

SCHEDULE 1

FLUORIDATION OF WATER SUPPLIES: INDEMNITY

Indemnity

2.—(1) Pursuant to section 90 of the Act and subject to clauses 3 to 5 below, the Secretary of State for Health hereby indemnifies the water undertaker—

- (a) against all claims, proceedings, actions, damages, legal costs, expenses and any other liabilities;
- (b) in respect of any death or personal injury, or loss of or damage to property;

which is caused directly or indirectly by any action or failure to act by the water undertaker to which paragraph (2) below applies.

(2) This paragraph applies to any action or failure to act—

- (a) in supplying;
- (b) in having supplied; or
- (c) in proposing to supply;

fluoridated water to any person in pursuance, or in purporting to pursue, any obligation or duty to supply water under the agreement.

(3) In particular, subject to clause 3 below, this indemnity applies to liabilities, costs and expenses—

- (a) arising directly or indirectly from any action or failure to act by the water undertaker in increasing the fluoride content of any water supplied by the water undertaker pursuant to the agreement;
- (b) incurred by the water undertaker, or for which the water undertaker is liable, in connection with any proceedings which have been or may be brought by any person in respect of acts carried out or proposed to be carried out pursuant to the agreement, where such proceedings are with respect to acts carried out or proposed to be carried out for the purpose of increasing the fluoride content of any water;
- (c) transferred to the water undertaker in accordance with a scheme made by its predecessor water authority under Schedule 2 to the Water Act 1989⁽¹⁾, which were liabilities, costs or expenses of the predecessor water authority which fall within sub-paragraph (a) or (b) above;
- (d) incurred in respect of defending criminal proceedings where those proceedings have not resulted in a conviction and where no appeal in respect of those proceedings is pending;
- (e) incurred in respect of any civil liability which arises in consequence of an action or a failure to act which constitutes a criminal offence where that action or failure to act is attributable solely to a requirement made by the Secretary of State for Health in connection with the supply of fluoridated water to any person;
- (f) incurred by the water undertaker in respect of the execution, or purported execution, of their duties by any director, employee or agent of the water undertaker.

(1) 1989 c.15.