

SCHEDULES

SCHEDULE 1

Section 1

THE FISHERIES CONSERVANCY BOARD FOR NORTHERN IRELAND

PART 1

TRANSFER OF ASSETS, LIABILITIES, STAFF, ETC.

1. In this Schedule—

“the appointed day” means the day appointed under section 7 for the coming into operation of section 1(1);

“the Board” means the Fisheries Conservancy Board for Northern Ireland;

“the Department” means the Department of Culture, Arts and Leisure;

“the employment of the Department” means employment in the Northern Ireland civil service for the purposes of the Department.

Transfer of assets and liabilities

2.—(1) All assets and liabilities to which the Board is entitled or subject immediately before the appointed day shall on that day be transferred to, and by virtue of this paragraph vest in, the Department.

(2) Sub-paragraph (1) has effect in relation to assets or liabilities to which it applies in spite of any provision (of whatever nature) which would prevent or restrict the transfer of the assets or liabilities otherwise than by that sub-paragraph.

(3) But sub-paragraph (1) does not apply to rights or liabilities under a contract of employment (which are dealt with by paragraph 3).

(4) A certificate by the Department that anything specified in the certificate has vested in the Department by virtue of this paragraph is conclusive evidence for all purposes of that fact.

Transferring employees

3.—(1) This paragraph applies to persons who immediately before the appointed day are employed by the Board.

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(2) The Department shall make a scheme providing for the transfer as from the appointed day of persons to whom this paragraph applies to the employment of the Department.

(3) The Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246) apply to a transfer effected by the scheme whether or not the transfer would, apart from this paragraph, be a relevant transfer for the purposes of those regulations.

(4) The scheme shall—

- (a) identify transferring employees (whether by name or otherwise);
- (b) include provision securing pension protection for such employees;
- (c) include provision for procedures designed to resolve any grievances of such employees arising in relation to matters dealt with by the scheme; and
- (d) include provision for the payment of compensation by the Department to any such employee who suffers loss or detriment in consequence of that transfer.

(5) Procedures under sub-paragraph (4)(c) must involve consideration of grievances by a person other than—

- (a) a member, or member of staff, of the Board; or
- (b) a member of the Northern Ireland civil service.

(6) The scheme may include supplementary, incidental, transitional and consequential provision.

(7) Before making the scheme the Department shall consult—

- (a) in the case of a scheme which identifies transferring employees by name, those employees; and
- (b) in the case of a scheme which identifies transferring employees in any other way, such persons as appear to the Department to be representative of transferring employees.

(8) For the purposes of this paragraph—

- (a) “pension protection” is secured for a transferring employee if after the change of employer effected by the scheme the employee has, as a member of the Northern Ireland civil service, rights to acquire pension benefits and those rights are the same as or (taken as a whole) no less favourable than those that the transferring employee had as an employee of the Board;
- (b) “the scheme” means the scheme made under this paragraph; and
- (c) “transferring employee” means an employee of the Board who is transferred to the employment of the Department by the scheme.

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References to, and acts, etc. done by, or in relation to, the Board

4.—(1) In any statutory provision or document any reference to the Board shall, in relation to any time after the appointed day, be construed as a reference to the Department.

(2) Sub-paragraph (1) applies unless contrary provision is made by this Act or the context otherwise requires.

(3) Nothing in this Act affects the validity of anything done by, or in relation to, the Board before the appointed day.

(4) Anything which before the appointed day was done by or in relation to the Board shall, if in effect immediately before that day, continue to have effect to the same extent and subject to the same provisions as if it had been done by, or in relation to, the Department.

(5) Anything (including any legal proceedings) in the process of being done by or in relation to the Board immediately before the appointed day may be continued by or in relation to the Department.

(6) Any byelaws made by the Board under a provision of the Fisheries Act (Northern Ireland) 1966 (c. 17) amended by Part 2 of this Schedule which are in force immediately before the appointed day shall have effect as if they were regulations made by the Department under that provision as so amended (and so may be amended or revoked by such regulations).

Accounts and reports: transitional arrangements

5.—(1) The Department shall make arrangements for—

- (a) a statement of accounts to be prepared in relation to the Board; and
- (b) a report to be prepared on the activities of the Board,

for such period ending immediately before the appointed day as the Department may determine.

(2) The statement of accounts and report shall—

- (a) be in such form; and
- (b) contain such information,

as the Department may determine.

(3) The Department shall send a copy of the statement of accounts to the Comptroller and Auditor General for Northern Ireland.

(4) The Comptroller and Auditor General shall—

- (a) examine and report on any statement of accounts received from the Department under sub-paragraph (3); and
- (b) send a copy of any such report to the Department.

Changes to legislation: There are currently no known outstanding effects for the Public Authorities (Reform) Act (Northern Ireland) 2009, SCHEDULE 1. (See end of Document for details)

(5) The Department shall lay a copy of the statement of accounts, the Comptroller and Auditor General's report and the report mentioned in sub-paragraph (1)(b) before the Assembly.

PART 2

AMENDMENTS

The Foyle Fisheries Act (Northern Ireland) 1952 (c. 5)

1. In section 74(4) for “Fisheries Conservancy Board for Northern Ireland” substitute “ Department of Culture, Arts and Leisure ”.

The Nuclear Installations Act 1965 (c. 57)

2. In section 27(1)(c) for “Fisheries Conservancy Board for Northern Ireland” substitute “ Department of Culture, Arts and Leisure ”.

The Fisheries Act (Northern Ireland) 1966 (c. 17)

3.—(1) Subject to the following provisions of this paragraph, in any provision of this Act—

- (a) for “the Board” (wherever occurring) substitute “ the Department ”;
- (b) for “they” (wherever occurring and referring to the Board) substitute “ it ”;
- (c) for “byelaws”, “a byelaw” or “byelaw” (wherever occurring) substitute “ regulations ”.

(2) Omit section 7A(4)(b) and the word “and” immediately before it.

(3) In section 11(4) omit “or byelaw”.

(4) In section 11B(2) omit paragraph (c) and “or, as the case may be, the Board”.

(5) In section 15—

- (a) in subsection (1)(c)(i) for “the Fisheries Conservancy Board for Northern Ireland established under Part II” substitute “ the Department ”;
- (b) omit subsection (1)(d) and (2).

(6) For the heading to Part 2 substitute “ CONSERVATION AND PROTECTION OF SALMON AND INLAND FISHERIES ”.

(7) For sections 25 and 26 and the cross-heading immediately before section 25 substitute—

Changes to legislation: There are currently no known outstanding effects for the Public Authorities (Reform) Act (Northern Ireland) 2009, SCHEDULE 1. (See end of Document for details)

“Functions of the Department of Culture, Arts and Leisure

Functions of the Department

25.—(1) It is the duty of the Department to conserve and protect the salmon and the inland fisheries of Northern Ireland, other than the fisheries of the Londonderry Area or the Newry Area.

(2) Without prejudice to the generality of subsection (1), the Department may, in the exercise of its functions—

- (a) take legal proceedings for the enforcement of any statutory provision with respect to salmon or inland fisheries;
- (b) act in co-operation with any other body constituted under a statutory provision for the purpose of publicising any such fisheries as a tourist attraction;
- (c) enter into an agreement to enforce the fishing rights of any owner or occupier of land or waters in accordance with such terms and conditions as may be specified in the agreement and on payment of such sums as may be so specified.

Regulations

26.—(1) The Department may make such regulations as appear to it to be expedient for the purposes of its functions in relation to any fisheries to which section 25 applies, and, without prejudice to the generality of the foregoing provisions, may make regulations with respect to the following matters—

- (a) the regulation of fishing and preservation of good order amongst persons fishing;
- (b) the times and seasons for the taking of fish or for any mode of taking fish and the conditions subject to which fish may be taken;
- (c) prohibiting any mode of taking or destroying fish;
- (d) the times and places at, or the mode in, which any fishing engine may be used;
- (e) the description and form of nets or other fishing engines to be used, and the size of the meshes of those nets or the apertures in those other engines;
- (f) the size (whether determined by measurement or by weight) of fish which may be taken;
- (g) the making of applications for, and the issue, alteration, renewal and revocation of, fishing licences, whether generally or in specified cases;
- (h) the form of, and the conditions attaching to, fishing licences;

Changes to legislation: There are currently no known outstanding effects for the Public Authorities (Reform) Act (Northern Ireland) 2009, SCHEDULE 1. (See end of Document for details)

- (i) the duties payable in respect of fishing licences;
 - (j) the protection of waters from any predatory animals;
 - (k) the prohibition of any practice whatsoever tending to impede the lawful capture of fish or to be in any manner detrimental to the fisheries;
 - (l) the attachment of such identification marks as may be specified in the regulations to any salmon captured;
 - (m) anything relating in any manner to the management and protection of the fisheries;
 - (n) anything which under this Act may be prescribed by regulations or in respect of which regulations are by this Act authorised to be made.
- (2) The power to make regulations under this section in relation to the regulation of fishing for salmon may be exercised for—
- (a) the conservation or enhancement of the natural beauty or amenity of marine or coastal areas (including the geological or physiological features) or of any features of archaeological or historic interest on those areas; or
 - (b) the conservation of flora or fauna which are dependant on, or associated with, a marine or coastal environment.
- (3) Regulations under this section shall be subject to negative resolution.
- (4) If any person contravenes regulations under this section, he shall be guilty of an offence.”
- (8) Omit sections 27 to 33.
- (9) In section 37(1)(e) for “the Ministry” substitute “ a magistrates' court ”.
- (10) In section 44 omit “by resolution”.
- (11) In section 53 for subsection (1) substitute—
- “(1) Where in a river natural obstructions of any kind prevent or impede the free passage of fish, the Department may—
- (a) on the application of any person interested in a fishery in the river, authorise the construction of such works or the making of such alterations in the bed of the river as to secure the free passage of fish at all times, or
 - (b) construct such works or make such alterations,
- if (in either case) the Department is satisfied that the works or alterations will not impair the effective working power of any mill or the drainage of any lands.”.
- (12) In section 53(2) and (3) for “subsection (1)” substitute “ subsection (1)(a) ”.

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- (13) In section 53(5) after “works or alterations” insert “ under subsection (1) (a) or ”.
- (14) In section 53(7) at the end add “ ; and where the execution of any works or alterations by the Department under subsection (1)(b) results in damage or injury to any person, that person may recover compensation from the Department. ”.
- (15) In section 54(2)(b) for the words from “on the application” to “on being satisfied ” substitute “ on being satisfied (whether on the application of any person interested in a fishery in the river or otherwise) ”.
- (16) In section 54(4)(a) for the words from “, by the person” to the end substitute “ on the application of any person, by that person; and ”.
- (17) In section 55(2) omit “the Board, or failing the Board,”.
- (18) In section 70(1) for “are” substitute “ is ”.
- (19) In section 81(4) omit “the Board, or failing the Board,”.
- (20) In section 83(3) omit “the Board, or failing the Board,”.
- (21) In section 85(3) omit “the Board, or failing the Board,”.
- (22) In section 86(3)(b) omit “the Board, or failing the Board,”.
- (23) Omit section 88(2)(b).
- (24) In section 92(6) omit “the Board, or failing the Board,”.
- (25) In section 111 for subsection (4) substitute—
- “(4) The Department may by regulations substitute for the period mentioned in paragraph (a), (b) or (c) of subsection (1) such other period as may be specified in the regulations.”.
- (26) In section 111(5) for “26(4), any byelaws or” substitute “ 26(3) any ”.
- (27) In section 116(1) for “refuse” substitute “ refuses ”.
- (28) In section 166(1) omit—
- (a) in the definition of “authorised person”, paragraph (c); and
- (b) the definition of “officer of the Board”.
- (29) In section 168(2) for “section 25(3)(cc)” substitute “ section 25(2)(c) ”.
- (30) In section 170(3) omit “the Board and” (twice).
- (31) In section 170—
- (a) in subsection (6) omit “and the Board”;
- (b) omit subsections (7) and (7C).
- (32) In section 173(1) omit “or byelaw”.
- (33) In section 178(1) omit “or an officer of the Board”.
- (34) In section 179A(3) omit paragraph (b) and the word “and” immediately before it.

- (35) In section 181—
- (a) in subsection (2) omit “or the Board” in each place where it occurs;
 - (b) in subsection (6) omit “or, where the fish is a salmon, an eel or a freshwater fish, to the Board,” and “or, as the case may be, the Board” in each place where it occurs.
- (36) In section 182(b) omit “or of the Board”.
- (37) In section 183(1)(b) omit “or of the Board”.
- (38) In section 185A omit “and the Board”.
- (39) In section 186(3) for “by the Chairman of the Board” substitute “on behalf of the Department”.
- (40) In section 192(2) for “byelaws under” substitute “or”.
- (41) In section 199—
- (a) in subsection (1) omit “and (in a case relating to salmon or inland fisheries) to the Board”;
 - (b) in subsection (2) omit “and the Board”.
- (42) In section 201(2) omit the words from the beginning to “byelaw, and”.
- (43) In section 204(a) for “Board” (where it twice occurs) substitute “Foyle, Carlingford and Irish Lights Commission”.
- (44) In section 205—
- (a) in subsection (1) omit “or the Board are”, “or, as the case may be, the Board” (twice), “or them” and “or the Board”;
 - (b) in subsection (2) omit “or the Board”;
 - (c) in subsection (3) omit “or the Board, as the case may be,”.
- (45) In section 206(1) omit the definitions of “the Board”, “byelaws” and “financial year”.
- (46) In section 212(2) for paragraphs (a) and (b) substitute—
- “(a) references to the Department in sections 45, 55(2), 112(6)(c), 113(3) (a), 114(1), 115(1), 116, 118(2), 119, 120(1)(a) and (6), 166(1)(b), 168(1), 175(2), 182(b), 183(1)(b), 185A, 186(2) and (3), 199(1) and (2), 200(1) and (6), 201(2), 205 and 209(d) shall be construed as references to the Foyle, Carlingford and Irish Lights Commission;
 - (b) references to regulations in sections 51(2), 52(2), 56, 77(6)(a)(i), 114(1) (b), 115(1)(b), 120, 200(6) and 201(2) shall be construed as references to regulations made under section 13 of the Foyle Fisheries Act (Northern Ireland) 1952.”.
- (47) In section 212 after subsection (2) insert—
- “(2A) Where the Commission fails to exercise any of its functions under section 55(2), the Department may exercise that function in its place.”.

Changes to legislation: There are currently no known outstanding effects for the Public Authorities (Reform) Act (Northern Ireland) 2009, SCHEDULE 1. (See end of Document for details)

- (48) In Schedule 1, in paragraphs 1 and 3(a) omit “byelaw or”.
- (49) Omit Schedule 2.
- (50) In Schedule 5A—
- (a) in paragraph 1, omit sub-paragraph (c) and the word “and” immediately preceding it;
 - (b) in paragraph 2, omit “or the Board”;
 - (c) in paragraph 4(1) omit “or the Board” and “(or both notify)”.

The Mineral Development Act (Northern Ireland) 1969 (c. 35)

5. In Schedule 2 in paragraph 1(4) for “Fisheries Conservancy Board for Northern Ireland” substitute “ Department of Culture, Arts and Leisure ”.

The Northern Ireland Assembly Disqualification Act 1975 (c. 25)

6. In Schedule 1, in Part 3, omit the entry relating to the Chairman of the Fisheries Conservancy Board for Northern Ireland.

The Statutory Rules (Northern Ireland) Order 1979 (NI 12)

7. In Schedule 1 in Part 1 omit “The Fisheries Conservancy Board for Northern Ireland”.

The Nature Conservation and Amenity Lands (Northern Ireland) Order 1985 (NI 1)

8. In Article 20(6)(d) for “Fisheries Conservancy Board for Northern Ireland” substitute “ Department of Culture, Arts and Leisure ”.

The Electricity (Northern Ireland) Order 1992 (NI 1)

- 9.—(1) In Schedule 5, omit paragraph 8(c).
- (2) In Schedule 9, in paragraph 2(2), omit “the Fisheries Conservancy Board for Northern Ireland”.

The Roads (Northern Ireland) Order 1993 (NI 15)

10. In Schedule 8, in paragraph 2(3)(a)(iv) for “Fisheries Conservancy Board for Northern Ireland” substitute “ Department of Culture, Arts and Leisure ”.

The Commissioner for Complaints (Northern Ireland) Order 1996 (NI 7)

11. In Schedule 2 omit the entry relating to the Fisheries Conservancy Board for Northern Ireland.

Changes to legislation: There are currently no known outstanding effects for the Public Authorities (Reform) Act (Northern Ireland) 2009, SCHEDULE 1. (See end of Document for details)

The Water (Northern Ireland) Order 1999 (NI 6)

12. In Schedule 1, in paragraphs 2(6)(c), 3(5)(c) and 5(5)(b) for “Fisheries Conservancy Board for Northern Ireland” substitute “ Department of Culture, Arts and Leisure ”.

The Freedom of Information Act 2000 (c. 36)

13. In Schedule 1, in Part 7, omit the entry relating to the Fisheries Conservancy Board for Northern Ireland.

The Audit and Accountability (Northern Ireland) Order 2003 (NI 5)

- 14.**—(1) Omit Article 5(1)(d).
(2) In Schedule 1, omit paragraph 4.

Changes to legislation:

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