
Status: This version of this schedule contains provisions that are prospective.
Changes to legislation: There are currently no known outstanding effects for the Enterprise and Regulatory Reform Act 2013, SCHEDULE 14. (See end of Document for details)

SCHEDULES

SCHEDULE 14

Section 51(5)

REGULATORS: USE OF POWERS UNDER THE 1998 ACT

Gas Act 1986 (c. 44)

1 The Gas Act 1986 is amended as follows.

Commencement Information

I1 Sch. 14 para. 1 in force at 1.4.2014 by S.I. 2014/416, art. 2(1)(e) (with Sch.)

- 2 (1) Section 28 (orders for securing compliance) is amended as follows.
- (2) In subsections (1), (2) and (4), for “(5) and” (in each place where it occurs) substitute “(4A) to”.
- (3) After subsection (4) insert—
- “(4A) Before making a final order or making or confirming a provisional order, the Authority shall consider whether it would be more appropriate to proceed under the Competition Act 1998.
- (4B) The Authority shall not make a final order or make or confirm a provisional order if it considers that it would be more appropriate to proceed under the Competition Act 1998.”
- (4) In subsection (5), omit paragraph (c) and the “or” preceding it.
- (5) In subsection (6)—
- (a) in the words before paragraph (a), after “the Authority” insert “decides that it would be more appropriate to proceed under the Competition Act 1998 or”, and
- (b) in paragraph (a), after “that it” insert “has so decided or”.

Commencement Information

I2 Sch. 14 para. 2 in force at 1.4.2014 by S.I. 2014/416, art. 2(1)(e) (with Sch.)

- 3 In section 30A (penalties), for subsection (2) substitute—
- “(2) Before imposing a penalty on a regulated person under subsection (1), the Authority shall consider whether it would be more appropriate to proceed under the Competition Act 1998.

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(2A) The Authority shall not impose a penalty on a regulated person under subsection (1) if it considers that it would be more appropriate to proceed under the Competition Act 1998.”

Commencement Information

I3 Sch. 14 para. 3 in force at 1.4.2014 by S.I. 2014/416, art. 2(1)(e) (with Sch.)

Electricity Act 1989 (c. 29)

4 The Electricity Act 1989 is amended as follows.

Commencement Information

I4 Sch. 14 para. 4 in force at 1.4.2014 by S.I. 2014/416, art. 2(1)(e) (with Sch.)

- 5 (1) Section 25 (orders for securing compliance) is amended as follows.
- (2) In subsections (1), (2) and (4), for “(5) and” (in each place where it occurs) substitute “(4A) to”.
- (3) After subsection (4) insert—
- “(4A) Before making a final order or making or confirming a provisional order, the Authority shall consider whether it would be more appropriate to proceed under the Competition Act 1998.
- (4B) The Authority shall not make a final order or make or confirm a provisional order if it considers that it would be more appropriate to proceed under the Competition Act 1998.”
- (4) In subsection (5), omit paragraph (d) and the “or” preceding it.
- (5) In subsection (6)—
- (a) in the words before paragraph (a), after “the Authority” insert “decides that it would be more appropriate to proceed under the Competition Act 1998 or”, and
- (b) in paragraph (a), after “that it” insert “has so decided or”.

Commencement Information

I5 Sch. 14 para. 5 in force at 1.4.2014 by S.I. 2014/416, art. 2(1)(e) (with Sch.)

- 6 In section 27A (penalties), for subsection (2) substitute—
- “(2) Before imposing a penalty on a regulated person under subsection (1), the Authority shall consider whether it would be more appropriate to proceed under the Competition Act 1998.
- (2A) The Authority shall not impose a penalty on a regulated person under subsection (1) if it considers that it would be more appropriate to proceed under the Competition Act 1998.”

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Commencement Information

I6 Sch. 14 para. 6 in force at 1.4.2014 by S.I. 2014/416, art. 2(1)(e) (with Sch.)

- 7 In section 43 (functions with respect to competition), in subsection (6), for the words from the beginning to “(3) above” substitute “ If any question arises as to whether subsection (2) or (3) above applies to any particular case ”.

Commencement Information

I7 Sch. 14 para. 7 in force at 1.4.2014 by S.I. 2014/416, art. 2(1)(e) (with Sch.)

Water Industry Act 1991 (c. 56)

- 8 The Water Industry Act 1991 is amended as follows.

Commencement Information

I8 Sch. 14 para. 8 in force at 1.4.2014 by S.I. 2014/416, art. 2(1)(e) (with Sch.)

- 9 (1) Section 19 (exception to duty to enforce) is amended as follows.
- (2) For subsection (1A) substitute—
- “(1A) Before making an enforcement order or confirming a provisional enforcement order, the Authority shall consider whether it would be more appropriate to proceed under the Competition Act 1998.
- (1B) The Authority shall not make an enforcement order or confirm a provisional enforcement order if it considers that it would be more appropriate to proceed under the Competition Act 1998.”
- (3) In subsection (3)—
- (a) in the words before paragraph (a), for “is satisfied as mentioned in subsection (1A) above” substitute “ has decided that it would be more appropriate to proceed under the Competition Act 1998 ”, and
- (b) in paragraph (a), after “satisfied” insert “ or has so decided ”.

Commencement Information

I9 Sch. 14 para. 9 in force at 1.4.2014 by S.I. 2014/416, art. 2(1)(e) (with Sch.)

- 10 In section 22A (penalties), for subsection (13) substitute—
- “(13) Before imposing a penalty under this section, the Authority shall consider whether it would be more appropriate to proceed under the Competition Act 1998.
- (14) The Authority shall not impose a penalty under this section if it considers that it would be more appropriate to proceed under the Competition Act 1998.”

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Commencement Information

I10 Sch. 14 para. 10 in force at 1.4.2014 by S.I. 2014/416, art. 2(1)(e) (with Sch.)

Railways Act 1993 (c. 43)

11 The Railways Act 1993 is amended as follows.

Commencement Information

I11 Sch. 14 para. 11 in force at 1.4.2014 by S.I. 2014/416, art. 2(1)(e) (with Sch.)

12 (1) Section 55 (orders for securing compliance) is amended as follows.

(2) For subsection (5A) substitute—

“(5A) Before making a final order or making or confirming a provisional order, the Office of Rail Regulation shall consider whether it would be more appropriate to proceed under the Competition Act 1998.

(5AA) The Office of Rail Regulation shall not make a final order or make or confirm a provisional order if it considers that it would be more appropriate to proceed under the Competition Act 1998.”

(3) In subsection (5D)(b), for “(5A)” substitute “(5AA)”.

Commencement Information

I12 Sch. 14 para. 12 in force at 1.4.2014 by S.I. 2014/416, art. 2(1)(e) (with Sch.)

13 In section 57A (penalties), for subsection (6) substitute—

“(6) Before imposing a penalty under this section, the Office of Rail Regulation shall consider whether it would be more appropriate to proceed under the Competition Act 1998.

(7) The Office of Rail Regulation shall not impose a penalty under this section if it considers that it would be more appropriate to proceed under the Competition Act 1998.”

Commencement Information

I13 Sch. 14 para. 13 in force at 1.4.2014 by S.I. 2014/416, art. 2(1)(e) (with Sch.)

14 In section 67 (functions of the Office of Rail Regulation with respect to competition), in subsection (8), for the words from the beginning to “(3) above” substitute “ If any question arises as to whether subsection (2) or (3) above applies to any particular case ”.

Commencement Information

I14 Sch. 14 para. 14 in force at 1.4.2014 by S.I. 2014/416, art. 2(1)(e) (with Sch.)

Status: This version of this schedule contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Enterprise and Regulatory Reform Act 2013, SCHEDULE 14. (See end of Document for details)

Transport Act 2000 (c. 38)

- 15 (1) Section 21 of the Transport Act 2000 (exceptions to duties to secure compliance) is amended as follows.
- (2) In subsection (1), omit paragraph (b) and the “or” preceding it.
- (3) After subsection (5) insert—
- “(6) Before making a final order or making or confirming a provisional order, the CAA must consider whether it would be more appropriate to proceed under the Competition Act 1998.
- (7) The CAA must not make a final order or make or confirm a provisional order to the extent that it considers that it would be more appropriate to proceed under the Competition Act 1998.”

Commencement Information

I15 Sch. 14 para. 15 in force at 1.4.2014 by S.I. 2014/416, art. 2(1)(e) (with Sch.)

Communications Act 2003 (c. 21)

- 16 The Communications Act 2003 is amended as follows.

Commencement Information

I16 Sch. 14 para. 16 in force at 1.4.2014 by S.I. 2014/416, art. 2(1)(e) (with Sch.)

- 17 In section 94 (notification of contravention of SMP apparatus conditions), for subsection (10) substitute—
- “(10) Before giving a notification under this section, OFCOM must consider whether it would be more appropriate to proceed under the Competition Act 1998.
- (10A) OFCOM must not give a notification under this section if they consider that it would be more appropriate to proceed under the Competition Act 1998.
- (10B) In a case where OFCOM decide that it would be more appropriate to proceed under the Competition Act 1998, they must publish a statement to that effect in such manner as they consider appropriate for bringing their decision to the attention of persons whom they consider are likely to be affected by it.”

Commencement Information

I17 Sch. 14 para. 17 in force at 1.4.2014 by S.I. 2014/416, art. 2(1)(e) (with Sch.)

- 18 In section 96A (notification of contravention of condition other than SMP apparatus condition), for subsection (5) substitute—
- “(5) Before giving a notification under this section, OFCOM must consider whether it would be more appropriate to proceed under the Competition Act 1998.

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- (6) OFCOM must not give a notification under this section if they consider that it would be more appropriate to proceed under the Competition Act 1998.
- (7) In a case where OFCOM decide that it would be more appropriate to proceed under the Competition Act 1998, they must publish a statement to that effect in such manner as they consider appropriate for bringing their decision to the attention of persons whom they consider are likely to be affected by it.”

Commencement Information

I18 Sch. 14 para. 18 in force at 1.4.2014 by S.I. 2014/416, art. 2(1)(e) (with Sch.)

Postal Services Act 2011 (c. 5)

19 In Schedule 7 to the Postal Services Act 2011 (enforcement of regulatory requirements) for paragraph 4 substitute—

- “4 (1) Before giving a notification under paragraph 2, OFCOM must consider whether it would be more appropriate to proceed under the Competition Act 1998.
- (2) OFCOM must not give a notification under paragraph 2 if they consider that it would be more appropriate to proceed under the Competition Act 1998.
- (3) In a case where OFCOM decide that it would be more appropriate to proceed under the Competition Act 1998, they must publish a statement to that effect in such manner as they consider appropriate for bringing their decision to the attention of persons whom they consider are likely to be affected by it.”

Commencement Information

I19 Sch. 14 para. 19 in force at 1.4.2014 by S.I. 2014/416, art. 2(1)(e) (with Sch.)

Health and Social Care Act 2012 (c. 7)

PROSPECTIVE

F120

Textual Amendments

F1 Sch. 14 paras. 20-22 omitted (1.7.2022) by virtue of Health and Care Act 2022 (c. 31), s. 186(6), Sch. 12 para. 9; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

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PROSPECTIVE

F121

Textual Amendments

F1 Sch. 14 paras. 20-22 omitted (1.7.2022) by virtue of Health and Care Act 2022 (c. 31), s. 186(6), Sch. 12 para. 9; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

PROSPECTIVE

F122

Textual Amendments

F1 Sch. 14 paras. 20-22 omitted (1.7.2022) by virtue of Health and Care Act 2022 (c. 31), s. 186(6), Sch. 12 para. 9; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

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

23 In article 46 of the Electricity (Northern Ireland) Order 1992, in paragraph (6), for the words from the beginning to “(2A) or (3)” substitute “ If any question arises as to whether paragraph (2) or (3) applies to any particular case ”.

Commencement Information

I20 Sch. 14 para. 23 in force at 1.4.2014 by S.I. 2014/416, art. 2(1)(e) (with Sch.)

The Energy (Northern Ireland) Order 2003 (S.I. 2003/419 (N.I. 6))

24 The Energy (Northern Ireland) Order 2003 is amended as follows.

Commencement Information

I21 Sch. 14 para. 24 in force at 1.4.2014 by S.I. 2014/416, art. 2(1)(e) (with Sch.)

25 (1) Article 42 (orders for securing compliance) is amended as follows.

(2) In paragraph (1), for “, (5) and” substitute “ and (5) to ”.

(3) In paragraphs (2) and (4), for “(5) and” substitute “ (5) to ”.

(4) In paragraph (5), omit sub-paragraph (b) and the “or” preceding it.

(5) After that paragraph insert—

“(5A) Before making a final order or making or confirming a provisional order in relation to a licence holder, the Authority shall consider whether it would be more appropriate to proceed under the Competition Act 1998.

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(5B) The Authority shall not make a final order or make or confirm a provisional order in relation to a licence holder if it considers that it would be more appropriate to proceed under the Competition Act 1998.”

(6) In paragraph (7)—

- (a) in the words before sub-paragraph (a), after “(6)” insert “ or decides that it would be more appropriate to proceed under the Competition Act 1998 ”, and
- (b) in sub-paragraph (a), after “satisfied” insert “ or has so decided ”.

Commencement Information

I22 Sch. 14 para. 25 in force at 1.4.2014 by S.I. 2014/416, art. 2(1)(e) (with Sch.)

26 In article 45 (financial penalties), for paragraph (3) substitute—

“(3) Before imposing a penalty under paragraph (1) or (2) the Authority shall consider whether it would be more appropriate to proceed under the Competition Act 1998.

(3A) The Authority shall not impose a penalty under paragraph (1) or (2) if it considers that it would be more appropriate to proceed under the Competition Act 1998.”

Commencement Information

I23 Sch. 14 para. 26 in force at 1.4.2014 by S.I. 2014/416, art. 2(1)(e) (with Sch.)

The Water and Sewerage Services (Northern Ireland) Order 2006 (S.I. 2006/3336 (N.I. 21))

27 The Water and Sewerage Services (Northern Ireland) Order 2006 is amended as follows.

Commencement Information

I24 Sch. 14 para. 27 in force at 1.4.2014 by S.I. 2014/416, art. 2(1)(e) (with Sch.)

28 (1) Article 31 (exceptions to duty to enforce) is amended as follows.

(2) In paragraph (1), omit sub-paragraph (d) and the “or” preceding it.

(3) After that paragraph insert—

“(1A) Before making an enforcement order or confirming a provisional enforcement order under Article 30, the Authority shall consider whether it would be more appropriate to proceed under the Competition Act 1998.

(1B) The Authority shall not make an enforcement order or confirm a provisional enforcement order under that Article if it considers that it would be more appropriate to proceed under the Competition Act 1998.”

(4) In paragraph (3)—

- (a) in the words before sub-paragraph (a)—
 - (i) for “, (c) or (d)” substitute “ or (c) ”, and

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- (ii) after “paragraph (1)” insert “ or decides that it would be more appropriate to proceed under the Competition Act 1998 ”, and
- (b) in sub-paragraph (a), after “so satisfied” insert “ or has so decided ”.

Commencement Information

I25 Sch. 14 para. 28 in force at 1.4.2014 by S.I. 2014/416, art. 2(1)(e) (with Sch.)

- 29 In article 35 (financial penalties), for paragraph (11) substitute—
- “(11) Before imposing a penalty under this Article the Authority shall consider whether it would be more appropriate to proceed under the Competition Act 1998.
- (12) The Authority shall not impose a penalty under this Article if it considers that it would be more appropriate to proceed under the Competition Act 1998.”

Commencement Information

I26 Sch. 14 para. 29 in force at 1.4.2014 by S.I. 2014/416, art. 2(1)(e) (with Sch.)

Status:

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Changes to legislation:

There are currently no known outstanding effects for the Enterprise and Regulatory Reform Act 2013, SCHEDULE 14.