

## SCHEDULE 2

Articles 7 and 8

### THE DEVELOPMENT COMMISSION: TRANSFER SCHEMES

#### *Definition*

1. In this Schedule, “transfer scheme” means a scheme under article 7 of this Order.

#### *Making and approval of transfer scheme*

2.—(1) The Development Commission shall submit any transfer scheme to the Secretary of State for his approval before such date as he may direct.

(2) A transfer scheme shall not take effect unless approved by the Secretary of State.

(3) The Secretary of State may approve a transfer scheme submitted to him by the Development Commission either with or without modifications.

3.—(1) The Secretary of State may make a transfer scheme himself if—

(a) he decides not to approve (with or without modifications) a scheme submitted to him before the date specified in relation to it under paragraph 2(1), or

(b) no scheme is submitted to him for approval before that date.

(2) Nothing in sub-paragraph (1) shall prevent the Secretary of State from approving a scheme submitted to him after the date specified in relation to it under paragraph 2(1).

(3) A scheme made by the Secretary of State under sub-paragraph (1) shall be treated for all purposes as having been made by the Development Commission and approved by him.

#### *Contents of scheme*

4.—(1) The property, rights and liabilities which may be transferred by a transfer scheme include property, rights and liabilities that would not otherwise be capable of being transferred or assigned.

(2) The transfers authorised by sub-paragraph (1) include transfers which are to take effect as if there were no such contravention, liability or interference with any interest or right as there would otherwise be by reason of any provision having effect (whether under any enactment or agreement or otherwise) in relation to the terms on which the transferor is entitled to the property or right, or subject to the liability, in question.

5. A transfer scheme may define the property, rights and liabilities to be transferred to the Countryside Agency by specifying or describing them or by referring to all the property, rights and liabilities comprised in a specified part of the undertaking of the Development Commission (or partly in one way and partly in the other).

6. A transfer scheme may also contain provision—

(a) for the creation, in relation to property which the scheme transfers, of an interest in or right over the property in favour of the Development Commission;

(b) for the creation in favour of the Countryside Agency of an interest in or right over property retained by the Development Commission;

(c) for the creation in favour of another public body of an interest in or right over property which the scheme transfers to the Countryside Agency;

- (d) for the creation of any rights or liabilities as between the Countryside Agency and a regional development agency, or as between the Countryside Agency and the Development Commission;
  - (e) for any rights or liabilities specified or described in the scheme to be, or to be to any extent, enforceable by or against the Countryside Agency, a regional development agency or the Development Commission;
  - (f) for imposing on the Countryside Agency and a regional development agency, or on the Countryside Agency and the Development Commission, an obligation to enter into written agreements with, or execute other instruments in favour of, each other.
7. A transfer scheme may make such supplemental, incidental and consequential provision as the Development Commission considers appropriate.

#### *Effect of scheme*

8.—(1) On the date appointed by a transfer scheme, the property, rights and liabilities which are the subject of the scheme shall, by virtue of this paragraph, be transferred in accordance with the provisions of the scheme.

- (2) In respect of property, rights and liabilities transferred in accordance with a transfer scheme—
  - (a) anything which, immediately before the date appointed by that scheme for the transfer, is in the process of being done by or in relation to the Development Commission may be continued by or in relation to the Countryside Agency as if it had been done by or in relation to that Agency; and
  - (b) anything done by or in relation to the Development Commission before the date appointed by that scheme for the transfer shall, so far as is required for continuing its effect on or after that date, have effect as if done by or in relation to the Countryside Agency.

#### *Effect of transfer by scheme of contracts of employment*

9.—(1) This paragraph applies where rights and liabilities under a contract of employment are transferred by a transfer scheme.

(2) For the purposes of Part XI of the Employment Rights Act 1996<sup>(1)</sup> (redundancy payments etc), the employee shall not be regarded as having been dismissed by virtue of the transfer.

(3) For the purposes of that Act, the employee's period of employment with the Development Commission shall count as a period of employment with the Countryside Agency, and the change of employment shall not break the continuity of the period of employment.

#### *Modification of scheme*

10.—(1) If at any time after a transfer scheme has come into force the Secretary of State considers it appropriate to do so, having consulted the Countryside Agency and, where practicable, the Development Commission, he may direct that the scheme shall for all purposes be deemed to have come into force with such modifications, other than modifications relating to the transfer of rights and liabilities under a contract of employment, as may be specified in the direction.

(2) A direction under sub-paragraph (1) may make, with effect from the coming into force of the scheme, such provision as could have been made by the scheme, and in connection with giving

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(1) 1996 c. 18.

effect to that provision from that time may contain such supplemental, consequential and transitional provision as the Secretary of State considers appropriate.

*Provision of information to Secretary of State*

**11.** The Development Commission, the Countryside Agency and any regional development agency shall provide the Secretary of State with all such information and other assistance as he may reasonably require for the purposes of or in connection with the exercise of any of the powers conferred on him by this Schedule.