

SCHEDULES

SCHEDULE 2

TRANSFERS OF PROPERTY ETC: SUPPLEMENTAL PROVISIONS

PART II

TRANSFER SCHEMES

Description of the property etc. to be transferred by scheme

- 4 A transfer scheme may define the property, rights and liabilities to be transferred by the scheme—
- (a) by specifying or describing the property, rights and liabilities in question;
 - (b) by referring to all (or all but so much as may be excepted) of the property, rights and liabilities comprised in a specified part of the undertaking of the transferor; or
 - (c) partly in the one way and partly in the other.

Division of property etc. to be transferred by scheme: creation of new rights and interests

- 5 (1) 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 by and in accordance with a transfer scheme, any such scheme may—
- (a) create in favour of the transferor an interest in, or right over, any property transferred by the scheme;
 - (b) create in favour of the relevant new Agency an interest in, or right over, any property retained by the transferor;
 - (c) create new rights and liabilities as between the relevant new Agency and the transferor; or
 - (d) in connection with any provision made by virtue of paragraph (a), (b) or (c) above, make incidental provision as to the interests, rights and liabilities of persons other than the transferor and the relevant new Agency with respect to the subject-matter of the transfer scheme;
- and references in the other provisions of Part I of this Act to the transfer of property, rights or liabilities (so far as relating to transfers by and in accordance with transfer schemes) shall accordingly be construed as including references to the creation of any interest, right or liability by virtue of paragraph (a), (b) or (c) above or the making of provision by virtue of paragraph (d) above.
- (2) The provision that may be made by virtue of paragraph (c) of sub-paragraph (1) above includes—
- (a) provision for treating any person who is entitled by virtue of a transfer scheme to possession of a document as having given another person

Status: This is the original version (as it was originally enacted).

an acknowledgement in writing of the right of that other person to the production of the document and to delivery of copies of it; and

- (b) in the case of a transfer scheme under section 3 of this Act, provision applying section 64 of the 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.

Transfer schemes: incidental, supplemental and consequential provision

- 6 (1) A transfer scheme may make such incidental, supplemental and consequential provision—
 - (a) as the Secretary of State considers appropriate, in the case of a scheme made by him,
 - (b) as a body which is a waste regulation authority considers appropriate, in the case of a scheme made by that body under section 3 of this Act, or
 - (c) as a local authority considers appropriate, in the case of a scheme made by that authority under section 22 of this Act.
- (2) Without prejudice to the generality of sub-paragraph (1) above, a transfer scheme may provide—
 - (a) that disputes as to the effect of the scheme between the transferor and the relevant new Agency are to be referred to such arbitration as may be specified in or determined under the transfer scheme;
 - (b) that determinations on such arbitrations and certificates given jointly by the transferor and the relevant new Agency as to the effect of the scheme as between them are to be conclusive for all purposes.

Modification of transfer schemes

- 7 (1) If at any time after a transfer scheme has come into force the Secretary of State considers it appropriate to do so, 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—
 - (a) may make, with effect from the coming into force of the transfer scheme in question, such provision as could have been made by the scheme; and
 - (b) in connection with giving effect to that provision from that time, may contain such supplemental, consequential or transitional provision as the Secretary of State considers appropriate.
- (3) The Secretary of State shall not make an order under sub-paragraph (1) above except after consultation with—
 - (a) the relevant new Agency; and
 - (b) if the transfer scheme in question is—
 - (i) a scheme under section 3 of this Act which transferred property, rights or liabilities of a waste regulation authority, or
 - (ii) a scheme under section 22 of this Act which transferred property, rights or liabilities of a local authority,
 the body which was the transferor in the case of that scheme.

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

- (4) The power to make an order under sub-paragraph (1) above shall be exercisable by statutory instrument; and a statutory instrument containing any such order shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Provision of information and assistance to the Secretary of State and the new Agencies in connection with transfer schemes

- 8 (1) It shall be the duty of each of the following, that is to say—
- (a) the chief inspector for England and Wales,
 - (b) any body which is a waste regulation authority in England or Wales, and
 - (c) any officer of such a body,
- to provide the Secretary of State or the Agency with such information or assistance as the Secretary of State or, as the case may be, the Agency may reasonably require for the purposes of, or in connection with, the exercise of any powers of the Secretary of State or the Agency in relation to transfer schemes.
- (2) It shall be the duty of each of the following, that is to say—
- (a) the chief inspector for Scotland,
 - (b) any local authority, and
 - (c) any officer of a local authority,
- to provide the Secretary of State or SEPA with such information or assistance as the Secretary of State or, as the case may be, SEPA may reasonably require for the purposes of, or in connection with, the exercise of any powers of the Secretary of State or SEPA in relation to transfer schemes.