

*Status: Point in time view as at 01/04/2011.*

*Changes to legislation: Water Industry Act 1991, Paragraph 3 is up to date with all changes known to be in force on or before 27 June 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 2

#### TRANSITIONAL PROVISION ON TERMINATION OF APPOINTMENTS

##### Modifications etc. (not altering text)

- C1** Sch. 2: power to amend conferred (1.10.2010) by Flood and Water Management Act 2010 (c. 29), s. 49(3), Sch. 5 para. 5(2)-(4) (with s. 49(1)(6)); S.I. 2010/2169, art. 4, Sch.

##### *Transfers by scheme*

- 3 (1) A scheme under this Schedule for the transfer of the existing appointee's property, rights and liabilities shall come into force on the relevant date and, on coming into force, shall have effect, in accordance with its provisions and without further assurance, so as to transfer the property, rights and liabilities to which the scheme relates to the new appointee.
- (2) For the purpose of making any division of property, rights or liabilities which it is considered appropriate to make in connection with the transfer of property, rights and liabilities in accordance with a scheme under this Schedule, the provisions of that scheme may—
- (a) create for the existing appointee, the new appointee or any other appointees an interest in or right over any property to which the scheme relates;
  - (b) create new rights and liabilities as between any two or more of those companies [<sup>F1</sup>(but may not impose new liabilities on any other appointee);] and
  - (c) in connection with any provision made by virtue of paragraph (a) or (b) above, make incidental provision as to the interests, rights and liabilities of other persons with respect to the subject-matter of the scheme.
- (3) A scheme under this Schedule may contain provision for the consideration to be provided by the new appointee and by any other appointees in respect of the transfer or creation of property, rights and liabilities by means of the scheme; and any such provision shall be enforceable in the same way as if the property, rights and liabilities had been created or transferred, and (if the case so requires) had been capable of being created or transferred, by agreement between the parties.
- (4) The property, rights and liabilities of the existing appointee that shall be capable of being transferred in accordance with a scheme under this Schedule shall include—
- (a) property, rights and liabilities that would not otherwise be capable of being transferred or assigned by the existing appointee;
  - (b) such property, rights and liabilities to which the existing appointee may become entitled or subject after the making of the scheme and before the relevant date as may be described in the scheme;
  - (c) property situated anywhere in the United Kingdom or elsewhere;

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- (d) rights and liabilities under enactments;
  - (e) rights and liabilities under the law of any part of the United Kingdom or of any country or territory outside the United Kingdom.
- (5) The provision that may be made by virtue of sub-paragraph (2)(b) above includes—
- (a) provision for treating any person who is entitled by virtue of a scheme under this Schedule to possession of a document as having given another person an acknowledgement in writing of the right of that other person to the production of the document and to delivery of copies thereof; and
  - (b) provision applying section 64 of the <sup>M1</sup>Law of Property Act 1925 (production and safe custody of documents) in relation to any case in relation to which provision falling within paragraph (a) above has effect.
- (6) For the avoidance of doubt, it is hereby declared that the transfers authorised by paragraph (a) of sub-paragraph (4) above include transfers which, by virtue of that paragraph, are to take effect as if there were no such contravention, liability or interference with any interest or right as there would be, in the case of a transfer or assignment otherwise than in accordance with a scheme under this Schedule, by reason of any provision having effect (whether under any enactment or agreement or otherwise) in relation to the terms on which the existing appointee is entitled or subject to the property, right or liability in question.
- [<sup>F2</sup>(7) In a case specified in paragraph 1(3A) above the preceding provisions of this paragraph shall have effect as if—
- (a) any reference to the existing appointee were a reference to the transferor;
  - (b) any reference to the new appointee were a reference to the transferee; and
  - (c) any reference to other appointees were a reference to other relevant companies.]

#### Textual Amendments

- F1** Words in Sch. 2 para. 3(2)(b) added (1.4.2011) by Flood and Water Management Act 2010 (c. 29), s. 49(3), Sch. 5 para. 2 (with s. 49(1)(6)); S.I. 2011/694, art. 3(j) (with art. 5(3))
- F2** Sch. 2 para. 3(7) inserted (1.12.2005) by Water Act 2003 (c. 37), ss. 101(1), 105(3), Sch. 8 para. 51(7); S.I. 2005/2714, art. 3(c) (with Sch. para. 8)

#### Marginal Citations

- M1** 1925 c. 20.

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