

SCHEDULES

SCHEDULE 26

TRANSITIONAL PROVISIONS AND SAVINGS

PART II

WATER AND SEWERAGE SERVICES

Arrangements with statutory water companies

- 4 (1) Subject to sub-paragraph (2) below, where any arrangements for the purposes of section 12 of the 1973 Act (supply by statutory water companies on behalf of water authorities) are in force immediately before the transfer date, those arrangements shall cease to have effect on that date but their so ceasing to have effect shall not affect their operation on and after that date (subject to the transfer of rights and liabilities in accordance with a scheme under Schedule 2 to this Act) in relation to—
- (a) proceedings for, or any indemnity in respect of or of proceedings for, any breach of duty occurring before the transfer date (whether or not any right of action has arisen in respect of that breach before that day); and
 - (b) claims for, or the payment of any sums in respect of, a contribution payable under section 1 of the Rural Water Supplies and Sewerage Act 1944.
- (2) In so far as any such arrangements relate to matters for which provision could have been made by an agreement under section 12 of the 1945 Act (supply of water in bulk) those arrangements shall (in accordance with paragraph 5 below) continue to have effect on and after the transfer date as if they had been contained in such an agreement.

Agreements for water supply in bulk

- 5 (1) Any agreement made or having effect as if made under section 12 of the 1945 Act (supply of water in bulk) which is in force immediately before the transfer date shall continue in force on and after that date notwithstanding the repeal of that section but subject to the transfer of rights and liabilities under the agreement in accordance with a scheme under Schedule 2 to this Act.
- (2) In the case of any agreement which continues in force under sub-paragraph (1) above and to which a statutory water company is a party, the agreement shall so continue in force as if entered into by that company in pursuance of any power conferred on that company by virtue of section 97(1) of this Act.
- (3) Any order made under section 12 of the 1945 Act by a water authority, or jointly by two or more such authorities, which is in force immediately before the transfer date shall have effect on and after that date (subject to the transfer in accordance with a

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scheme under Schedule 2 to this Act of rights and liabilities of the authority under the order) as if it were an order made by the Director under section 39 of this Act.

- (4) Any order made by the Secretary of State under section 12 of the 1945 Act which is in force immediately before the transfer date shall have effect on and after that date (subject to any such transfer) as if it were an order made by the Director under the said section 39.

Water main requisitions

- 6 (1) Where—
- (a) any water authority have, at any time before the transfer date, been required for the purposes of any of the provisions of sections 36 or 37 of the 1945 Act or of section 29 of Schedule 3 to that Act (water main requisitions) to lay any main or do any other thing for bringing water to any place; and
 - (b) the requirement has not been complied with before the transfer date,
- then, notwithstanding any repeal made by this Act, the provisions of that Act shall have effect for the purpose of making the water undertaker for the area in which that place is situated liable for any contravention of that requirement occurring on or after the transfer date (including so much of any continuing contravention as occurs on or after that date), and for the purpose of preserving on and after that date the effect of any obligation to make payments, to pay interest or to comply with any undertaking.
- (2) Provisions which have effect for any purpose by virtue of sub-paragraph (1) above shall so have effect as if the water undertaker in question were the same person in law as the water authority and as if any reference in the 1945 Act to water rates or to charges payable under Part III of the 1973 Act included a reference to any charges imposed by virtue of this Act in respect of the supply of water by that undertaker.

Domestic connections

- 7 Any notice served on a water authority or statutory water company under section 40 of Schedule 3 to the 1945 Act which is effective immediately before the transfer date in relation to any premises shall have effect on and after that date, with the appropriate modifications—
- (a) as if it had been served under section 42 of this Act on the water undertaker in whose area those premises are situated; and
 - (b) as if any condition imposed by the water authority or statutory water company in respect of the performance of their duties under Part X of that Schedule had been imposed by that undertaker under section 43 of this Act.

Non-domestic supplies

- 8 (1) Any duty to which a water authority or statutory water company are subject immediately before the transfer date under section 27 of the 1945 Act (non-domestic supplies) shall have effect on and after the transfer date as if it had been imposed under section 46 of this Act on the water undertaker for the area in which the premises in relation to which that duty is owed are situated.
- (2) Where any matter has been referred to any Minister of the Crown or any arbitrator for the purposes of the said section 27 and that reference is outstanding on the transfer date, then, for the purposes of this paragraph, a determination on that reference may be made on or after that date notwithstanding the repeal of that section.

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- (3) Any determination under the said section 27 which is effective immediately before the transfer date and any determination made by virtue of sub-paragraph (2) above shall have effect on and after that date or, as the case may be, after it is made as a determination of the Director under section 46 of this Act.

Disconnections etc.

- 9 Any demand or notice which has in relation to any premises been served by or on a water authority or statutory water company for the purposes of section 38(3) of or section 79 of Schedule 3 to the 1945 Act (disconnections and discontinuance) and is effective immediately before the transfer date shall have effect on and after that date as if it had been served for the purposes of the corresponding provision of section 49 of this Act by or on the water undertaker for the area in which those premises are situated.

Separate service pipes

- 10 Any notice served in relation to any premises by a water authority or statutory water company under section 42 of Schedule 3 to the 1945 Act which is effective immediately before the transfer date in relation to any premises shall have effect on and after that date, with the appropriate modifications, as if it had been served for the purposes of section 50(3) of this Act by the water undertaker in whose area those premises are situated.

Constancy and pressure requirements

- 11 (1) Where immediately before the transfer date section 39 of Schedule 3 to the 1945 Act (constancy and pressure requirements)—
- (a) has effect with respect to water in a water main or other pipe of a water authority or statutory water company; and
 - (b) so has effect subject to any provision made by or under any enactment, that provision shall have effect, on and after that date, as if it were contained (in so far as it would qualify any duty imposed by section 51 of this Act) in an order made under subsection (4) of section 51 of this Act in relation to the water undertaker in which that main or other pipe is vested on that date.
- (2) So much of any local statutory provision, other than a provision applying or modifying the effect of the said section 39, as has the effect, immediately before the transfer date, that there are different requirements as to the pressure of water in a water main or other pipe of a water authority or statutory water company from those imposed by section 51 of this Act, shall have effect, on and after that date, as if it were contained (in so far as it would qualify the duty imposed by that section) in an order made under subsection (4) of that section in relation to the water undertaker in which that main or other pipe is vested on that date.
- (3) Any requirement imposed in relation to any premises under section 60(1) of Schedule 3 to the 1945 Act (power to require provision of cisterns in certain cases) and effective immediately before the transfer date shall have effect on and after that date as if it had been imposed by the water undertaker for the area in which the premises are situated under section 51(5) of this Act or, as the case may be, under section 43(1)(f) or 45(6)(b) of this Act.

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- (4) Where any work commenced by virtue of the said section 60(1) by a water authority or statutory water company in relation to any premises is not completed before the transfer date, the work may be completed on and after that date by the water undertaker for the area in which those premises are situated as if the requirements of subsection (6) of section 51 of this Act with respect to the service of a notice and the expiration of the period specified in that notice had been satisfied before that date.

Consents by water authorities

- 12 Any consent given before the transfer date for the purposes of section 65, 67 or 68 of Schedule 3 to the 1945 Act (consents to certain uses of water or to interference with waterworks etc.) shall have effect on and after that date as if given for the purposes of the corresponding provision of Chapter II of Part II of this Act or of section 167 of this Act and, if given by a water authority, as if given by that authority's successor company.

Sewerage functions under the Public Health Acts

- 13 (1) Where an appointment under Chapter I of Part II of this Act of the successor company of a water authority as the sewerage undertaker for any area comes into force on the transfer date, then, without prejudice to the transfer of any statutory rights or liabilities in accordance with a scheme under Schedule 2 to this Act or to the following provisions of this paragraph, the following enactments, that is to say—
- (a) the Public Health Act 1936;
 - (b) the Public Health (Drainage of Trade Premises) Act 1937; and
 - (c) Part V of the Public Health Act 1961,
- shall have effect on and after that date as if any declaration or application made, notice given or other thing done by or in relation to that authority for the purposes of, or in connection with, the carrying out of any of the functions under those enactments which are conferred on sewerage undertakers by virtue of this Act had been made, given or done by or in relation to the sewerage undertaker for the area which immediately before that date is the water authority's area for the purposes of section 14 of the 1973 Act.
- (2) The provisions of Schedule 8 to this Act which vest functions of the Secretary of State in the Director in relation to appeals, references and applications under—
- (a) the said Act of 1937;
 - (b) the said Part V; or
 - (c) section 43(5) or 45(4) of the Control of Pollution Act 1974,
- shall not, on and after the transfer date, affect the powers and duties of the Secretary of State in relation to any such appeal, reference or application which was made before that date; and any written permission given before the transfer date for the purposes of section 60(5) of the Public Health Act 1961 (extension of time) shall have effect in relation to any appeal made on or after that date as if given by the Director.
- (3) So much of any provision of the said Act of 1936 as, by virtue of section 338 of that Act (sewers and drains of collegiate and other corporate bodies and Government departments), has effect in accordance with that section shall continue so to have effect on and after the transfer date notwithstanding the amendments and repeals made by this Act, but shall so have effect subject to the power conferred by section 191(1) of this Act.

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Sewer requisitions

- 14 (1) Where immediately before the transfer date any water authority are under a duty by virtue of a requirement under section 16 of the 1973 Act (sewer requisitions) to provide a sewer, that duty shall continue on and after that date as if it—
- (a) were a duty under section 71 of this Act owed to the person who required the provision of the sewer or, as the case may be, to each of the persons who joined in doing so; and
 - (b) were so owed by the sewerage undertaker for the area which immediately before that date is the water authority's area for the purposes of section 14 of that Act.
- (2) Where—
- (a) any person has under section 16 of the 1973 Act at any time before the transfer date required a water authority to provide a sewer; but
 - (b) no duty has arisen under that section before that date in respect of that requirement,
- that requirement shall have effect on and after that date as a requirement under section 71 of this Act for the provision of a public sewer by the sewerage undertaker for the area which immediately before that date is the water authority's area for the purposes of section 14 of that Act.
- (3) Subject to sub-paragraph (4) below, where any rights or liabilities of a water authority in respect of any agreement or undertaking entered into before the transfer date for the purposes of section 16 of the 1973 Act, or in respect of any sums deposited with them before that date for those purposes, are transferred in accordance with a scheme under Schedule 2 to this Act to the authority's successor company, those rights and liabilities shall continue to have effect, on and after that date, as rights and liabilities of that company and, in the case of any such right which was subject to subsection (5) of that section (twelve year limit on payments), shall continue to be so subject notwithstanding the repeal of that section.
- (4) On and after the transfer date subsection (8) of section 72 of this Act shall apply, as it applies in relation to the sums mentioned in that subsection, in relation to sums deposited under subsection (6) of section 16 of the 1973 Act.
- (5) Notwithstanding the repeal by this Act of section 16 of the 1973 Act, subsection (10) of that section (determination of certain matters by referee) shall continue to have effect on and after the transfer date for the purposes of anything saved by sub-paragraph (1) or (3) above.

Arrangements for carrying out sewerage functions

- 15 (1) This paragraph applies to any arrangements between a water authority and a relevant authority which have been made under section 15 of the 1973 Act (arrangements for carrying out sewerage functions) and are in force immediately before the transfer date.
- (2) Subject to the following provisions of this paragraph, the arrangements shall continue in force on and after the transfer date, with the necessary modifications and any alterations or variations made before that date under paragraph 3 or 5 of Schedule 4A to the 1973 Act, as if—
- (a) the relevant authority had entered into them for the purposes of section 73 of this Act with the sewerage undertaker for the relevant area, that is to say,

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the area which immediately before that date is the water authority's area for the purposes of section 14 of that Act; and

- (b) any reference in the arrangements to any enactment which is repealed by this Act and to which any provision made by this Act corresponds were a reference to the corresponding provision of this Act.
- (3) Subject to sub-paragraph (5) below, on and after the transfer date the arrangements shall be varied only by agreement between the sewerage undertaker for the relevant area and the relevant authority and shall be brought to an end only by such agreement or under sub-paragraph (4) below.
 - (4) Subject to sub-paragraph (6) below, the arrangements may be brought to an end by the sewerage undertaker for the relevant area or the relevant authority giving reasonable notice to the other.
 - (5) Any reasonable notice with respect to the arrangements which has been given before the transfer date under paragraph 5(1)(b) of Schedule 4A to the 1973 Act (termination of arrangements by relevant authority) shall, if it expires after the transfer date, take effect when it expires as if it had been reasonable notice given under sub-paragraph (4) above to the sewerage undertaker for the relevant area.
 - (6) The sewerage undertaker for the relevant area shall not give any notice under sub-paragraph (4) above which expires before 1st April 1992.
 - (7) Section 101(2) of the Local Government Act 1972 (delegation by committee or sub-committee) shall apply for the purposes of the arrangements only if and to the extent that the sewerage undertaker for the relevant area does not otherwise direct.
 - (8) In this paragraph "relevant authority" has the same meaning as in section 73 of this Act.

Water charges etc.

- 16 (1) Subject to the following provisions of this paragraph and to any transfers having effect in accordance with a scheme under Schedule 2 to this Act, where any scheme made under section 31 of the 1973 Act (charges schemes) by a water authority or statutory water company has effect immediately before the transfer date or, having been made before that date, is due to come into force after that date, that scheme shall have effect on and after the transfer date or, as the case may be, the date on which it would have come into force, in relation to every locality to which it applies—
 - (a) in so far as it relates to services which are provided on or after the transfer date by a water undertaker in the course of carrying out its functions, as if it were a scheme made under section 76 of this Act by the water undertaker for the area in which that locality is situated; and
 - (b) in so far as it relates to services which are provided on and after that date by a sewerage undertaker in the course of carrying out its functions or to any other matter in relation to which a sewerage undertaker is entitled to fix charges under this Act, as if it were a scheme made under section 76 of this Act by the sewerage undertaker for that area.
- (2) Subject as aforesaid, where by virtue of this Act the Authority has any power to fix and recover charges in respect of the carrying out of any of its functions, any charges which —

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- (a) have been fixed by a water authority in relation to any locality under any power conferred by an enactment repealed by this Act; and
 - (b) would apply immediately before the transfer date to the carrying out by the water authority of a corresponding function,shall be recoverable by the Authority in respect of the carrying out of its functions on and after that date as if fixed in relation to that locality by the Authority in exercise of the power conferred by virtue of this Act.
- (3) So much of any such scheme as is mentioned in sub-paragraph (1) above as has effect immediately before the transfer date and relates to charges in respect of anything which does not fall to be done on and after that date in the course of the carrying out of the functions of the Authority or any water undertaker or sewerage undertaker shall have effect on and after that date, in relation to the doing of that thing by the successor company of the water authority which made the scheme, as if it were contained in an agreement for the doing of that thing between that company and the person who would have been liable to the charge under the scheme.
- (4) The repeal by this Act of section 30 of the 1973 Act (charges) and the preceding provisions of this paragraph shall not affect the liability of any person for any charge which—
 - (a) has been fixed before the transfer date by virtue of subsection (1)(b)(ii) of that section (environmental services charge); and
 - (b) is due to a water authority immediately before that date or would have become due to such an authority on or after that date in respect of a period ending no later than with the end of the financial year current on that date;and such a charge shall, subject to the provisions of the scheme, be payable on or after that date to the person to whom the right to receive it is transferred in accordance with a scheme under Schedule 2 to this Act.
- (5) Notwithstanding its repeal by this Act, section 4 of the Public Utility Transfers and Water Charges Act 1988 (approval of metering trials schemes) shall apply, with the necessary modifications, to so much of any scheme made by a water undertaker under section 76 of this Act as amends or revokes any scheme which—
 - (a) was made in accordance with the said section 4 before the transfer date and is either in force immediately before that date or due to come into force after that date; and
 - (b) continues in force, in accordance with this paragraph, as a scheme under the said section 76.
- (6) Any regulations made under section 5 of the Public Utility Transfers and Water Charges Act 1988 (regulations made in connection with metering) and in force immediately before the transfer date shall have effect on and after that date as if made under the power conferred by section 78 of this Act, as if that power included power to make or revoke any such provision as may be made by virtue of section 5(3)(e) of that Act and as if for any reference in those regulations to a water authority or statutory water company there were substituted a reference to a water undertaker or sewerage undertaker.
- (7) Where any notice served, consent given, reference to arbitration made or other thing done under any provision of Schedule 1 to the Public Utility Transfers and Water Charges Act 1988 (provisions with respect to meters) is in force or effective immediately before the transfer date, that notice, consent, reference or other thing shall have effect on and after that date—

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- (a) as if it had been served, given, made or done under the corresponding provision of Schedule 10 to this Act; and
 - (b) in so far as it was served, given, made or done by or in relation to a water authority, as if it had been served, given, made or done by or in relation to that authority's successor company.
- (8) The repeal by this Act of section 123 of the Public Health Act 1936 (power of local authorities to give guarantees to water companies) shall not affect any liability arising under any undertaking given under that section before the transfer date to a water authority or statutory water company; but any such undertaking given before that date to a water authority shall have effect on and after that date as if given to the water undertaker for the area to which, or to any part of which, the undertaking relates.
- (9) The repeal by this Act of subsection (4) of section 38 of the 1945 Act (liability for charges etc.) shall not affect the right under that subsection of the occupier of any premises to deduct from his rent at any time on or after the transfer date any sum paid by him (whether or not before that date) in respect of any charge arising under Part III of the 1973 Act in respect of services performed, facilities provided or rights made available before that date.
- (10) Where, in the case of any premises—
- (a) the person who is liable, immediately before the transfer date, to pay charges in respect of a supply of water to those premises is the owner of those premises, rather than the occupier; and
 - (b) that person is so liable (under section 54 of Schedule 3 to the 1945 Act or any other local statutory provision) otherwise than by virtue of an agreement,
- then, on and after that date, the person who is the owner from time to time of those premises shall continue, until the person who is in fact the occupier of the premises immediately before that date ceases to be the occupier of those premises, to be the person liable and, accordingly, shall be treated for the purposes of section 77 of this Act as if he were the occupier of the premises.

Joint water boards and joint water committees

- 17 Subject to any transfer of property, rights or liabilities in accordance with a scheme under Schedule 2 to this Act, nothing in this Act shall affect—
- (a) the existence or constitution of any joint water board or joint water committee constituted by virtue of an order made under section 9 of the 1945 Act before the transfer date;
 - (b) any rights or liabilities arising by virtue of any agreement made in pursuance of such an order; or
 - (c) the application in relation to any such board or committee of any provision of Schedule 3 to the 1945 Act or the operation of Part V of that Act in relation to any such provision.

The Rural Water Supplies and Sewerage Act 1944 (c. 26)

- 18 Any expenditure incurred before the transfer date by a water authority, being expenditure in respect of which a contribution may be made under section 1 of the Rural Water Supplies and Sewerage Act 1944, shall for the purposes of that Act be treated on and after that date as if it had been incurred by the water authority's successor company.

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Byelaws under section 17 of the Water Act 1945

- 19 (1) Subject to sub-paragraph (2) below, any byelaws made or having effect as if made under section 17 of the 1945 Act and in force immediately before the transfer date and section 19 of that Act so far as it relates to any such byelaws shall, notwithstanding any repeal made by this Act, have effect on and after that date as they had effect before that date but as if—
- (a) for any reference (however framed) in those byelaws or in section 19(2), (4) or (5) of that Act to the undertakers who made the byelaws there were substituted, in relation to each locality to which those byelaws relate, a reference to the water undertaker for the area in which that locality is situated; and
 - (b) every duty imposed on a water undertaker by virtue of paragraph (a) above were enforceable under section 20 of this Act by the Secretary of State;
- and, notwithstanding any repeal by this Act, Part V of that Act shall accordingly have effect in relation to any provisions having effect under this paragraph as it had effect in relation to those provisions immediately before the transfer date.
- (2) The power of the Secretary of State under section 62 of this Act to make regulations with respect to the matters specified in that section shall include power, by regulations under that section—
- (a) to modify the operation of sub-paragraph (1) above in relation to any byelaws made under section 17 of the 1945 Act and having effect by virtue of that sub-paragraph; and
 - (b) to revoke or amend any such byelaws.
- (3) So long as any byelaws under section 17 of the 1945 Act have effect by virtue of this paragraph, the references in the provisions of sections 43(1)(g), 45(6)(c) and 46(3)(b) of this Act to such regulations under section 62 of this Act as are prescribed for the purposes of those provisions shall include references to any byelaws which have effect by virtue of this paragraph.

The Building Act 1984 (c. 55)

- 20 (1) Any directions given before the transfer date by a water authority under subsection (3) of section 18 of the Building Act 1984 which are effective immediately before that date in relation to any drain or sewer shall have effect on and after that date as if they were notifications given under that subsection by the sewerage undertaker for the area which immediately before that date is the water authority's area for the purposes of section 14 of the 1973 Act.
- (2) Notwithstanding its repeal by this Act, section 69 of the Building Act 1984 (notices requiring provision of water supply to occupied house), except subsection (7), shall continue to have effect on and after the transfer date for the purposes of any notice served under that section before that date; but, in relation to any such notice, the water undertaker for the area in which the house in question is situated shall, on and after that date, stand in the place of the statutory water undertakers on whom any obligation or power is imposed or conferred by virtue of the notice.