

Status: Point in time view as at 23/12/1997.

Changes to legislation: Environmental Protection Act 1990, Part I is up to date with all changes known to be in force on or before 27 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 10

TRANSFER SCHEMES AND STAFF OF EXISTING COUNCILS

PART I

TRANSFER SCHEMES: NATURE CONSERVANCY COUNCIL

Making and approval of schemes

- 1 (1) Before such date or dates as the Secretary of State may direct, the Nature Conservancy Council shall make, and submit to the Secretary of State for his approval, their transfer scheme or schemes under section 135 of this Act (in this Part of this Schedule referred to as a “transfer scheme”).
- (2) A transfer scheme shall not take effect unless approved by the Secretary of State, who may modify such a scheme before approving it.
- (3) The Secretary of State may make a transfer scheme himself if—
 - (a) he decides not to approve a scheme which has been submitted to him before the due date (with or without modifications); or
 - (b) no scheme is submitted to him for approval before the due date;but nothing in this sub-paragraph shall prevent the Secretary of State from approving any scheme which may be submitted to him after the due date.
- (4) A scheme made by the Secretary of State shall be treated for all purposes as having been made by the Council and approved by him.

Modification of schemes

- 2 (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 any of the Councils established by section 128 of this Act (in this Schedule referred to as “the new Councils”) which may be affected, he may by order provide that the scheme shall for all purposes be deemed to have come into force with such modifications as may be specified in the order.
- (2) An order under sub-paragraph (1) above 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 effect to that provision from that time may contain such supplemental, consequential and transitional provision as the Secretary of State considers appropriate.

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Provision of information to Secretary of State

- 3 It shall be the duty of the Nature Conservancy Council and the new Councils to 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 power conferred on him by paragraphs 1 and 2 above.

Contents of schemes

- 4 A transfer scheme may—
- (a) define the property, rights and liabilities to be allocated to a particular new Council 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 Nature Conservancy Council (or partly in one way and partly in the other);
 - (b) create in favour of a new Council—
 - (i) an interest in or right over property transferred in accordance with the scheme (or any earlier scheme) to another new Council;
 - (ii) new rights and liabilities as between that Council and the others;
 - (c) provide that any rights or liabilities specified or described in the scheme shall, or shall to any extent, be enforceable either by or against each of the new Councils or by or against any two of the new Councils which are so specified;
 - (d) require a new Council to enter into written agreements with, or execute other instruments in favour of, another new Council;

and a scheme may make such supplemental, incidental and consequential provision as the Nature Conservancy Council considers appropriate (including provision as to the order in which transfers or transactions are to be regarded as having occurred).

- 5 For the avoidance of doubt property, rights and liabilities of the Nature Conservancy Council may be allocated to a new Council notwithstanding—
- (a) that they would not, or would not without the consent or concurrence of another person, otherwise be capable of being transferred or assigned;
 - (b) that, in the case of foreign property, steps must be taken by the Council to secure its effective vesting under the relevant foreign law.

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