

*Status: Point in time view as at 01/01/2006.*

*Changes to legislation: There are currently no known outstanding effects for the New Towns Act (Northern Ireland) 1965, SCHEDULE 6. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 6

Sections 34(1), (2), 35(7).

#### PROVISIONS CONSEQUENTIAL ON THE TRANSFER OF FUNCTIONS

##### *Definitions*

1 In this Schedule—

“the date of transfer” means, in relation to any functions, the date on which those functions cease to be exercisable, or become exercisable or are transferred as respectively described in paragraphs ( a ), ( b ) and ( c ) of section 34(1);

“the order” means the municipal functions order or, as the case may be, the order under section 33, by virtue of which the functions cease to be exercisable by the transferor and become exercisable by the transferee;

“the transfer” means, in relation to any functions, the distribution of those functions as described in paragraph ( a ), ( b ) or ( c ) of section 34(1);

“the transferor” means the council [<sup>F1</sup>, the body corporate] or new town commission whose functions are transferred by virtue of the order;

“the transferee” means the new town commission or council or other person to whom functions are transferred by virtue of the order.

**F1** SRO (NI) 1969/61

##### *Construction of transferred provisions*

2 In the construction and for the purposes of any transferred provision passed before the date of transfer, any reference to, or which is to be construed as a reference to, the transferor, shall, so far only as may be necessary for the purpose or in consequence of the transfer, be construed as a reference to the transferee.

##### *Transfer of property*

3 (1) All property, whether real or personal (including choses-in-action), which immediately before the date of transfer was vested in or belonged to or was held in trust for the transferor and all rights, powers and privileges relating to or connected with any such property shall on the date of transfer, without any conveyance or assignment, become and be vested in or the property of or held in trust for (as the case may require) the transferee for all the estate, term or interest for which the same immediately before the date of transfer was vested in or belonged to or was held in trust for the transferor, but subject to all trusts and equities affecting the same and then subsisting and capable of being performed.

(2) All property transferred by this paragraph which, immediately before the date of transfer, was either standing in the books of any corporation or company or was entered in any register kept in pursuance of any transferred provision in the name

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of the transferor, shall, upon the request of the transferee made at any time after the date of transfer, be transferred in such books by such corporation or company or, as the case may be, by the person having charge of such register, into the name of the transferee.

- (3) After the date of transfer, every chose-in-action transferred by this paragraph from the transferor to the transferee may be sued upon, recovered or enforced by the transferee in their own name and it shall not be necessary for the transferee to give notice to the person bound by such chose-in-action of the transfer effected by this paragraph.

#### *Transfer of liabilities*

- 4 (1) Every debt and other liability (including stock and mortgage debts and also including unliquidated liabilities arising from torts or breaches of contract) which immediately before the date of transfer was owing and unpaid or had been or was deemed to have been incurred and was undischarged by the transferor shall, on the date of transfer, become and be the debt or liability of the transferee and shall be paid or discharged by and may be recovered from or enforced against the transferee accordingly.
- (2) The dissolution of the transferor shall not invalidate or affect any paying order that was issued by the transferor and had not been presented for payment before the date of transfer or any authority given by the transferor for the payment of the amount of such paying order, and the transferee shall make arrangements for the payment of the amount of every such paying order upon due presentation within a reasonable time after the date of transfer.

#### *Preservation of continuing contracts*

- 5 Every bond, guarantee, or other security of a continuing character made or given or deemed to have been made or given by the transferor to another person or by any person to the transferor and in force immediately before the date of transfer and every contract or agreement in writing made or deemed to have been made between the transferor and another person and not fully executed and completed before the date of transfer shall, notwithstanding the dissolution of the transferor, continue in force after the date of transfer but shall be construed and have effect as if the name of the transferee were substituted therein for the name of the transferor, and such security, contract or agreement shall be enforceable by or against the transferee accordingly.

#### *Continuance of byelaws, rules and regulations*

- 6 Every byelaw, rule and regulation lawfully made or deemed to have been made by the transferor and in force immediately before the date of transfer shall, after the date of transfer and so far as it is not inconsistent with this Act or any order or regulations made thereunder, continue in force and have effect as a byelaw, rule or regulation (as the case may be) made on the date of transfer by the transferee for the residue then unexpired of the period and in respect of the area for and in respect of which the same was actually made or was deemed to have been made by the transferor, and accordingly every such byelaw, rule and regulation may be continued, varied or revoked, and penalties and forfeitures arising thereunder before or after the date of transfer may be recovered and enforced, by the transferee in the

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like manner and as fully as the same could have been continued, varied, revoked, recovered or enforced by the transferor if the order had not been made.

*Continuance of resolutions etc.*

- 7 Every resolution passed or deemed to have been passed, order made or deemed to have been made or notice served or deemed to have been served by the transferor before the date of transfer, the operation, effect or term of which had not ceased or expired before that date, shall, after the date of transfer and so far as it is not inconsistent with this Act or any order made thereunder, continue in force and have effect as if it were a resolution passed, order made, or notice served by the transferee on the date on which the same was actually or was deemed to have been passed, made or served, as the case may be, by the transferor and as if the functions of the transferor were, on the said date, performable by the transferee.

*Continuance of pending legal proceedings*

- 8 In every action, suit, prosecution or other proceeding which stood pending immediately before the date of transfer in any court or tribunal and to which the transferor was a party, the transferee shall on the date of transfer become and be a party in the place of the transferor and such proceeding shall be continued between the transferee and the other parties thereto accordingly, and no such proceeding shall abate or be discontinued or prejudicially affected by reason of the dissolution of the transferor.

*Collection of rates*

- 9 (1) All rates which immediately before the date of transfer were due and payable to the transferor shall on and after that date be due and payable to and may be collected and recovered by or on behalf of the transferee in like manner as they could have been collected or recovered by or on behalf of the transferor if the transfer had not taken place.
- (2) All rates which immediately before the date of transfer were accruing due to the transferor shall on and after that date accrue and be deemed always to have accrued due to the transferee, and when any such rate becomes due and payable it shall be due and payable to, and may be collected and recovered by or on behalf of the transferee in like manner as it could have been collected or recovered by or on behalf of the transferor if the transfer had not taken place.
- (3) Every person who was employed by the transferor as rate collector immediately before the date of transfer shall, on and after that date, unless or until the transferee otherwise directs, collect and recover on behalf of the transferee all rates which immediately before the date of transfer were due and payable to, or were accruing due to the transferor and had been given in charge to him for collection.

*Admissibility in evidence of books*

- 10 (1) All books and other documents directed or authorised by or under any transferred provision to be kept by the transferor and which, immediately before the date of transfer, would be receivable in evidence shall, notwithstanding the dissolution of the transferor, be admitted in evidence after the date of transfer as fully as if the order had not been made.

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- (2) Whenever an extract from or certificate of the contents of any book or other document directed or authorised by or under any transferred provision to be kept by the transferor would, if verified in a particular manner by a particular officer of the transferor, have been admissible immediately before the date of transfer as evidence of such contents, an extract from or certificate of the contents of such book or document shall, if verified in such particular manner by the officer of the transferee corresponding to such particular officer, be admitted, after the date of transfer, as evidence of such contents to the same extent as such first-mentioned extract or certificate would have been so admitted if the order had not been made.

*Audit of accounts*

- 11 (1) The accounts of all receipts and payments of the transferor and of committees thereof and of the respective officers of the transferor and such committees up to the date of transfer shall, as soon as conveniently may be after that date, be audited, and disallowances, surcharges, charges and penalties in relation to such accounts, receipts and payments shall be made, recovered and enforced in like manner as nearly as may be as if the order had not been made.
- (2) Every officer of the transferor or of any committee thereof whose duty it is to make up any accounts of or to account for any portion of the receipts or payments of the transferor and also every member of the transferor or of any such committee shall, until the audit of the accounts of such receipts and payments up to the date of transfer is complete, be deemed for the purposes of such audit to continue in office and be bound to perform the same duties and render the same account and be subject to the same liabilities as if the order had not been made.

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