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SCHEDULES

SCHEDULE 2

TRANSFER OF PROPERTY, RIGHTS AND LIABILITIES TO THE AUTHORITY

- 1 (1) Subject to the following paragraphs of this Schedule, there shall by virtue of this paragraph be transferred to and vest in the Authority on the vesting date—
- (a) the property, rights and liabilities of the Board of Trade which immediately before that date were comprised in the undertakings represented by the aerodromes at Aberdeen, Benbecula, Inverness, Islay (Port Ellen), Kirkwall, Storno-way, Sumburgh, Tiree and Wick ;
 - (b) the property, rights and liabilities of the Board of Trade which immediately before that date were comprised in the following undertakings, namely, the National Air Traffic Services, the Civil Aviation Flying Unit, the Fire Service Training School at Stansted, the Secretary of State's medical unit at Heathrow and the unit of the Directorate of Operational Research and Analysis at Heathrow ;
 - (c) the property, rights and liabilities of the Secretary of State for Trade and Industry which immediately before that date were comprised in any of the undertakings mentioned in the preceding paragraph ; and
 - (d) all other property, rights and liabilities of the Board of Trade which are specified in a notice in writing given by the Secretary of State to the Authority before that date as being—
 - (i) property used and rights enjoyed by the Board of Trade for the purposes of functions of a kind which the Secretary of State considers that the Authority will or may perform by virtue of this Act and he will cease to perform in consequence of this Act, and
 - (ii) liabilities to which the Board of Trade are subject in connection with such functions,and which immediately before that date are property, rights and liabilities of the Board of Trade.
- (2) Any reference in the preceding sub-paragraph to property and rights of the Board of Trade includes a reference to property and rights of the Crown or a government department other than the department of the Board of Trade which immediately before the relevant vesting date were being managed by the Secretary of State (other than property and rights of his which were then included in an undertaking mentioned in paragraph (b) of the preceding sub-paragraph), and any reference in that sub-paragraph to liabilities of the Board of Trade includes a reference to liabilities of the Crown or such a government department which immediately before that date were being discharged on behalf of the Crown or the department by the Secretary of State (other than liabilities which were then included in such an undertaking).
- 2 (1) The preceding paragraph shall not apply to such property, rights or liabilities as the Secretary of State may by a determination in writing designate as property or rights required for the purposes of the Crown or any government department or as liabilities to which it is appropriate for the Crown or a government department to be subject.

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- (2) A determination under the preceding sub-paragraph may provide for the creation in favour of the Crown or a government department of such rights, whether or not capable of subsisting as legal estates in land, as the Secretary of State considers are appropriate for the purpose of facilitating the use of any property designated by such a determination.
- (3) In the application of the preceding sub-paragraph to Scotland, for the reference to legal estates in land there shall be substituted a reference to estates in land.
- 3 (1) The Secretary of State may make a determination in writing applying or excluding paragraph 1 of this Schedule to such extent as he considers is appropriate—
- (a) for the purpose of making minor adjustments of the property, rights and liabilities to which that paragraph applies so as to facilitate the performance by the Authority of its functions ; or
 - (b) for the purpose of removing uncertainty as to the application of that paragraph to any property, rights or liabilities or of facilitating the registration under the Land Registration Act 1925 or the Land Registration Act (Northern Ireland) 1970 of the Authority's title to any land in England or Wales or Northern Ireland which is transferred by that paragraph ;
- and a determination under this paragraph may in particular provide for dividing or apportioning any property, rights or liabilities between the Crown, government departments and the Authority.
- (2) In the application of the preceding sub-paragraph to Scotland, for the words from " or of facilitating " to " that paragraph " there shall be substituted the words "or of facilitating the completion of the title of the Authority to any land as heritable rights in Scotland transferred by that paragraph".
- 4 A determination under paragraph 2 or 3 of this Schedule with respect to any property, rights or liabilities shall not be made after the expiration of the period of twelve months beginning with the day which is the vesting date in relation to that property or those rights or liabilities.
- 5 (1) The Secretary of State may issue a certificate stating that any property, rights and liabilities of the Crown or a government department were or were not transferred to the Authority by this Schedule; and any such certificate shall be conclusive evidence that the property, rights and liabilities in question were or were not so transferred.
- (2) The issue of a certificate under the preceding sub-paragraph shall not prevent the making of a subsequent determination under paragraph 2 or 3 of this Schedule relating to the property, rights or liabilities to which the certificate relates.
- 6 The Secretary of State shall, before making a determination or issuing a certificate under this Schedule, consult the Authority and shall, after making a determination or issuing a certificate under this Schedule, send a copy of it to the Authority.
- 7 (1) Any agreement and any provision in a document which is not an agreement shall, so far as may be necessary for or in consequence of the transfers effected by this Schedule, have effect as if references to, or to an officer of, the Crown or a government department were, or as the case may be included, references to or to an employee of the Authority.
- (2) Without prejudice to the preceding sub-paragraph, any agreement to which the Crown or a government department were a party, whether in writing or not and whether or not of such a nature that rights and liabilities under it could be assigned,

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shall have effect, so far as may be necessary for or in consequence of the transfers effected by this Schedule, as if the Authority had been a party to the agreement.

- (3) Without prejudice to sub-paragraph (1) of this paragraph, where by the operation of this Schedule any right or liability becomes a right or liability of the Authority, the Authority and all other persons shall have the same rights, powers and remedies (and in particular the same rights, powers and remedies as to taking or resisting legal proceedings or the making or resisting of applications to any authority) for ascertaining, perfecting or enforcing the right or liability as they would have had if it had at all times been a right or liability of the Authority ; and any legal proceedings or applications pending at the relevant vesting date by or against the Crown or a government department, in so far as they relate to any property, right or liability transferred to the Authority by this Schedule or to any agreement or document which has effect in accordance with this Schedule, shall be continued by or against the Authority to the exclusion of the Crown or department.
- 8 (1) Nothing in section 12 of the Finance Act 1895 (which requires certain Acts to be stamped as conveyances on sale) including that section as it applies in Northern Ireland and nothing in section 52 of the Finance Act 1946 (which exempts from stamp duty certain documents connected with nationalisation schemes) shall apply to this Act or a determination in writing under paragraph 2 or 3 of this Schedule, and stamp duty shall not be payable on such a determination.
- (2) Section 9 of the Finance Act (Northern Ireland) 1936 (which relates to the furnishing to the Ministry of Finance of particulars relating to transfers of land) shall not apply in relation to any vesting of an estate or interest in land in the Authority which is effected by or under this Act.
- 9 For the purposes of the Capital Allowances Act 1968 (which confers relief from income tax in respect of certain capital expenditure) and Chapter II of Part XI of the Income and Corporation Taxes Act 1970 (which relates to companies' capital gains) the transfer by this Schedule of any assets shall be deemed to be a sale of those assets by the Secretary of State to the Authority in the open market at a price equal to so much of the initial debt as is determined by the Secretary of State to relate to those assets; but no initial allowance shall be made under the said Act of 1968 in respect of any of those assets.
- 10 (1) In this Schedule " the vesting date " means such day as the Secretary of State may by order appoint; and it is hereby declared that in this Schedule " property " includes land.
- (2) Different days may be appointed in pursuance of the preceding sub-paragraph in relation to different property, rights or liabilities.
- (3) Where a government department or a person acting on behalf of the Crown retains possession of any document relating to the title to any land transferred to the Authority by this Schedule, the department or person shall be assumed to have given to the Authority an acknowledgment in writing of the right of the Authority to the production of that document and to delivery of copies of it; and as respects land in England or Wales section 64 of the Law of Property Act 1925 and as respects land in Northern Ireland section 9 of the Conveyancing Act 1881 (which relate to the production and safe custody of documents) shall have effect accordingly and as if the acknowledgment did not contain any such expression of a contrary intention as is mentioned in the said section 64 or section 9.

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- (4) In the application of the preceding sub-paragraph to Scotland, for the words from "an acknowledgment" onwards there shall be substituted the words "an undertaking to produce those documents to the Authority (on a proper receipt and undertaking to re-deliver) for the purpose of enabling the Authority to maintain and defend its rights in respect of that part of the land which has vested in it".