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THIRD SCHEDULE

Rules 12 and 13

FURTHER PROVISIONS AFFECTING TRANSFERS MADE BY VIRTUE OF, OR IN ACCORDANCE WITH, THESE RULES

- 1. Every asset which is transferred by virtue of, or in accordance with, these Rules shall vest free of any trust existing immediately before the appointed day.
- **2.** Every transferor of any asset which is transferred by virtue of, or in accordance with, these Rules shall, on the request of the transferee, execute and do all such lawful assurances and things as may be necessary for perfecting the title thereto.
- **3.**—(1) Without prejudice to the generality of the provisions of Rules 12 and 13, every transferor, and every person who is responsible for keeping any register or book in which there is registered or inscribed any asset transferred by virtue of, or in accordance with, these Rules, shall do all such things as are necessary, or as the transferee may direct, to be done for the purpose of securing the due registration or inscription of the title of the transferee to that asset and the delivery to the transferee of any document constituting evidence of the said registration or inscription.
- (2) The duty imposed on any transferor or other person by the preceding sub-paragraph of this paragraph in relation to any asset shall include a duty to do all such things as are within his power to secure that any dividend or interest payable in respect of that asset on or after the appointed day will be paid to the transferee.
- (3) A certificate that any specified asset is an asset which has been transferred to the transferee by virtue of, or in accordance with, these Rules shall, if it is signed by the Minister or on behalf of the Minister by any person authorised for that purpose by him, be treated by any person responsible or concerned as aforesaid as evidence that that asset has been so transferred.
- **4.** Where any estate or interest in land is transferred by virtue of, or in accordance with, these Rules, that transfer shall not give rise to any forfeiture or determination of that estate or interest.
- **5.**—(1) Where, by virtue of, or in accordance with, these Rules, any estate or interest in a part only of any land held under a lease or under an agreement for tenancy is transferred, and the lease or agreement does not reserve separate rents for the several parts of the land so held, then, as from the appointed day, the rent shall be apportioned between the several parts thereof according to their value, and the covenants, agreements and conditions contained in the lease or agreement shall be severed.
- (2) As from the severance on the appointed day, no liability arising on or after that day for any apportioned rent or any breach of any covenant, agreement or condition contained in the lease or agreement in respect of any part of the land transferred to the transferee shall attach to the transferor or to the successors in title of the transferor, and no liability so arising for any such rent or breach in respect of any part of the land not so transferred shall attach to the transferee or to the successors in title of the transferee.
- **6.** Where, on or after the appointed day, any person retains possession of any document relating to the title to, or to the control or management of, any asset transferred by virtue of, or in accordance with, these Rules, that person shall be deemed to have given to the transferee an acknowledgment in writing of the right of the transferee to production of that document and to delivery of copies thereof, and Section 64 of the Law of Property Act, 1925 (which relates to the production and safe custody of documents) shall apply as if the acknowledgment had been given without any such expression of contrary intention as is referred to in subsection (13) of that section.
- 7. Every agreement, whether in writing or not, and every document not being an agreement, under which, immediately before the appointed day, any asset transferred by virtue of, or in accordance with, these Rules is held shall, unless any property not so transferred is held thereunder, as from

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the appointed day, have effect as if a reference to the transferee were substituted for any reference therein (however worded and whether express or implied) to the transferor.

- **8.** Any proceedings affecting any asset transferred by virtue of, or in accordance with, these Rules which, on the appointed day, are pending shall not be prejudicially affected by reason of that transfer, but any such proceedings may be amended in such manner as may appear necessary or proper for enabling them to be prosecuted or enforced by or against the transferee or any other person or persons concerned, as the case may be.
- **9.** References in this Schedule to an asset shall include references to the whole or part of any fund transferred by these Rules, and references to an asset transferred shall, where appropriate, include references to an asset to be transferred.
- **10.**—(1) The following provisions of this paragraph shall have effect for the purpose of the application of Rules 12 and 13 and this Schedule to Scotland.
- (2) "Mortgage" means a heritable security and "mortgagee" means the creditor in a heritable security; "trust" has the meaning assigned to it by the Trusts (Scotland) Act, 1921; and a "heritable security" has the like meaning as in the Conveyancing (Scotland) Act, 1924, except that it includes a security constituted by *ex facie* absolute disposition but does not include a real burden *ad factum praestandum*.
 - (3) For paragraph 2 of this Schedule there shall be substituted the following paragraph:—
- "2. Every transferor of any asset which is transferred by virtue of these Rules shall on the request of the transferee execute all deeds and documents necessary for the completion of the title of the transferee to that asset."
- (4) Paragraph 6 of this Schedule shall have effect as though the words occurring after the words "of copies thereof" were omitted.