paragraphs (c) and (d).

(3) Paragraph 6 of Schedule 11(**16**) is amended as follows.

(4) In sub-paragraph (6), at the beginning insert “Subject to paragraph 6A,”.

(5) In sub-paragraph (7)(a)—

- (a) after “European Court” insert “before exit day”, and
- (b) for “of that court” substitute “made by that court before exit day”.

(6) After sub-paragraph (7) insert—

“(7A) In sub-paragraph (7)(a), the reference to principles laid down before exit day is a reference to such principles as they have effect in EU law immediately before exit day, disregarding the effect of principles laid down, and decisions made, by the European Court on or after exit day.”.

(7) After that paragraph insert—

“Competition tests applying to OFCOM’s decisions: EU principles etc

6A.—(1) Paragraph 6(6) does not require OFCOM to secure that there is no inconsistency with a principle or decision referred to in paragraph 6(7)(a)—

- (a) so far as the principle or decision is excluded from the law of England and Wales, Scotland and Northern Ireland on or after exit day, or
- (b) so far as doing so would be incompatible with OFCOM’s duty to secure that there is no inconsistency with a decision referred to in paragraph 6(7)(b).

(2) For the purposes of sub-paragraph (1)(a), a principle or decision is to be treated as not excluded from the law of England and Wales, Scotland and Northern Ireland if it is excluded only by virtue of an exclusion or revocation in the Competition (Amendment etc.) (EU Exit) Regulations 2019.

(3) Paragraph 6(6) does not require OFCOM to secure that there is no inconsistency with a principle or decision referred to in paragraph 6(7)(a) if OFCOM think that it is appropriate to act otherwise in the light of one or more of the following—

- (a) differences between the competition tests and Article 101 of the Treaty on the Functioning of the European Union as it had effect immediately before exit day;

(14) 2003 c. 21.

(15) Section 371(2) was substituted by S.I. 2004/1261, and subsequently amended by paragraphs 42 and 46 of Schedule 15 to the Enterprise and Regulatory Reform Act 2013 and by S.I. 2012/1809 and S.I. 2014/892.

(16) Paragraph 6 of Schedule 11 was amended by S.I. 2012/1809 and S.I. 2014/892.

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- (b) differences between markets in the United Kingdom and markets in the European Union;
- (c) developments in forms of economic activity since the time when the principle or decision referred to in paragraph 6(7)(a) was laid down or made;
- (d) generally accepted principles of competition analysis or the generally accepted application of such principles;
- (e) a principle laid down, or decision made, by the European Court on or after exit day;
- (f) the particular circumstances under consideration.”.

Water and Sewerage Services (Northern Ireland) Order 2006

12.—(1) Article 29(3) of the Water and Sewerage Services (Northern Ireland) Order 2006⁽¹⁷⁾ is amended as follows.

- (2) At the end of sub-paragraph (a), insert “or”.
- (3) Omit sub-paragraphs (c) and (d).

Health and Social Care Act 2012

13. In section 72(2) of the Health and Social Care Act 2012⁽¹⁸⁾, omit paragraphs (c) and (d).

Civil Aviation Act 2012

14.—(1) The Civil Aviation Act 2012⁽¹⁹⁾ is amended as follows.

- (2) In section 6—
 - (a) omit subsection (9)(a);
 - (b) omit subsection (10)(a);
 - (c) in subsection (10)(b), omit “and Articles 101 and 102 of the TFEU”;
 - (d) omit subsection (11).
- (3) In section 62(3)—
 - (a) at the end of paragraph (a), insert “or”;
 - (b) omit paragraphs (c) and (d).

Financial Services (Banking Reform) Act 2013

15.—(1) Section 61(2) of the Financial Services (Banking Reform) Act 2013⁽²⁰⁾ is amended as follows.

- (2) At the end of paragraph (a), insert “and”.
- (3) Omit paragraphs (c) and (d).

⁽¹⁷⁾ [S.I. 2006/3336 \(N.I. 21\)](#), amended by [S.I. 2014/892](#); there are other amending instruments but none is relevant.

⁽¹⁸⁾ [2012 c. 7](#); section 72(2) was amended by paragraphs 47 and 48 of Schedule 15 to the Enterprise and Regulatory Reform Act 2013 and [S.I. 2014/892](#).

⁽¹⁹⁾ [2012 c. 19](#).

⁽²⁰⁾ [2013 c. 33](#).