

*Status: Point in time view as at 01/12/1998.*

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## SCHEDULES

### SCHEDULE 3

#### TRANSFER ETC. OF FUNCTIONS: FURTHER PROVISIONS

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

- C1** Sch. 3 modified (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), **ss. 8(4)(5)**, **53(1)**; S.I. 2005/1126, **art. 2(2)(e)**

##### **Commencement Information**

- II** Sch. 3 in force at 1.12.1998 by [S.I. 1998/2789](#), **art. 2**

### PART II

#### CONTINUING ROLE FOR TRANSFEROR ETC

##### *Community obligations*

- 5 Any power of a Minister of the Crown to make subordinate legislation which has been transferred by an Order in Council under section 22 shall continue to be exercisable by the Minister of the Crown (as it would be had it not been transferred) for the purpose of—
- implementing any Community obligation of the United Kingdom, or enabling any such obligation to be implemented, or enabling any rights enjoyed or to be enjoyed by the United Kingdom under or by virtue of the Community Treaties to be exercised, or
  - dealing with matters arising out of or related to any such obligation or rights or the operation of section 2(1) of the <sup>M1</sup>European Communities Act 1972.

##### **Marginal Citations**

- M1** 1972 c. 68.

##### *Intervention in case of functions relating to water etc.*

- 6 (1) Where it appears to the Secretary of State that the exercise of a relevant transferred environmental function (or the failure to exercise such a function) in any particular case might have a serious adverse impact on—
- water resources,

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- (b) water supply, or
  - (c) the quality of water,
- in England, he may intervene under this paragraph in that case.
- (2) If the Secretary of State intervenes in a case under this paragraph—
- (a) he may in that case exercise the function concerned, and
  - (b) that function shall not in that case be exercisable by the Assembly.
- (3) For the purposes of sub-paragraph (1) a function is a relevant transferred environmental function if it is a function—
- (a) under Part I of the <sup>M2</sup>Environmental Protection Act 1990, or
  - (b) under Part II, III or VII of the <sup>M3</sup>Water Resources Act 1991,
- and it has been transferred to the Assembly by an Order in Council under section 22 which states that this paragraph is to apply in relation to it.
- (4) An intervention by the Secretary of State under this paragraph shall be made by giving notice to the Assembly.
- (5) The notice—
- (a) shall state the reason for the Secretary of State’s intervention,
  - (b) may make provision about the effect of any steps previously taken by the Assembly or any other person, and
  - (c) may extend the time for the taking of any steps by the Secretary of State or any other person (even if the time for taking them would otherwise have expired before the notice is given).
- (6) Where the Secretary of State has made an intervention under this paragraph in a case he shall, in addition to the notice under sub-paragraph (4), give notice to—
- (a) any person who has previously been given notice of any steps taken, or proposed to be taken, in the case,
  - (b) the Environment Agency (if concerned in the case), and
  - (c) any water undertaker or sewerage undertaker concerned in the case.

**Marginal Citations**

**M2** 1990 c. 43.

**M3** 1991 c. 57.

*Agreement or consultation*

- 7 An Order in Council under section 22 which includes provision—
- (a) transferring to the Assembly any function so far as exercisable by a Minister of the Crown in relation to a cross-border body or an English border area, or
  - (b) directing that any function shall be exercisable by the Assembly in relation to a cross-border body or an English border area concurrently with the Minister of the Crown by whom it is exercisable,

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may provide that (either generally or to such extent as may be specified in the Order in Council) the function may be exercised by the Assembly only with the agreement of, or after consultation with, a Minister of the Crown.

- 8 If an Order in Council under section 22 includes provision transferring to the Assembly the function of determining a formula for the purposes of section 80 of the <sup>M4</sup>Local Government and Housing Act 1989 (calculation of Housing Revenue Account subsidy), the Order in Council may provide that the Assembly shall not exercise the function without the agreement of the Secretary of State to the inclusion in the formula of any variable framed (in whatever way) by reference to rent rebates.

**Marginal Citations**

**M4** 1989 c. 42.

- 9 (1) This paragraph applies where a function is exercisable by a Minister of the Crown—
- (a) only with the agreement of, or after consultation with, another Minister of the Crown, or
  - (b) only with the authorisation of Parliament or either House of Parliament.
- (2) If an Order in Council under section 22 transfers the function, it shall be exercisable by the Assembly free from that requirement unless the Order in Council provides otherwise.
- (3) If an Order in Council under that section directs that the function shall be exercisable by the Assembly concurrently with the Minister of the Crown by whom it is exercisable, the Order in Council may provide that it shall be exercisable by the Assembly free from that requirement.

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