

SCHEDULES

SCHEDULE 2

TRANSFERS OF PROPERTY ETC: SUPPLEMENTAL PROVISIONS

PART III

GENERAL PROVISIONS WITH RESPECT TO TRANSFERS BY OR UNDER SECTION 3 OR 22

Consideration

- 9 No consideration shall be provided in respect of the transfer of any property, rights or liabilities by or under section 3 or 22 of this Act; but—
- (a) a transfer scheme may contain provision for consideration to be provided by the relevant new Agency in respect of the creation of interests, rights or liabilities by means of the transfer scheme; and
 - (b) any such provision shall be enforceable in the same way as if the interests, rights or liabilities had been created, and (if the case so requires) had been capable of being created, by agreement between the parties.

Continuity

- 10 (1) This paragraph applies in relation to—
- (a) any transfer of property, rights or liabilities by section 3 or 22 of this Act; or
 - (b) subject to any provision to the contrary in the transfer scheme in question, any transfer of property, rights or liabilities by a transfer scheme.
- (2) Where this paragraph applies in relation to a transfer, then, so far as may be necessary for the purposes of, or in connection with, the transfer—
- (a) any agreements made, transactions effected or other things done by or in relation to the transferor shall be treated as made, effected or done by or in relation to the relevant new Agency;
 - (b) references (whether express or implied and, if express, however worded) to the transferor in any agreement (whether in writing or not) or in any deed, bond, instrument or other document relating to the property, rights or liabilities transferred shall, as respects anything falling to be done on or after the transfer date, have effect as references to the relevant new Agency.

Remedies

- 11 (1) Without prejudice to the generality of paragraph 10 above, a new Agency and any other person shall, as from the transfer date, have the same rights, powers and remedies (and, in particular, the same rights and powers as to the taking or resisting of legal proceedings or the making or resisting of applications to any authority) for ascertaining, perfecting or enforcing any right or liability transferred to that new

Status: This is the original version (as it was originally enacted).

Agency by or under this Act as that new Agency or that person would have had if that right or liability had at all times been a right or liability of that new Agency.

- (2) Without prejudice to the generality of paragraph 10 above, any legal proceedings or applications to any authority pending immediately before the transfer date by or against a transferor, in so far as they relate to any property, right or liability transferred to the relevant new Agency by or under this Act or to any agreement relating to any such property, right or liability, shall be continued by or against the relevant new Agency to the exclusion of the transferor.

Perfection of vesting of foreign property, rights and liabilities

- 12 (1) This paragraph applies in the case of any transfer by or under section 3 or 22 of this Act of any foreign property, rights or liabilities.
- (2) It shall be the duty of the transferor and the relevant new Agency to take, as and when that new Agency considers it appropriate, all such steps as may be requisite to secure that the vesting in that new Agency by, or by transfer scheme under, section 3 or 22 of this Act of any foreign property, right or liability is effective under the relevant foreign law.
- (3) Until the vesting in the relevant new Agency by, or by transfer scheme under, section 3 or 22 of this Act of any foreign property, right or liability is effective under the relevant foreign law, it shall be the duty of the transferor to hold that property or right for the benefit of, or to discharge that liability on behalf of, the relevant new Agency.
- (4) Nothing in sub-paragraphs (2) and (3) above shall be taken as prejudicing the effect under the law of any part of the United Kingdom of the vesting in the relevant new Agency by, or by transfer scheme under, section 3 or 22 of this Act of any foreign property, right or liability.
- (5) The transferor shall have all such powers as may be requisite for the performance of his duty under this paragraph, but it shall be the duty of the relevant new Agency to act on behalf of the transferor (so far as possible) in performing the duty imposed on the transferor by this paragraph.
- (6) 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 outside the United Kingdom.
- (7) Duties imposed on the transferor or the relevant new Agency by this paragraph shall be enforceable in the same way as if the duties were imposed by a contract between the transferor and that new Agency.
- (8) Any expenses reasonably incurred by the transferor under this paragraph shall be met by the relevant new Agency.