
Status: Point in time view as at 01/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Industrial Development Act (Northern Ireland) 2002, SCHEDULE 2. (See end of Document for details)

SCHEDULES

SCHEDULE 2

Section 3

TRANSFER OF PROPERTY, RIGHTS, LIABILITIES AND STAFF, ETC.

Transfer of property, rights and liabilities of LEDU

1.—(1) All property, rights and liabilities to which LEDU is entitled or subject immediately before the appointed day shall on that day be transferred to, and by virtue of this sub-paragraph vest in, INI.

(2) Sub-paragraph (1)—

- (a) has effect in relation to property, rights or liabilities to which it applies in spite of any provision (of whatever nature) which would prevent or restrict the transfer of the property, rights or liabilities otherwise than by that sub-paragraph; but
- (b) does not apply to rights and liabilities under a contract of employment (which are dealt with by paragraph 3).

(3) In the construction and for the purposes of any statutory provision or other document passed or made before the appointed day, any reference to, or which is to be construed as a reference to, LEDU shall, so far as may be necessary for the purposes of this Act, be construed as a reference to INI.

(4) Nothing in this Act affects the validity of anything done by, or in relation to, LEDU before the appointed day.

(5) Anything which before the appointed day was done by or in relation to LEDU shall, if in effect immediately before that day, continue to have effect to the same extent and subject to the same provisions as if it had been done by, or in relation to, INI.

(6) Anything (including any legal proceedings) in the process of being done by or in relation to LEDU immediately before the appointed day may be continued by or in relation to INI.

(7) A certificate issued by the Department that any property, rights or liabilities have been transferred to INI by sub-paragraph (1) shall be conclusive evidence of the transfer.

Status: Point in time view as at 01/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Industrial Development Act (Northern Ireland) 2002, SCHEDULE 2. (See end of Document for details)

Accounts and reports for LEDU: transitional arrangements

- 2.—(1) INI shall make arrangements for—
- (a) a statement of accounts to be prepared in relation to LEDU; and
 - (b) a report to be prepared on the activities of LEDU,
- for the period from 1st April 2001 to the appointed day.
- (2) The statement of accounts and report shall—
- (a) be in such form; and
 - (b) contain such information,
- as the Department may, with the approval of the Department of Finance and Personnel, direct.
- (3) INI shall, within such period after the appointed day as the Department may direct—
- (a) send a copy of the statement of accounts to—
 - (i) the Department; and
 - (ii) the Comptroller and Auditor General; and
 - (b) send a copy of the report to the Department.
- (4) The Comptroller and Auditor General shall—
- (a) examine, certify and report on the statement of accounts; and
 - (b) send a copy of his report to the Department.
- (5) The Department shall lay before the Assembly—
- (a) a copy of the report received under sub-paragraph (3)(b);
 - (b) a copy of the statement of accounts; and
 - (c) a copy of the Comptroller and Auditor General's report on the statement of accounts.

Transfer of staff of LEDU

- 3.—(1) Subject to sub-paragraphs (2) and (3), this paragraph applies to a person who immediately before the appointed day is employed by LEDU.
- (2) This paragraph does not apply to a person if his contract of employment terminates on the day immediately before the appointed day.
- (3) Where a person—
- (a) has, prior to the appointed day, entered into a contract of employment with LEDU which is to come into effect on or after that day; and
 - (b) would, if the contract had come into operation before that day, have been a person to whom this paragraph applies,

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

Changes to legislation: There are currently no known outstanding effects for the Industrial Development Act (Northern Ireland) 2002, SCHEDULE 2. (See end of Document for details)

he shall be treated as if he were a person to whom this paragraph applies.

(4) A contract of employment between a person to whom this paragraph applies and LEDU shall have effect from the appointed day as if originally entered into between that person and INI.

(5) Without prejudice to sub-paragraph (4)—

- (a) all the rights, powers, duties and liabilities of LEDU under or in connection with the contract of employment are by virtue of this paragraph transferred to INI on the appointed day; and
- (b) anything done before that day by or in relation to LEDU in respect of that contract or the employee is to be treated from that day as having been done by or in relation to INI.

(6) If a person informs LEDU that he objects to the transfer of his contract of employment under this paragraph—

- (a) sub-paragraphs (4) and (5) do not apply in relation to him; and
- (b) his contract of employment with LEDU is terminated immediately before the appointed day.

(7) A person is not to be treated for the purposes of the Employment Rights (Northern Ireland) Order 1996 (NI 16) as having been dismissed by LEDU by reason of—

- (a) his transfer under this paragraph; or
- (b) the termination of his contract of employment under sub-paragraph (6).

(8) This paragraph does not prejudice any right of an employee to terminate his contract of employment if a substantial change is made to his detriment in his working conditions; but no such right arises by reason only that, by virtue of this paragraph, the identity of his employer changes unless the employee shows that in all the circumstances the change is a significant change and is to his detriment.

Transfer of certain property, rights and liabilities of the Tourist Board

4.—(1) All property, rights and liabilities—

- (a) to which the Tourist Board is entitled or subject immediately before the appointed day; and
- (b) which were held, acquired or incurred for or in connection with the exercise of the functions mentioned in section 3(4)(a) (in this paragraph and paragraph 5 referred to as “the relevant functions”),

shall on that day be transferred to, and by virtue of this sub-paragraph vest in, INI.

(2) Sub-paragraph (1)—

- (a) has effect in relation to property, rights or liabilities to which it applies in spite of any provision (of whatever nature) which would prevent or restrict

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

Changes to legislation: There are currently no known outstanding effects for the Industrial Development Act (Northern Ireland) 2002, SCHEDULE 2. (See end of Document for details)

the transfer of the property, rights or liabilities otherwise than by that sub-paragraph; but

(b) does not apply to rights and liabilities under a contract of employment (which are dealt with by paragraph 5).

(3) In the construction and for the purposes of any statutory provision or other document passed or made before the appointed day, any reference to, or which is to be construed as a reference to, the Tourist Board shall, so far as may be necessary for the purposes of the relevant functions, be construed as a reference to INI.

(4) Nothing in this Act affects the validity of anything done by, or in relation to, the Tourist Board before the appointed day.

(5) Anything which before the appointed day was done by or in relation to the Tourist Board for the purposes of or in connection with the relevant functions shall, if in effect immediately before that day, continue to have effect to the same extent as if it had been done by, or in relation to, INI.

(6) Anything (including any legal proceedings) in the process of being done by or in relation to the Tourist Board immediately before the appointed day may, so far as it relates to the relevant functions, be continued by or in relation to INI.

(7) A certificate issued by the Department that any property, rights or liabilities have been transferred to INI by sub-paragraph (1) shall be conclusive evidence of the transfer.

Transfer of certain staff of the Tourist Board

5.—(1) This paragraph applies to a person who—

- (a) immediately before the appointed day is employed by the Tourist Board wholly or mainly for the purposes of the relevant functions; and
- (b) is designated by order made by the Department for the purposes of this paragraph.

(2) A contract of employment between a person to whom this paragraph applies and the Tourist Board shall have effect from the appointed day as if originally entered into between that person and INI.

(3) Without prejudice to sub-paragraph (2)—

- (a) all the rights, powers, duties and liabilities of the Tourist Board under or in connection with the contract of employment are by virtue of this paragraph transferred to INI on the appointed day; and
- (b) anything done before that day by or in relation to the Tourist Board in respect of that contract or the employee is to be treated from that day as having been done by or in relation to INI.

(4) If a person informs the Tourist Board that he objects to the transfer of his contract of employment under this paragraph—

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

Changes to legislation: There are currently no known outstanding effects for the Industrial Development Act (Northern Ireland) 2002, SCHEDULE 2. (See end of Document for details)

- (a) sub-paragraphs (2) and (3) do not apply in relation to him; and
- (b) his employment with the Tourist Board is terminated immediately before the appointed day.

(5) A person is not to be treated for the purposes of the Employment Rights (Northern Ireland) Order 1996 (NI 16) as having been dismissed by the Tourist Board by reason of—

- (a) his transfer under this paragraph; or
- (b) the termination of his contract of employment under sub-paragraph (4).

(6) This paragraph does not prejudice any right of an employee to terminate his contract of employment if a substantial change is made to his detriment in his working conditions; but no such right arises by reason only that, by virtue of this paragraph, the identity of his employer changes unless the employee shows that in all the circumstances the change is a significant change and is to his detriment.

(7) An order under this paragraph may designate a person either individually or as a member of a class or description of employees.

(8) Before making any order under this paragraph the Department shall consult—

- (a) the Tourist Board;
- (b) in the case of an order designating a person individually, that person; and
- (c) in the case of an order designating a class or description of employees, such persons as appear to the Department to be representative of the class or description of employees concerned.

(9) The Statutory Rules (Northern Ireland) Order 1979 (NI 12) shall not apply to an order under this paragraph.

Transfer of certain assets and liabilities of the Department

6.—(1) All property, rights and liabilities—

- (a) to which the Department is entitled or subject immediately before the appointed day; and
- (b) which were held, acquired or incurred for or in connection with the exercise of its functions under the provisions mentioned in section 2(1) (“the transferred functions”),

shall on that day be transferred to, and by virtue of this sub-paragraph vest in, INI.

(2) Sub-paragraph (1)—

- (a) has effect in relation to property, rights or liabilities to which it applies in spite of any provision (of whatever nature) which would prevent or restrict the transfer of the property, rights or liabilities otherwise than by that sub-paragraph; but

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

Changes to legislation: There are currently no known outstanding effects for the Industrial Development Act (Northern Ireland) 2002, SCHEDULE 2. (See end of Document for details)

(b) does not apply to rights and liabilities in relation to persons employed by the Department;

and, in accordance with subsection (1) of section 6, sub-paragraph (1)(b) does not apply in relation to the exercise of the functions of the Department mentioned in that subsection.

(3) In the construction and for the purposes of any statutory provision or other document passed or made before the appointed day, any reference to, or which is to be construed as a reference to, the Department shall, so far as may be necessary for the purposes of the transferred functions, be construed as a reference to INI.

(4) Nothing in this Act affects the validity of anything done by, or in relation to, the Department before the appointed day.

(5) Anything which before the appointed day was done by or in relation to the Department for the purposes of or in connection with the transferred functions shall, if in effect immediately before that day, continue to have effect to the same extent and subject to the same provisions as if it had been done by, or in relation to, INI.

(6) Anything (including any legal proceedings) in the process of being done by or in relation to the Department immediately before the appointed day may, so far as it relates to the transferred functions, be continued by or in relation to INI.

(7) A certificate issued by the Department that any property, rights or liabilities have been transferred to INI by sub-paragraph (1) shall be conclusive evidence of the transfer.

Accounts and reports for IDB: transitional arrangements

7.—(1) INI shall make arrangements for—

- (a) a statement of accounts to be prepared in relation to the Executive of the IDB; and
- (b) a report to be prepared on the activities of the IDB and the Executive of the IDB,

for the period from 1st April 2001 to the appointed day.

(2) The statement of accounts and report shall—

- (a) be in such form; and
- (b) contain such information,

as the Department may, with the approval of the Department of Finance and Personnel, direct.

(3) INI shall, within such period after the appointed day as the Department may direct—

- (a) send a copy of the statement of accounts to—
 - (i) the Department; and

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

Changes to legislation: There are currently no known outstanding effects for the Industrial Development Act (Northern Ireland) 2002, SCHEDULE 2. (See end of Document for details)

- (ii) the Comptroller and Auditor General; and
- (b) send a copy of the report to the Department.
- (4) The Comptroller and Auditor General shall—
 - (a) examine, certify and report on the statement of accounts; and
 - (b) send a copy of his report to the Department.
- (5) The Department shall lay before the Assembly—
 - (a) a copy of the report received under sub-paragraph (3)(b);
 - (b) a copy of the statement of accounts; and
 - (c) a copy of the Comptroller and Auditor General's report on the statement of accounts.

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