

## SCHEDULES

### SCHEDULE 4

Article 5

#### SUPPLEMENTARY AND TRANSITIONAL PROVISIONS IN CONNECTION WITH TRANSFER OF FUNCTIONS TO WATERWAYS IRELAND

1.—(1) In this Schedule—

“a relevant transfer” means a transfer of functions under paragraph (1), (2), (3) or (4) of Article 5;

“the transfer date”, in relation to a relevant transfer, means the day on which the transfer takes effect.

(2) In the construction and for the purposes of any enactment or document passed, made or issued before the transfer date, any reference to, or which is to be construed as a reference to, the Department of Culture, Arts and Leisure (in this Schedule referred to as “the Department”) shall, so far as may be necessary for the purpose of a relevant transfer, be construed as a reference to the Body.

(3) A relevant transfer shall not affect the validity of any enactment or document made or issued or any other act done by, or in relation to, the Department before the transfer date; and any such enactment, document or act shall, if in force immediately before that date, continue in force to the same extent and subject to the same provisions as if it had been duly made, issued or done by, or in relation to, the Body.

(4) Anything (including any legal proceedings) in the process of being done by or in relation to the Department immediately before the transfer date may, so far as it relates to any function transferred to the Body, be continued by or in relation to the Body.

(5) All property, rights and liabilities to which the Department is entitled or subject immediately before the transfer date in connection with any functions transferred to the Body shall on that date be transferred to, and by virtue of this Order vest in, the Body.

(6) Sub-paragraph (5) does not apply in relation to rights and liabilities which are dealt with in paragraph 2 (transfer of staff).

(7) A certificate signed by the Minister of Culture, Arts and Leisure that any property, right or liability has vested in the Body under sub-paragraph (5) or paragraph 2 shall be conclusive evidence of that fact for all purposes.

2.—(1) Any person who—

(a) immediately before the transfer date is employed in the Northern Ireland Civil Service;

(b) is so employed for the purposes of any functions which are transferred to the Body on that date and either—

(i) is so employed wholly or mainly for those purposes; or

(ii) consents to being designated under this sub-paragraph, and

(c) is designated by the Department for the purposes of that transfer,

shall on such date as the Department may designate (“the designated date”) be transferred to the employment of the Body.

*Status: This is the original version (as it was originally made).*

(2) A designation under sub-paragraph (1) (whether of a person or a date) may be made at any time before, or within a period of two years beginning on, the transfer date; but a designated date must fall within that period of two years.

(3) Before making a designation under sub-paragraph (1) in relation to any person, the Department shall consult—

- (a) that person; and
- (b) any recognised trade union of which he is a member.

(4) Sub-paragraphs (2) to (5) of paragraph 3 of Schedule 5 shall apply in relation to a person transferred under sub-paragraph (1) as they apply in relation to a person to whom that paragraph applies, but as if—

- (a) for references to the transferor there were substituted references to a Northern Ireland department;
- (b) for references to the Body within the meaning of that Schedule there were substituted references to the Body within the meaning of this Schedule;
- (c) that person were employed under a contract of employment with a Northern Ireland department; and
- (d) any reference to the appointed day were a reference to the designated date.

(5) Superannuation benefits granted to persons who are transferred under sub-paragraph (1) and the terms and conditions relating to those benefits shall not be less favourable to those persons than those to which they were entitled immediately before the designated date.

(6) If any dispute arises as to whether there has been a contravention of sub-paragraph (5), the matter shall be determined by the Department of Finance and Personnel.

**3.** In its application to the Body by virtue of a relevant transfer, section 5 of the Lough Neagh and Lower Bann Drainage and Navigation Act (Northern Ireland) 1955 shall have effect as if for subsections (2) and (3) there were substituted—

“(2) Where Waterways Ireland (“the Body”) desires to acquire, otherwise than by agreement, any land or any such right or interest as is referred to in subsection (1)(c), it may apply to the Department for an order (“a vesting order”) vesting such land in the Body; and the Department shall have power to make such an order.

(3) Schedule 6 to the Local Government Act (Northern Ireland) 1972(1) shall apply for the purposes of the acquisition of land, rights or interests by means of a vesting order under this section as it applies for the purposes of the acquisition of land by means of a vesting order under that Act, subject to the following modifications—

- (a) for any reference to the council there shall be substituted a reference to the Body;
- (b) for any reference to the Ministry concerned there shall be substituted a reference to the Department;
- (c) for any reference to that Act there shall be substituted a reference to this Order;
- (d) in paragraph 6(2) for the words from “the fund” onwards there shall be substituted the words “funds of the Body (in this Schedule referred to as “the compensation fund”); and shall be discharged by payments made by that Body”; and
- (e) in paragraph 12(2) for “the clerk of the council” there shall be substituted “the chief executive of the Body”.”

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(1) 1972 c. 9 (N.I).

4.—(1) In their application, by virtue of a relevant transfer, to the Body or to works carried out by the Body, the provisions of the Drainage (Northern Ireland) Order 1973<sup>(2)</sup> mentioned in Article 45 of the Water (Northern Ireland) Order 1999 shall have effect with such modifications (additional to those set out in Part II of Schedule 5 to that Order) as may be prescribed by regulations made by the Department.

(2) Regulations under sub-paragraph (1) shall—

- (a) be a statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979; and
- (b) be subject to negative resolution, within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954.

(3) In its application to the Body by virtue of a relevant transfer, Article 43 of the Water (Northern Ireland) Order 1999 shall have effect as if—

- (a) paragraph (1) were omitted; and
- (b) in paragraphs (2) and (3) the words “to which this Article applies” were omitted.

(4) In its application to the Body by virtue of a relevant transfer, Article 48 of the Water (Northern Ireland) Order 1999 shall have effect as if for paragraphs (2) and (3) there were substituted—

“(2) Where Waterways Ireland (“the Body”) desires to acquire, otherwise than by agreement, any land for any purpose referred to in paragraph (1), it may apply to the Department for an order (“a vesting order”) vesting such land in the Body; and the Department shall have power to make such an order.

(3) Schedule 6 to the Local Government Act (Northern Ireland) 1972 shall apply for the purposes of the acquisition of land by means of a vesting order under this Article as it applies for the purposes of the acquisition of land by means of a vesting order under that Act, subject to the following modifications—

- (a) for any reference to the council there shall be substituted a reference to the Body;
- (b) for any reference to the Ministry concerned there shall be substituted a reference to the Department;
- (c) for any reference to that Act there shall be substituted a reference to this Order;
- (d) in paragraph 6(2) for the words from “the fund” onwards there shall be substituted the words “funds of the Body (in this Schedule referred to as “the compensation fund”), and shall be discharged by payments made by that Body”; and
- (e) in paragraph 12(2) for “the clerk of the council” there shall be substituted “the chief executive of the Body”.

(5) The Body shall not, by virtue of a relevant transfer, make an order under Article 49 of the Water (Northern Ireland) Order 1999 except with the approval of NSMC.

5. In Part I of Schedule 1 to the Statutory Rules (Northern Ireland) Order 1979 after the entry relating to the Foyle, Carlingford and Irish Lights Commission (inserted by paragraph 6 of Schedule 5) there shall be inserted—

“Waterways Ireland”.

6.—(1) The Department may by order make such other supplementary or transitional provisions for the purposes of a relevant transfer as it thinks fit.

(2) An order under sub-paragraph (1) shall—

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(2) S.I.1973/69 (N.I. 1).

**Status:** *This is the original version (as it was originally made).*

- (a) be a statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979;  
and
- (b) be subject to negative resolution, within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954.