

Status: Point in time view as at 14/08/2006.

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F¹ SCHEDULES

SCHEDULE 17

TRANSITIONAL PROVISIONS AND SAVINGS

PART II

PROVISIONS AND SAVINGS FOR PART II OF ACT

- 17 Any licence granted under section 6 of this Act to an Electricity Board which is effective on the transfer date shall have effect as if granted to the appropriate successor company.
- 18 Any tariff fixed, or having effect as if fixed, under section 18(1) of this Act by an Electricity Board which is effective on the transfer date shall have effect as if fixed by its successor company.
- 19 Any consent given under section 36 of this Act to an Electricity Board which is effective on the transfer date shall have effect as if given to the appropriate successor company.
- 20 Any consent given under section 37 of this Act to an Electricity Board which is effective on the transfer date shall have effect as if given to the appropriate successor company.
- 21 Any maximum price fixed, or having effect as if fixed, under section 44 of this Act for the resale of electricity supplied by an Electricity Board which is effective on the transfer date shall have effect as if fixed for the resale of electricity by the appropriate successor company.
- 22 A direction given under section 96 of this Act to an Electricity Board which is effective on the transfer date shall have effect as if given to the appropriate successor company.
- 23 (1) Any land compulsorily acquired by an Electricity Board before the transfer date which was so acquired by virtue of Part I of Schedule 3 to this Act, or is treated as so acquired for the purposes of that Part, shall be treated for those purposes as so acquired by the appropriate successor company; but nothing in paragraph 4 of that Schedule (as applied by this sub-paragraph) shall be taken as requiring the consent of the Director to any disposal which is affected in pursuance of a provision included in a transfer scheme by virtue of section 68(2)(c) of this Act or in pursuance of Schedule 10 to this Act.
- (2) Any compulsory purchase order made by an Electricity Board which is made, or has effect as if made, by virtue of Part I of Schedule 3 to this Act and is effective on the transfer date shall have effect as if made by the appropriate successor company.
- 24 (1) Where immediately before the transfer date there is in force an agreement which—

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- (a) confers or imposes on an Electricity Board or the Electricity Council any rights or liabilities which vest in the appropriate successor company by virtue of this Act; and
- (b) refers (in whatever terms and whether expressly or by implication) to a member or officer of that Board or Council,
- the agreement shall have effect, in relation to anything falling to be done on or after that date, as if for that reference there were substituted a reference to such person as that company may appoint or, in default of appointment, to the officer of that company who corresponds as nearly as may be to the member or officer of the Board or Council in question.
- (2) References in this paragraph to an agreement include references to a deed, bond or other instrument.
- 25 (1) Any agreement made, transaction effected or other thing done by, to or in relation to an Electricity Board or the Electricity Council which is in force or effective immediately before the transfer date shall have effect as if made, effected or done by, to or in relation to the appropriate successor company, in all respects as if that company were the same person in law as the Board or Council; and accordingly references to an Electricity Board or the Electricity Council—
- (a) in any agreement (whether or not in writing) and in any deed, bond or instrument;
- (b) in any process or other document issued, prepared or employed for the purposes of any proceeding before any court or other tribunal or authority; and
- (c) in any other document whatsoever (other than an enactment) relating to or affecting any property, right or liability of that Board or Council which is transferred by this Act,
- shall be taken as referring to the appropriate successor company.
- (2) Nothing in sub-paragraph (1) above shall be taken as applying in relation to any agreement made, transaction effected or other thing done with respect to, or any document relating to or affecting, any rights and liabilities which are excepted rights and liabilities within the meaning of section 66 or 67 of this Act.
- 26 It is hereby declared for the avoidance of doubt that—
- (a) the effect of Part II of this Act in relation to any contract of employment with an Electricity Board or the Electricity Council which is in force immediately before the transfer date is merely to modify the contract by substituting the appropriate successor company as the employer (and not to terminate the contract or vary it in any other way); and
- (b) that Part is effective to vest the rights and liabilities of an Electricity Board or the Electricity Council under any agreement or arrangement for the payment of pensions, allowances or gratuities in the appropriate successor company along with all other rights and liabilities of the Board or Council;
- and accordingly any period of employment with an Electricity Board or the Electricity Council, or a wholly owned subsidiary of such a Board or that Council, shall count for all purposes as a period of employment with the appropriate successor company or (as the case may be) a wholly owned subsidiary of the appropriate successor company.
- 27 The ^{M1}Transfer of Undertakings (Protection of Employment) Regulations 1981 shall apply to any transfer effected by Part II of this Act, being a transfer of—

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- (a) all property, rights and liabilities comprised in the Electricity Council's undertaking (other than excepted rights and liabilities within the meaning of section 66 of this Act); or
- (b) all property, rights and liabilities comprised in a specified part of that undertaking,

whether or not, apart from this paragraph, that undertaking would be treated as an undertaking in the nature of a commercial venture for the purposes of those Regulations.

Marginal Citations

M1 S.I. 1981/1794.

- 28 Any agreement made under section 53 of the ^{M2}Electricity Act 1947 or section 12 of the ^{M3}Electricity Act 1957 (machinery for settling terms and conditions of employment) which is effective on the transfer date shall have effect as if—
- (a) the parties to the agreement on the employers' side were the successor companies and not the Electricity Council and the Scottish Boards; and
 - (b) each of the parties to the agreement were entitled to withdraw from it on giving the other parties 12 months' notice in writing.

Marginal Citations

M2 1947 c. 54.

M3 1957 c. 48.

^{F129}

Textual Amendments

F1 Sch. 17 paras. 29-31 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), Sch. 1 Pt. 5 Group 5

^{F130}

Textual Amendments

F1 Sch. 17 paras. 29-31 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), Sch. 1 Pt. 5 Group 5

^{F131}

Textual Amendments

F1 Sch. 17 paras. 29-31 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), Sch. 1 Pt. 5 Group 5

32 Notwithstanding the repeal by this Act of sections 10 and 11 of and Schedule 5 to the Electricity (Scotland) Act 1979—

- (a) any constructional scheme prepared by a Scottish Board and confirmed by an order of the Secretary of State made under, or having effect as if made under, Schedule 5 to that Act;

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- (b) the powers conferred by section 11 of that Act for the purpose of carrying out any such scheme; and
- (c) any authorisation of a Scottish Board under section 10(3) of that Act to execute works of a minor character without the preparation of a constructional scheme,
- shall have effect after the transfer date in relation to the appropriate successor company as they had effect before that date in relation to the Scottish Board.
- 33 Where by virtue of anything done before the transfer date, any enactment amended by Schedule 16 to this Act has effect in relation to an Electricity Board or the Electricity Council, that enactment shall have effect in relation to the appropriate successor company as if that company were the same person, in law, as the Board or Council.
- 34 Without prejudice to the powers conferred by section 112(2) of this Act, every provision contained in a local Act, or in subordinate legislation, which is in force immediately before the transfer date and then applicable to an Electricity Board or the Electricity Council shall have effect as if—
- (a) for references therein to the Board or Council there were substituted references to the appropriate successor company; and
- (b) for any reference (however worded and whether expressly or by implication) to the undertaking or business, or any part of the undertaking or business, of the Board or Council there were substituted a reference to the undertaking or business, or the corresponding part of the undertaking or business, of the appropriate successor company.
- 35 (1) Nothing in this Act shall affect the validity of anything done by, or in relation to, an Electricity Board before the transfer date under or by virtue of the ^{M4}Public Utilities Street Works Act 1950; and anything which, immediately before that date, is in process of being done under, or by virtue of, that Act by or in relation to the Board (including, in particular, any legal proceedings to which it is a party) may be continued by, or in relation to, the appropriate successor company.
- (2) Any notice or direction given or other thing whatsoever done under the said Act of 1950 by an Electricity Board shall, if effective at the transfer date, continue in force and have effect as if similarly given or done by the appropriate successor company.

Marginal Citations

M4 1950 c. 30.

- 36 (1) Where immediately before the transfer date an Electricity Board falls, by virtue of section 34(3) of the ^{M5}General Rate Act 1967, to be treated for the purposes of that Act as occupying in a rating area a hereditament of a rateable value calculated in accordance with the provisions of Part I of Schedule 7 to that Act, that Board shall, notwithstanding the transfers of property, rights and liabilities effected by Part II of this Act, continue to be so treated until 1st April 1990.
- (2) Section 16(1) of the ^{M6}Valuation and Rating (Scotland) Act 1956 (liability for rates) shall, in relation to such lands and heritages as the Secretary of State may after consultation with the Scottish Boards by regulations prescribe, have effect until 1st April 1990 as if any reference to a rate being payable by occupiers only were a

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reference to the rate being payable by the Scottish Board from which the lands and heritages were transferred by Part II of this Act.

- (3) Any sums which by virtue of this paragraph fall to be paid by an Electricity Board after the transfer date shall be met by the appropriate successor company.

Marginal Citations

M5 1967 c. 9.

M6 1956 c. 60.

- 37 (1) An application or claim by an Electricity Board for hazardous substances consent which is effective on the transfer date—
- (a) shall have effect as if made by the appropriate successor company; and
- [^{F2}(b) in the case of an application or claim made to the Secretary of State, shall be determined by him notwithstanding that the land to which it relates is no longer land to which [^{F3}section 2 of the Planning (Hazardous Substances) Act 1990] or, as the case may be, section 56B of the ^{M7}Town and Country Planning (Scotland) Act 1972 applies.]
- (2) A hazardous substances consent granted or deemed to be granted to an Electricity Board which is effective on the transfer date shall have effect as if it had been granted to the appropriate successor company.

Textual Amendments

F2 Sch. 17 para. 37(1)(b) repealed (*prosp.*) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), ss. 162(2), 164(2)(3), [Sch. 16 Pt. VII](#)

F3 Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 4, [Sch. 2 para. 83\(2\)](#)

Marginal Citations

M7 1972 c. 52.

- 38 (1) Where an asset, or the right to receive an asset, vests in a successor company by virtue of this Act, then for the purposes of Part I of the ^{M8}Industry Act 1972 and Part II of the ^{M9}Industrial Development Act 1982—
- (a) so much of any expenditure incurred by the appropriate Board or Council in providing that asset as is approved capital expenditure (of any description relevant for the purposes of regional development grant) in respect of which no payment of regional development grant has been made to the Board or Council shall be treated as having been incurred by the successor company and not by the Board or Council; and
- (b) where the asset itself vests in the successor company by virtue of this Act, it shall be treated as a new asset if it would have fallen to be so treated if it had remained vested in the Board or Council.
- (2) In this paragraph “regional development grant” means a grant under Part I of the Industry Act 1972 or Part II of the Industrial Development Act 1982 and “approved capital expenditure” has the same meaning as it has for the purposes of the provisions relating to regional development grant.

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Marginal Citations

M8 1972 c. 63.

M9 1982 c. 52.

- 39 (1) Where a distribution is proposed to be declared during the accounting reference period of a successor company which includes the transfer date or before any accounts are laid or filed in respect of that period, sections 270 to 276 of the ^{M10}Companies Act 1985 (accounts relevant for determining whether a distribution may be made by a company) shall have effect as if—
- (a) references in section 270 to the company's accounts or to accounts relevant under that section; and
 - (b) references in section 273 to initial accounts,
- included references to such accounts as, on the assumptions stated in subparagraph (2) below, would have been prepared under section 227 of that Act in respect of the relevant year.
- (2) The said assumptions are—
- (a) that the relevant year had been a financial year of the successor company;
 - (b) that the vesting effected by Part II of this Act had been a vesting of all the property, rights and liabilities (other than excepted rights and liabilities within the meaning of section 66 or 67 of this Act) to which the Board or Council concerned was entitled or subject immediately before the beginning of the relevant year and had been effected immediately after the beginning of that year;
 - (c) that the value of any asset and the amount of any liabilities of the Board or Council concerned vested in the successor company by virtue of that section had been the value or (as the case may be) the amount assigned to that asset or liability for the purposes of the statement of accounts prepared by that Board or Council in respect of the financial year immediately preceding the relevant year;
 - (d) that any securities of the successor company issued or allotted before the declaration of the distribution had been issued or allotted before the end of the relevant year; and
 - (e) such other assumptions (if any) as may appear to the directors of the successor company to be necessary or expedient for the purposes of this paragraph.
- (3) For the purposes of the said accounts the amount to be included in respect of any item shall be determined as if anything done by the Board or Council concerned (whether by way of acquiring, revaluing or disposing of any asset or incurring, revaluing or discharging any liability, or by carrying any amount to any provision or reserve, or otherwise) had been done by the successor company.
- Accordingly (but without prejudice to the generality of the preceding provision) the amount to be included in any reserves of the successor company as representing its accumulated realised profits shall be determined as if any profits realised and retained by the Board or Council concerned had been realised and retained by the successor company.
- (4) The said accounts shall not be regarded as statutory accounts for the purposes of section 76 of this Act.

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(5) In this paragraph—

“complete financial year” means a financial year ending with 31st March;

“the relevant year” means the last complete financial year ending before the transfer date.

Marginal Citations

M10 1985 c. 6.

40 In this Part of this Schedule expressions which are used in Part II of this Act have the same meanings as in that Part.

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