

*Changes to legislation:* There are currently no known outstanding effects for the Water Act 1989, Cross Heading: Transfers by scheme. (See end of Document for details)

## SCHEDULES

### SCHEDULE 2

#### SCHEMES PROVIDING FOR THE INITIAL TRANSFERS

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

- C1** Sch. 2 applied (Isles of Scilly) (with modifications) (1.11.2019) by [The Isles of Scilly \(Application of Water Legislation\) Order 2019 \(S.I. 2019/1259\)](#), arts. 2(1), **3(1)(e)(4)-(8)**

##### *Transfers by scheme*

- 2 (1) Where a scheme under this Schedule for the division of a water authority's property, rights and liabilities comes into force on the transfer date, this paragraph shall have effect on that date so as, in accordance with the scheme's provisions and without further assurance—
- (a) to transfer to the Authority such of the property, rights and liabilities as are allocated to the Authority for the purposes of the division made by the scheme; and
  - (b) to transfer to the water authority's successor company the remainder of the property, rights and liabilities;
- and accordingly the said remainder shall be treated for the purposes of this Act as allocated to that company.
- (2) For the purpose of making a division of any property, rights or liabilities between a successor company and the Authority the provisions of a scheme under this Schedule may—
- (a) allocate to the Authority such property, rights and liabilities to which the water authority may become entitled or subject after the making of the scheme and before the transfer date as may be described in the scheme;
  - (b) create for the successor company or the Authority an interest in or right over property transferred in accordance with the scheme to the other;
  - (c) create new rights and liabilities as between the successor company and the Authority; and
  - (d) in connection with any provision made by virtue of paragraph (b) or (c) above, make incidental provision as to the interests, rights and liabilities of other persons with respect to the subject-matter of the division.
- (3) The property, rights and liabilities of a water authority that shall be capable of being transferred in accordance with a scheme under this Schedule shall include—
- (a) property, rights and liabilities that would not otherwise be capable of being transferred or assigned by the water authority;
  - (b) property situated anywhere in the United Kingdom or elsewhere;
  - (c) rights and liabilities under enactments, including—

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- (i) such rights and liabilities as may arise after the transfer date by virtue of enactments amended or repealed by this Act and, in pursuance of provision contained in Schedule 26 to this Act, may be the subject of an allocation made by a scheme under this Schedule; and
  - (ii) other rights and liabilities under enactments which are amended or repealed by this Act subject to a saving;
  - (d) rights and liabilities under the law of any part of the United Kingdom or of any country or territory outside the United Kingdom.
- (4) The rights and liabilities that may be created by virtue of paragraph (c) of sub-paragraph (2) above shall include rights and liabilities which, with effect from the transfer date, shall have effect as if contained in arrangements under section 126 of this Act; and the provision that may be made by virtue of that paragraph includes—
- (a) provision for treating any person who is entitled by virtue of a scheme under this Schedule to possession of a document as having given another person an acknowledgement in writing of the right of that other person to the production of the document and to delivery of copies thereof; and
  - (b) provision applying section 64 of the <sup>M1</sup>Law of Property Act 1925 (production and safe custody of documents) in relation to any case in relation to which provision falling within paragraph (a) above has effect.
- (5) For the avoidance of doubt, it is hereby declared that the transfers authorised by paragraph (a) of sub-paragraph (3) above include transfers which, by virtue of that paragraph, are to take effect as if there were no such contravention, liability or interference with any interest or right as there would be, in the case of a transfer or assignment otherwise than by virtue of this Schedule, by reason of any provision having effect (whether under any enactment or agreement or otherwise) in relation to the terms on which a water authority is entitled or subject to the property, right or liability in question.
- (6) Where apart from this sub-paragraph any person would have power, in consequence of anything done or likely to be done by or under this Act, to terminate or modify an interest or right which is vested in a water authority at the passing of this Act, then—
- (a) for the purposes of the transfer of the interest or right in accordance with a scheme under this Schedule, that power shall not be exercisable in relation to that interest or right at any time before its transfer in accordance with such a scheme; and
  - (b) without prejudice to the preceding provisions of this paragraph or to paragraph 3(2)(a) below, that power shall be exercisable in relation to the interest or right after its transfer only in so far as the scheme provides for it to be transferred subject to the power.

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**Marginal Citations**

**M1** 1925 c. 20.

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