

SCHEDULES

SCHEDULE 5

Article 145.

TRANSFER OF PROPERTY, RIGHTS AND LIABILITIES TO THE BOARD

1. This Schedule applies where the property, rights and liabilities of an occupational pension scheme are transferred to the Board in accordance with Article 145.

2.—(1) Subject to sub-paragraph (2), the property, rights and liabilities so transferred include—

- (a) property, rights and liabilities that would not otherwise be capable of being transferred or assigned,
- (b) property situated anywhere in the United Kingdom or elsewhere, and
- (c) rights and liabilities under the law of any part of the United Kingdom or of any country or territory outside the United Kingdom.

(2) Where, but for this sub-paragraph, any rights or liabilities under a contract of employment between the trustees or managers of the scheme and an individual would be transferred to the Board under Article 145, this sub-paragraph operates to terminate the contract of employment on the day preceding the day on which the transfer notice is received by the trustees or managers of the scheme.

3.—(1) Without prejudice to the generality of Article 145 and subject to sub-paragraph (2), any legal proceedings or applications to any authority pending immediately before the transfer by or against any of the trustees or managers of the scheme in their capacity as trustees or managers shall be continued by or against the Board.

(2) The liabilities transferred by Article 145 do not include any liabilities in respect of an existing or future cause of action against the trustees or managers of the scheme if, disregarding the transfer, the trustees or managers would have been personally liable to meet the claim and would not have been indemnified from the assets of the scheme.

4. The transfer is binding on all persons, even if, apart from this paragraph, it would have required the consent or concurrence of any person.

5. No person shall have any power, in consequence of the transfer, to terminate or modify any interest or right which was vested in the trustees or managers of the scheme.

6. Any reference in any agreement, document or instrument of any description to the trustees or managers of the scheme shall have effect so far as necessary for the purposes of giving effect to the transfer as a reference to the Board.

7.—(1) The Board must take all such steps as may be required to secure that the vesting in the Board, by virtue of Article 145, of any foreign property, right or liability is effective under the relevant foreign law.

(2) Until the vesting of any foreign property, right or liability in the Board is effective under the relevant foreign law, the persons who were the trustees or managers of the scheme immediately before the transfer effected by Article 145 must hold that property or right for the benefit of, or discharge that liability on behalf of, the Board.

Draft Legislation: This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument: The Pensions (Northern Ireland) Order 2005 No. 255

(3) Nothing in this paragraph prejudices the effect under the law of Northern Ireland of the vesting in the Board, in accordance with Article 145, of any foreign property, right or liability.

(4) In this paragraph references 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 to be determined (in accordance with the rules of private international law) by reference to the law of a country or territory outside the United Kingdom.