SCHEDULE 2

TRANSITIONAL, TRANSITORY AND SAVING PROVISIONS

PART VII

MISCELLANEOUS

Supply by means of a separate service pipe

35.—(1)   Subject to sub-paragraph (2), any notice served on the owner of premises under regulation 5(1) of the 1973 Regulations which is outstanding immediately before the transfer date shall, where the owner is on the transfer date the consumer (as defined in Article 136 of the 2006 Order) in respect of those premises, have effect on and after that date as if—

(a) it were a notice served on the said consumer under Article 104(4) of the 2006 Order;

(b) in the application of Article 104 of that Order to that notice—

(i) the requirement in Article 104(4) to set out the power of the undertaker under Article 104(5) were satisfied in relation to that notice;

(ii) the 3 month period referred to in Article 104(4)(a) applied to that notice notwithstanding any other period for the consumer to lay the requisite pipe specified in the notice (and, accordingly, as if the applicable period were 3 months after the actual service of the notice under the said regulation 5(1)); and

(iii) without prejudice to the generality of the foregoing, paragraph (3) of that Article applied in respect of any dispute as to whether any condition of a kind mentioned in paragraph (2) of that Article has been complied with.

(2)   Any notice served on the owner of premises under regulation 5(1) of the 1973 Regulations which is outstanding immediately before the transfer date shall—

(i) where the owner is on the transfer date not the consumer (as defined in Article 136 of the 2006 Order) in respect of those premises, or

(ii) the premises do not consist in a house or any other building or part of a building, being, in the case of a part of a building, a part which is separately occupied,

cease to have effect on that date.

(3)   Subject to sub-paragraph (5), where any appeal—

(a) has been made to the Appeals Commission in accordance with regulation 5(2) of the 1973 Regulations in respect of any notice having effect as a notice under Article 104(4) of the 2006 Order by virtue of sub-paragraph (1)(a); and

(b) has not been determined before the transfer date,

it shall be determined by the Appeals Commission on or after that date notwithstanding the repeal of that regulation, and sub-paragraph (1) shall apply accordingly to any notice upheld (with or without modifications) on an appeal made by virtue of this sub-paragraph.

(4)   Where, in relation to any notice having effect by virtue of sub-paragraph (1) as a notice served under Article 104(4) of the 2006 Order, a person has a right to appeal to the Appeals Commission in accordance with regulations 5(2) of the 1973 Regulations within the period of 28 days from the date on which he received notice from the Department, and before the transfer date—

(a) that right has not been exercised; and

(b) that period has not expired,

the right may be exercised within the said period and, if so exercised, the appeal may be determined
by the Appeals Commission notwithstanding the revocation of that regulation by the 2006 Order.

(5) Notwithstanding any repeal 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 in accordance with a scheme made under Article 270
of the 2006 Order.

(6) 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.

(7) Article 6 of the 2006 Order shall apply to the exercise by the Authority of its power under
sub-paragraph (5) as if it were a function mentioned in paragraph (1)(b) of that Article.