

## SCHEDULE 2

### TRANSITIONAL, TRANSITORY AND SAVING PROVISIONS

#### PART VII

##### MISCELLANEOUS

###### Proper maintenance of water and sewerage services

40.—(1) Any notice served by the Department under regulation 2(1) of the 1973 Regulations on the owner of premises which is effective immediately before the transfer date shall, if the owner is, at the transfer date, the consumer (as defined in Article 136 of the 2006 Order) have effect on and after that date in so far as the requirements specified in the notice are requirements which can be specified by the water undertaker in a notice served under paragraph (2)(b) of Article 115 of the 2006 Order—

- (a) as if it were a notice served by the water undertaker under that paragraph;
- (b) as if paragraph (6) of that Article were satisfied in relation to that notice; and
- (c) in any case where the time specified in that notice to remedy the defect or inadequacy is less than 7 days from the date of service of the notice, as if the notice specified such a period of 7 days,

and paragraphs (9) and (10) of that Article shall apply accordingly.

(2) Except where Article 115(10) of the 2006 Order applies by virtue of sub-paragraph (1), if before the transfer date the Department was proposing to carry out, or was carrying out, any works pursuant to a notice served by the Department under regulation 2(3) of the 1973 Regulations in relation to any premises and 7 days has lapsed since the service of such notice, notwithstanding any revocation by the 2006 Order, that regulation shall continue to apply, but subject to the transfer made in accordance with a scheme made under Article 270 of the 2006 Order.

(3) Where any appeal has been made to the Appeals Commission in accordance with regulation 2(2) of the 1973 Regulations in relation to any notice having effect by virtue of sub-paragraph (1) as a notice served under Article 115(2)(b) of the 2006 Order, and that appeal has not been determined before the transfer date, it shall be determined by the Appeals Commission on or after that date notwithstanding the revocation of that regulation.

(4) Notwithstanding any repeal made by the 2006 Order, the provisions of Article 8 of the 1973 Order shall have effect for the purpose of an appeal determined by the Appeals Commission in accordance with this paragraph, but subject to the transfer effected by a scheme made under Article 270 of the 2006 Order.

(5) In the application of Article 8 of the 1973 Order to an appeal in accordance with this paragraph, references to the Department shall be taken as references to the Authority.

(6) Article 6 of the 2006 Order shall apply to the exercise by the Authority of its power under sub-paragraph (4) as if it were a function mentioned in paragraph (1)(b) of that Article.

(7) Except as provided in this paragraph, any notice served by the Department under regulation 2(1) of the 1973 Regulations which is effective immediately before the transfer date shall cease to have effect on that date.

(8) Paragraph (1) of Article 231 of the 2006 Order shall apply in relation to the power conferred by virtue of sub-paragraph (2) on a water undertaker as if it were such a power as is mentioned in sub-paragraph (a)(i) of that paragraph, and Article 232(1) of that Order shall apply in relation to the power conferred by virtue of sub-paragraph (2) on a sewerage undertaker as if it were a function under the relevant sewerage provisions, except that no notice shall be required for the purpose of paragraph 6 of Schedule 4 to, or any other provision of, that Order, in its application to the right of

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entry hereby conferred, in respect of any entry on the premises effected by the water undertaker or the sewerage undertaker pursuant to that right within the period of 6 days following the transfer date.