
Status: Point in time view as at 22/07/2004.

Changes to legislation: Environmental Protection Act 1990, Cross Heading: Transfer schemes: supplementary provisions is up to date with all changes known to be in force on or before 11 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 2

WASTE DISPOSAL AUTHORITIES AND COMPANIES

PART I

TRANSITION TO COMPANIES

Transfer schemes: supplementary provisions

- 7 A scheme under paragraph 6 above may define the property, rights and liabilities to be transferred by the scheme—
- (a) by specifying the property, rights and liabilities in question; or
 - (b) by referring to all the property, rights and liabilities comprised in any specified part of the undertaking or undertakings to be transferred; or
 - (c) partly in the one way and partly in the other;
- and may make such supplemental, incidental and consequential provision as the authority making the scheme considers appropriate.
- 8 (1) The provisions of this paragraph apply to the transfer to a company of the property, rights and liabilities representing the relevant part of an authority's undertaking.
- (2) Any property, rights or liabilities held or subsisting partly for the purpose of the relevant part of the authority's undertaking and partly for the purpose of another part shall, where the nature of the property, rights or liabilities permits, be divided or apportioned between the authority and the company in such proportions as may be appropriate; and where any estate or interest in land falls to be so divided, any rent payable under a lease in respect of that estate or interest, and any rent charged on that estate or interest, shall be correspondingly apportioned or divided so that the one part is payable in respect of, or charged on, only one part of the estate or interest and the other part is payable in respect of, or charged on, only the other part of the estate or interest.
- (3) Any property, rights or liabilities held or subsisting as mentioned in sub-paragraph (2) above the nature of which does not permit their division or apportionment as so mentioned shall be transferred to the company or retained by the authority according to which of them appear at the vesting date likely to make use of the property, or, as the case may be, to be affected by the right or liability, to the greater extent, subject to such arrangements for the protection of the other of them as may be agreed between them.
- (4) It shall be the duty of the authority and the company, before or after the vesting date, so far as practicable to enter into such written agreements, and to execute such other

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- instruments, as are necessary or expedient to identify or define the property, rights and liabilities transferred to the company or retained by the authority and as will—
- (a) afford to the authority and the company as against one another such rights and safeguards as they may require for the proper discharge of the authority's functions and the proper carrying on of the company's undertaking; and
 - (b) make, as from such date (not being earlier than the vesting date) as may be specified in that agreement or instrument, such clarifications and modifications of the division of the authority's undertaking as will best serve the proper discharge of the authority's functions and the proper carrying on of the company's undertaking.
- (5) Any such agreement shall provide so far as it is expedient—
- (a) for the granting of leases and for the creation of other liabilities and rights over land whether amounting in law to interests in land or not, and whether involving the surrender of any existing interest or the creation of a new interest or not;
 - (b) for the granting of indemnities in connection with the severance of leases and other matters;
 - (c) for responsibility for complying with any statutory requirements as respects matters to be registered and any licences, authorisations or permissions which need to be obtained.
- (6) If the authority or the company represents to the Secretary of State, or if it appears to him without such a representation, that it is unlikely in the case of any matter on which agreement is required under sub-paragraph (4) above that such agreement will be reached, the Secretary of State may, whether before or after the vesting date, give a direction determining the manner in which the property, rights or liabilities in question are to be divided between the authority and the company, and may include in the direction any provision which might have been included in an agreement under that sub-paragraph; and any property, rights or liabilities required by the direction to be transferred to the company shall be regarded as having been transferred to, and by virtue of the transfer scheme vested in, the company accordingly.

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