



Local Government etc. (Scotland) Act 1994

1994 CHAPTER 39

PART II

WATER AND SEWERAGE REORGANISATION

Transfer of property, rights and liabilities to new authorities

91 Transfer of property, rights and liabilities to new authorities

(1) Subject to subsections (8) and (9) below, and to section 95 of this Act, on 1st April 1996 (in this Part of this Act referred to as “the transfer date”) all property, rights and liabilities to which—

- (a) the Central Scotland Water Development Board (in this Part of this Act referred to as “the Board”) are entitled or subject immediately before that date; and
- (b) the regional and islands councils, in the exercise of their functions under any enactment in relation to water supply, to the provision of sewerage and to their dealing with the contents of sewers, are so entitled or subject (in this section referred to as their “relevant” property, rights and liabilities),

shall, by virtue of this subsection, transfer to and vest in the new water and sewerage authorities and be allocated as between those authorities in accordance with such schemes as are mentioned in subsection (2) below.

(2) Subject to subsections (5) and (7) below, on or before such date as the Secretary of State may direct (in this section referred to as the “scheme submission date”), the Board and each of the regional and islands councils shall make and submit to him a scheme for the transfer under subsection (1) above of—

- (a) the Board's; or
- (b) as the case may be, the council's relevant,

Status: This is the original version (as it was originally enacted).

property, rights and liabilities (any such scheme so made, or made by the Secretary of State under subsection (8) below, being in the following provisions of this Part of this Act referred to as a “transfer scheme”).

- (3) The transfer scheme submitted by the Board shall, subject to section 95 of this Act, provide for all their property, rights and liabilities to be transferred to, and apportioned between, the new water and sewerage authorities in accordance with such guidance as may be given to the Board by the Secretary of State under this subsection.
- (4) The transfer scheme submitted by a regional or islands council shall, subject to subsection (5) below and to section 95 of this Act, provide in the case of—
 - (a) Lothian, Borders, Fife or Central Region, for all their relevant property, rights and liabilities to be transferred to the East of Scotland Water Authority;
 - (b) Strathclyde or Dumfries and Galloway Region, for all their relevant property, rights and liabilities to be transferred to the West of Scotland Water Authority;
 - (c) Highland or Grampian Region or an Islands Area, for all their relevant property, rights and liabilities to be transferred to the North of Scotland Water Authority; and
 - (d) Tayside Region—
 - (i) for all their relevant property, rights and liabilities except such as they are entitled or subject to in the exercise of functions in relation to the provision of sewerage, or dealing with the contents of sewers, in the first added area (within the meaning of Schedule 8 to this Act), to be transferred to the North of Scotland Water Authority; and
 - (ii) for the property, rights and liabilities excepted by sub-paragraph (i) above to be transferred to the East of Scotland Water Authority.
- (5) In preparing a transfer scheme for the purposes of subsection (1) above a council shall take into account any advice given by the Secretary of State as to the provisions he regards as appropriate for inclusion in the scheme (and in particular, but without prejudice to that generality, as to the description of relevant property, rights and liabilities it is in his view appropriate to transfer to the new water and sewerage authority or authorities in question).
- (6) The Secretary of State, after such consultation with the Board or, as the case may be, with the council which prepared the transfer scheme, as he thinks fit, may—
 - (a) approve the scheme, either with or without modifications; or
 - (b) refuse to approve it,and a transfer scheme approved under this subsection shall come into force on the transfer date.
- (7) Before the scheme submission date the Secretary of State may give notice to the Board, or as the case may be to a council, that on the basis of such information as has (or has not) been submitted to him by the body in question, he considers it unlikely that the body will be in a position, by that date, to submit a transfer scheme to him in conformity with subsections (2) to (4), or as the case may be (5), above; and a body to which such notice is given need not comply (and shall take no further steps to comply) with subsection (2) above.
- (8) If—
 - (a) the Secretary of State has given notice to the Board or to a council under subsection (7) above;

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

- (b) the Board or council do not submit a transfer scheme under subsection (2) above; or
 - (c) the Board or council submit a transfer scheme which (either or both)—
 - (i) has not been prepared in accordance with the provisions of this Part of this Act; or
 - (ii) could not reasonably be approved by the Secretary of State even after the exercise by him, as extensively as he considers appropriate, of his powers of modification under subsection (6)(a) above,he may, in respect of the property, rights and liabilities of the Board or as the case may be of the relevant property, rights and liabilities of the council in question, himself make a transfer scheme to take effect on the transfer date.
- (9) There shall not transfer or vest by virtue of subsection (1) above—
- (a) any right as respects—
 - (i) a charge or rate mentioned in sub-paragraphs (a) to (c) of paragraph 1 of Schedule 11 to the Local Government Finance Act 1992 (charges or rate out of which expenditure incurred by local authority in meeting requisition under Part IV or VIII of the 1980 Act, or in the exercise of functions in relation to water supply, to be met);
 - (ii) a community charge or community water charge (within the meaning of the Abolition of Domestic Rates Etc. (Scotland) Act 1987) or council tax (within the meaning of Part II of the said Act of 1992); or
 - (iii) a non-domestic sewerage rate (whether levied under paragraph 19 of Schedule 5 to the said Act of 1987 or under paragraph 20 of the said Schedule 11); or
 - (b) any right or liability arising under a contract of employment.
- (10) Where the Secretary of State makes a transfer scheme under subsection (8) above, he may recover his reasonable expenses in so doing, or such proportion of those expenses as he thinks fit—
- (a) before the transfer date, from the Board or as the case may be from the council in question; or
 - (b) on or after the transfer date, from the authority to which property, rights and liabilities of the council have transferred by virtue of paragraph (a), (b), (c) or as the case may be (d)(i) of subsection (4) above or, in the case of the Board, from the authority mentioned in the said paragraph (a),
- by such means as appear to him to be appropriate; and without prejudice to the generality of this subsection those means may include, as respects a council, setting off the expenses payable by them against revenue support grant or non-domestic rate income payable by him to them under paragraph 3 of Schedule 12 to the Local Government Finance Act 1992.