

SCHEDULES

SCHEDULE 3

Section 23(4)

TRANSITIONAL PROVISIONS AND SAVINGS

Constitution of the Scottish Development Agency

- 1 During the Scottish Development Agency's transitional period, section 1(2) of the Scottish Development Agency Act 1975 (constitution of the Agency) shall have effect as if for the word "eight" there were substituted the word "three".

Vesting of existing bodies' foreign property in Scottish Enterprise or Highlands and Islands Enterprise

- 2 (1) It shall be the duty of each existing body and their successor to take, as and when during the existing body's transitional period the successor considers appropriate, all such steps as may be requisite to secure that the vesting in the successor, by virtue of section 22(1) of this Act or this paragraph, of any foreign property, right or liability is effective under the relevant foreign law.
- (2) During their transitional period, until such vesting as is mentioned in sub-paragraph (1) above in their successor is effective in foreign law, it shall be the duty of each existing body to hold the property or right in question for the benefit of, or to discharge the liability on behalf of, the successor.
- (3) Nothing in sub-paragraph (1) and (2) above shall be taken as prejudicing the effect under the law of the United Kingdom or of any part of the United Kingdom of such vesting as is so mentioned.
- (4) Each existing body shall have all such powers as may be requisite for the performance of their duty under this paragraph, but—
- (a) it shall be the duty of their successor during the existing body's transitional period to act on their behalf (so far as possible) in performing the duty imposed on the existing body by this paragraph; and
- (b) any foreign property, right or liability acquired or incurred by the existing body during that period shall immediately become the property, right or liability of their successor.
- (5) References in this paragraph to any foreign property, right or liability are references to any property, right or liability as respects which any issue arising in any proceedings would have been determined (in accordance with the rules of private international law) by reference to the law of a country or territory outwith the United Kingdom.
- (6) Any expenses incurred by an existing body under this paragraph shall be met by their successor.

Status: This is the original version (as it was originally enacted).

Other property

- 3 The repeal by this Act of section 15(1) and (3) to (5) of the Scottish Development Agency Act 1975 (transfer of property, rights and liabilities of certain bodies to the Agency) does not affect—
- (a) the title of Scottish Enterprise to land vested in it by virtue of section 22 of this Act; or
 - (b) any rights, liabilities or obligations relating to any such land and in existence immediately before that repeal took effect.

Delegation

- 4 Section 19 of this Act (in this paragraph referred to as the “relevant section”) shall—
- (a) until the first transfer date, have effect in relation to the Scottish Development Agency as the relevant section has effect (or as the case may be is to have effect) in relation to Scottish Enterprise, except that the reference in paragraph (c) of subsection (2) of the relevant section to section 8(11) of this Act shall be construed as a reference to section 9(3) of the Scottish Development Agency Act 1975 (attraction of provisions relating to acquisition of land) and that paragraph (a) of the said subsection (2) shall be disregarded; and
 - (b) until the second transfer date, have effect in relation to the Highlands and Islands Development Board as the relevant section has effect (or as the case may be is to have effect) in relation to Highlands and Islands Enterprise, except that any reference in subsection (1) of the relevant section to functions shall be construed as a reference to duties under paragraph (c) of section 3(1) of the Highlands and Islands Development (Scotland) Act 1965 (measures to implement certain proposals) and that paragraphs (a) and (b) of subsection (2) of the relevant section shall be disregarded.

Assistance

- 5 Section 19 of the Scottish Development Agency Act 1975 shall cease to have effect but section 20 of this Act (in this paragraph referred to as the “relevant section”) shall—
- (a) until the first transfer date, have effect in relation to the Scottish Development Agency as the relevant section has effect (or as the case may be is to have effect) in relation to Scottish Enterprise, except that the reference in subsection (1)(a) of the relevant section to paragraphs (d) to (h) of section 4(1) of this Act shall be construed as a reference to paragraphs (c) to (e) and (g) to (i) of section 2(2) of the said Act of 1975;
 - (b) until the second transfer date, have effect in relation to the Highlands and Islands Development Board as the relevant section has effect (or as the case may be is to have effect) in relation to Highlands and Islands Enterprise, except that the reference in subsection (1)(b) of the relevant section to paragraphs (c) to (e) of section 5(1) of this Act shall be construed as a reference to paragraph (c) of section 3(1) of the Highlands and Islands Development (Scotland) Act 1965,
- with subsection (2) of the relevant section being construed accordingly and subsection (3) thereof being construed as if at the end there were added the words “(whether or not by virtue of paragraph 4 of Schedule 3 to this Act)”.

Status: This is the original version (as it was originally enacted).

Effect of, and interpretation of, agreements etc.

- 6 Any agreement made, transaction effected or other thing done by, to or in relation to—
- (a) the Scottish Development Agency which is in force or effective immediately before the first transfer date; or
 - (b) the Highlands and Islands Development Board which is in force or effective immediately before the second transfer date,
- shall have effect as if made, effected or done by, to or in relation to the body in question's successor, in all respects as if the successor were the same person in law as that body; and accordingly references to the Agency or as the case may be to the Board—
- (i) in any agreement (whether or not in writing) and in any deed, bond or instrument;
 - (ii) in any process or other document issued, prepared or employed for the purposes of any proceedings before any court or other tribunal or authority; and
 - (iii) in any other document whatsoever (other than an enactment) relating to or affecting any property, right or liability of the body in question which is transferred by this Act,
- shall be taken as referring to that body's successor.

Pensions

- 7 Any arrangements made—
- (a) by the Scottish Development Agency under paragraph 10(2) of Schedule 1 to the Scottish Development Agency Act 1975 for the payment of pensions shall be treated on and after the first transfer date (so far as may be necessary to preserve their effect) as having been made by Scottish Enterprise under paragraph 15(2) of Schedule 1 to this Act;
 - (b) by the Highlands and Islands Development Board under paragraph 14(1) (b) of Schedule 1 to the Highlands and Islands Development (Scotland) Act 1965 shall be treated on and after the second transfer date (so far as may be necessary to preserve their effect) as having been made by Highlands and Islands Enterprise under the said paragraph 15(2),
- and any pension scheme established and administered by either of the existing bodies shall be deemed to be a pension scheme established and administered by their successor under the said paragraph 15(2) and shall continue to be administered accordingly.

Compensation Payments

- 8 (1) Where any regulations made under paragraph 3 of Schedule 3 to the Scottish Development Agency Act 1975 (compensation for certain persons) are in force immediately before the first transfer date, those regulations shall continue in force (subject to the following provisions of this paragraph) notwithstanding the repeal by this Act of that Schedule.
- (2) Any reference to the Scottish Development Agency in any regulations continued in force by virtue of sub-paragraph (1) above shall have effect, as respects anything falling to be done or occurring on or after that day, as if it were a reference to Scottish Enterprise.

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- (3) Any regulations continued in force by virtue of sub-paragraph (1) above may be amended or revoked in like manner as if section 26 of the said Act of 1975 and paragraphs 3 to 5 of Schedule 3 to that Act had not been repealed (but any reference in those provisions to the Agency shall, unless the context otherwise requires, be construed as a reference to Scottish Enterprise).

Final reports and accounts of the existing bodies etc.

- 9 (1) Notwithstanding the repeal by this Act of section 3(1)(e) and (3) of the Highlands and Islands Development (Scotland) Act 1965 (reports to Secretary of State)—
- (a) it shall continue, in accordance with the provisions of the said section 3(1)(e) and (3), to be the duty of the Highlands and Islands Development Board to make a report to the Secretary of State in respect of each calendar year ending before the second transfer date and of the Secretary of State to lay a copy of any such report before each House of Parliament; and
 - (b) the said provisions shall also apply as respects the period between the end of the calendar year in question and that transfer date as if the transfer date were the last day of the subsequent calendar year.
- (2) Notwithstanding the repeal by this Act of section 13 of the said Act of 1965 (accounts etc.)—
- (a) it shall continue, in accordance with the provisions of that section, to be the duty of the Highlands and Islands Development Board to keep such accounts and other records as are, and to prepare in respect of each financial year ending before the second transfer date such statement of account as is, mentioned in subsection (1) of that section and to submit the statement of account to the Secretary of State, of the Secretary of State to transmit the statement of account to the Comptroller and Auditor General and of the Comptroller and Auditor General to examine and certify the statement of account and lay before Parliament copies of it with his report on it; and
 - (b) the said provisions shall also apply as respects the period between the end of the financial year in question and that transfer date as if the transfer date were the last day of the subsequent financial year.
- (3) Notwithstanding the repeal by this Act of paragraph 9 of Schedule 2 to the Scottish Development Agency Act 1975 (annual report to Secretary of State)—
- (a) it shall continue, in accordance with the provisions of that paragraph, to be the duty of the Scottish Development Agency to make a report to the Secretary of State in respect of each financial year ending before the first transfer date and of the Secretary of State to lay a copy of any such report before each House of Parliament; and
 - (b) the said provisions shall also apply as respects the period between the end of the financial year in question and that transfer date as if the transfer date were the last day of the subsequent financial year.
- (4) Notwithstanding the repeal by this Act of paragraph 8 of the said Schedule 2 (accounts of the Agency etc.)—
- (a) it shall continue, in accordance with the provisions of that paragraph, to be the duty of the Scottish Development Agency to keep such accounts and other records as are, and to prepare in respect of each financial year ending before the first transfer date such statement of account as is, mentioned in sub-paragraph (1) of that paragraph and to submit the statement of account

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- to the Secretary of State, of the Secretary of State to transmit the statement of account to the Comptroller and Auditor General and of the Comptroller and Auditor General to examine and certify the statement of account and lay before Parliament copies of it with his report on it; and
- (b) the said provisions shall also apply as respects the period between the end of the financial year in question and that transfer date as if the transfer date were the last day of the subsequent financial year.
- (5) Notwithstanding the repeal by this Act of sub-paragraph (4) of paragraph 1 and of sub-paragraph (3) of paragraph 4 of the said Schedule 2 (account of certain sums issued out of National Loans Fund etc.)—
- (a) it shall continue, in accordance with the provisions of those sub-paragraphs, to be the duty of the Secretary of State to prepare an account of the sums issued by him under sub-paragraph (1) of, and received by him under sub-paragraph (2) of, the said paragraph 4 in respect of each financial year ending before the first transfer date and to include in that account particulars of the sums which in the year in question were paid to the Scottish Development Agency or into the Consolidated Fund in pursuance of the said paragraph 1; and
- (b) the said provisions shall also apply as respects the period between the end of the financial year in question and that transfer date as if the transfer date were the last day of the subsequent financial year.
- (6) Any expenses incurred by an existing body by virtue of this paragraph shall be met by their successor.