SCHEDULES

SCHEDULE 1

TRANSITIONAL PROVISION ON TERMINATION OF APPOINTMENTS

Contents of scheme

3.—(1) A scheme under this Schedule—

(a) shall specify the assets and liabilities to be transferred to the new appointee; and

(b) may make supplementary, incidental, transitional and consequential provisions in connection with the transfer of those assets and liabilities.

(2) The provisions of a scheme specifying the assets and liabilities to be transferred may do so—

(a) by specifying them or describing them in particular; or

(b) by identifying them generally by reference to a specified part of the existing appointee's undertaking, or their connection with the exercise of specified functions of that appointee; or

(c) in any other manner appearing to the existing appointee to be appropriate in relation to the assets or liabilities in question;

and a scheme may except assets and liabilities from transfer in any corresponding manner.

(3) The assets and liabilities that may be specified by a scheme under this Schedule for transfer to the new appointee include—

(a) assets and liabilities that would not otherwise be capable of being transferred or assigned by the existing appointee;

(b) assets acquired and liabilities arising in the period after the making of the scheme and before the relevant date;

(c) rights and liabilities arising after the relevant date in respect of matters occurring before that date;

(d) property situated anywhere in the United Kingdom or elsewhere and rights and liabilities under the law of any part of the United Kingdom or of any place outside the United Kingdom; and

(e) rights and liabilities under a statutory provision [F1]....

(4) A scheme under this Schedule may make provision for the division of any assets or liabilities between the existing appointee and the new appointee; and

(a) where any rights or liabilities under a contract are so divided, the contract shall have effect as from the relevant date as if it constituted two separate contracts separately enforceable by and against the existing appointee and the new appointee respectively as respects the part of the rights or liabilities which falls to it as a result of the division; and

(b) where any land is so divided, any rent payable under a lease (or a fee farm grant creating the relationship of landlord and tenant) in respect of that land or charged on that land shall be correspondingly divided so that one part is payable in respect of, or charged on, only one part of the land and the other part is payable in respect of, or charged on, only the other part.

(5) For the purpose of making any division of assets or liabilities which it is considered appropriate to make in connection with the transfer of assets and liabilities in accordance with a scheme under this Schedule, the provisions of that scheme may—

(a) create for the existing appointee, the new appointee or any other appointees an interest in or right over any property to which the scheme relates;

(b) create new rights and liabilities as between any two or more of those companies; and

(c) in connection with any provision made by virtue of sub-paragraph (a) or (b), make incidental provision as to the interests, rights and liabilities of other persons with respect to the subject-matter of the scheme.

(6) A scheme under this Schedule may include provision imposing on the new appointee the obligation to enter into specified written agreements with, or execute such other instruments in favour of, the existing appointee or any other specified person: and any obligation so imposed shall be enforceable by civil proceedings for an injunction or other appropriate relief.

(7) The transfers provided for by a scheme under this Schedule, and the rights and liabilities that may be created by virtue of sub-paragraph (5) or an agreement or instrument under sub-paragraph (6), include transfers that are to take effect, and rights and liabilities that are to arise, regardless of any contravention, liability or interference with a right that would otherwise exist by reason of a provision having effect (whether under a statutory provision or an agreement or in any other way) in relation to the terms on which the existing appointee is entitled or subject to any asset or liability.

(8) A scheme under this Schedule may contain provision for the consideration to be provided by the new appointee and by any other appointees in respect of the transfer or creation of assets and liabilities by means of the scheme; and any such provision shall be enforceable in the same way as if the assets and liabilities had been created or transferred, and (if the case so requires) had been capable of being created or transferred, by agreement between the parties.

(9) A scheme under this Schedule may include provision—

(a) for the new appointee to be treated as the same person in law as the existing appointee for such purposes or in such circumstances as are specified;

(b) for agreements made, transactions effected or other things done (or treated as made effected or done) by or in relation to the existing appointee to be treated, so far as may be necessary for the purposes of or in connection with the transfer, as made, effected or done in relation to the new appointee;

(c) for references in any agreement, instrument or other document to (or references which are to be treated as references to) the existing appointee or to an officer or employee of the existing appointee to have effect, so far as may be necessary for the purposes of or in connection with the transfer, as a reference to, or to an officer or employee of, the new appointee;

(d) for proceedings commenced (or treated as commenced) by or against the existing appointee to be continued by or against the new appointee.

(10) Sub-paragraph (9)(c) does not apply in relation to references in a statutory provision.

(11) A scheme under this Schedule may include provision—

(a) for treating the existing appointee as having given to the new appointee an acknowledgement in writing of the right of the new appointee to production of any document relating in part to the title to, or to the management of, any asset transferred to it and to delivery of copies of that document; and

(b) applying section 9 of the Conveyancing Act 1881 (c. 41) (with any specified modifications) in relation to any such case.

(12) A scheme under this Schedule may include provision for disputes as to the effect of the scheme to be referred to such arbitration as may be specified in or determined under the scheme.

Textual Amendments

F1 Words in Sch. 1 para. 3(3)(e) omitted (31.12.2020) by virtue of The Water and Floods (Amendment) (Northern Ireland) (EU Exit) Regulations 2019 (S.I. 2019/32), regs. 1(1), **2(7)**; 2020 c. 1, Sch. 5 para. 1(1)

Commencement Information

I1 Sch. 1 para. 3 partly in operation; Sch. 1 para. 3 not in operation at date of making see art. 1(2); Sch. 1 para. 3 in operation for certain purposes at 1.4.2007 by S.R. 2007/194, **art. 2(2)**, Sch. 1 Pt. II (subject to art. 3, Sch. 2)

Changes to legislation:
The Water and Sewerage Services (Northern Ireland) Order 2006, Paragraph 3 is up to date with all changes known to be in force on or before 03 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.
View outstanding changes

Changes and effects yet to be applied to the whole Order associated Parts and Chapters:
Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- art. 23(6) inserted by 2024 c. 13 Sch. 30 para. 41(4)
- art. 27(11) inserted by 2024 c. 13 Sch. 30 para. 42(4)
- art. 29(11) inserted by 2024 c. 13 Sch. 29 para. 4
- art. 265(5)(u) inserted by 2024 c. 13 Sch. 30 para. 43(b)
- art. 293(10A) inserted by 2015 c. 8 (N.I.) Sch. 3 para. 2(b)