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STATUTORY INSTRUMENTS

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**1994 No. 2809**

**The Ports (Northern Ireland) Order 1994**

*Disposal of ownership of the successor company*

**Initial issue of securities of the successor company**

5.—(1) Following the transfer to the successor company under Article 4 of property, rights, liabilities and functions of the authority, the successor company shall issue such securities of the company as the authority may direct—

- (a) to the authority; or
- (b) to any person entitled to require the issue of the securities following their initial allotment to the authority.

(2) The authority shall not give a direction under paragraph (1) at a time when the successor company has ceased to be a wholly-owned subsidiary of the authority.

(3) Securities required to be issued in pursuance of this Article shall be issued or allotted at such times and on such terms (as to allotment) as the authority may direct.

(4) Shares issued in pursuance of this Article—

- (a) shall be of such nominal value as the authority may direct; and
- (b) shall be issued as fully paid and treated for the purposes of the Companies (Northern Ireland) Order 1986(1) as if they had been paid up by virtue of the payment to the successor company of their nominal value in cash.

**Disposal by the authority of its holding in the successor company**

6.—(1) The authority shall exercise its powers under Article 5 in such manner as appears to it to be calculated to facilitate the disposal in accordance with this Article of the whole of the authority's holding in the successor company.

(2) For the purposes of this Article, that holding is to be regarded as consisting of—

- (a) the shares subscribed for by the authority or by any nominee of the authority on the formation of the successor company; and
- (b) all securities of the successor company issued or rights to require the issue of such securities initially allotted to the authority in pursuance of that Article.

(3) The authority shall provide for the disposal of all securities or rights comprised in that holding in such manner, at such times and on such terms as the authority thinks fit.

(4) Where any such securities or rights are disposed of in pursuance of any provision made under paragraph (3) a sum equal to 32.5 per cent. of the consideration given for the securities or rights shall be payable by the authority to the successor company within the period of 60 days beginning with the day on which the disposal is made.

### **Control by the Department over exercise of authority's functions under Articles 5 and 6**

7.—(1) The authority shall not—

- (a) exercise any power conferred on it by Article 5; or
- (b) make any provision for the disposal of any securities or rights in pursuance of the authority's duty under Article 6(3),

without the consent of the Department.

(2) The Department may give the authority directions requiring the authority—

- (a) to exercise any such power in a specified manner; or
- (b) to make in pursuance of that duty provision of any specified description.

(3) The Department shall in exercising its powers under paragraph (2) have particular regard to the desirability of encouraging the disposal of the whole or a substantial part of the equity share capital of the successor company to—

- (a) managers or other persons employed by the company; or
- (b) another company the whole or a substantial part of whose equity share capital is owned by managers or other persons so employed.

(4) In this Article "specified" means specified in directions given by the Department under this Article.

### **Supplementary provisions as to authority's functions**

8.—(1) The authority may do anything which it considers necessary or desirable for the purpose of carrying out any of its functions under Articles 5 and 6.

(2) The successor company shall—

- (a) so far as it is reasonably able to do so, make available for the use of the authority such premises and other facilities as the authority may require for the purpose of carrying out its functions under this Order; and
- (b) if so directed by the authority, meet on behalf of the authority any expenses incurred by the authority in carrying out its functions under this Order, or such part of any such expenses as the authority may direct.

### **Dissolution of the authority**

9.—(1) Once the Department is satisfied—

- (a) that the functions of the authority under Articles 5 and 6(3) have been completely carried out;
- (b) that nothing further remains to be done by the authority under any provision made by the scheme; and
- (c) that the authority has met all expenses and liabilities incurred by it in carrying out its functions under this Order (including in particular liabilities in respect of levy under Article 15(1) or corporation tax on chargeable gains) other than—
  - (i) any expenses met by the successor company in accordance with Article 8(2)(b); or
  - (ii) any liabilities which the Department considers should be transferred to the successor company under paragraph (2),

the Department may, after consulting the authority, by order dissolve the authority on a day specified in the order.

(2) On that day any property, rights and liabilities to which the authority is entitled or subject immediately before that day (whether or not capable of being transferred or assigned by the authority) are transferred to and by virtue of this Article become property, rights and liabilities of the successor company.

### **Treatment of net proceeds of disposal of ownership**

**10.**—(1) Subject to paragraph (2), an amount equal to the aggregate amount of the sums paid by the authority to the successor company under Article 6(4) shall be treated as accumulated realised profits of the successor company.

(2) The amount which under paragraph (1) falls to be treated as accumulated realised profits of the successor company shall be—

- (a) increased by any amount by which the asset value on the transfer to the successor company under Article 9 exceeds the liability amount; or
- (b) reduced by any amount by which the liability amount on that transfer exceeds the asset value,

as the case may require.

(3) In paragraph (2)—

“the asset value” means the aggregate value of the assets transferred; and

“the liability amount” means the aggregate amount of the liabilities transferred.

(4) For the purposes of this Article the value of any asset and the amount of any liability transferred to the successor company under Article 9 shall be taken to be its value or amount determined in accordance with any provision made by the scheme under paragraph 11 of the Schedule (transitional provision as to accounts, etc., of the successor company).