

## SCHEDULE 2

### TRANSITIONAL, TRANSITORY AND SAVING PROVISIONS

#### PART V

#### WORKS AND LAND

##### Notice of intention to execute works

23.—(1) Without prejudice to paragraph 6(1)(a) of Schedule 4 to the 2006 Order, where before the transfer date the Department was proposing to carry out, or was carrying out, any works and the water undertaker or sewerage undertaker proposes to carry out or continue those works on or after that date—

- (a) any notice of intention to carry out the works which had been served on any person before that date shall have effect on and after that date as if it had been served for the purpose of carrying out those works by the water undertaker or the sewerage undertaker, as the case may be, in accordance with any power in that behalf conferred on that undertaker by the 2006 Order; and
- (b) the period of the notice (inclusive of any part counted as such by virtue of sub-paragraph (2)) shall, if of 28 days or more, be regarded as reasonable for the purposes of Article 220(4) and (5) of the 2006 Order.

(2) Without prejudice to the generality of sub-paragraph (1), so much of the time period of any notice served by the Department as mentioned in sub-paragraph (1) as has expired before the transfer date shall be taken into account, and counted as if it were part of the period of notice so treated as served, for the purpose of paragraphs 1 and 6 of Schedule 4 to the 2006 Order, and any other provision of the 2006 Order.

(3) Without prejudice to the generality of sub-paragraph (1), any notice served by the Department under Article 15 of the 1973 Order which is effective immediately before the transfer date in relation to any repairs or other work which will cause a material interference with the supply of water shall have effect on and after that date as a notice given by the water undertaker for the purposes of Article 99 of the 2006 Order and so much of the period of any such notice served by the Department as has expired before the transfer date shall be taken into account, and counted as if it were part of the period of notice so treated as given, for the purposes of the requirement to give reasonable notice mentioned in that Article.

##### Rights of entry

24.—(1) Without prejudice to sub-paragraph (2), where before the transfer date the Department was proposing to carry out, or was carrying out, any works in respect of which no notice is required to be given under the 1973 Order and the water undertaker or the sewerage undertaker proposes to carry out or continue those works, no notice shall be required for the purpose of paragraph 6 of Schedule 4 to, or any other provision of, the 2006 Order in respect of any entry on the premises effected by the water or sewerage undertaker concerned on the transfer date, or, where paragraph 6(2)(b) of that Schedule applies, within the period of 6 days following the transfer date.

(2) Without prejudice to paragraph 23, where immediately before the transfer date any right under Article 50 of the 1973 Order to enter land or premises for any purpose mentioned in that Article was being exercised by an authorised officer of the Department or of DOE that person shall, in the case of a person designated by the Department, be deemed to be a person designated in writing by the water undertaker, or the sewerage undertaker, as the case may be, for any corresponding purpose mentioned in Articles 229 to 233 of the 2006 Order, or, in the case of a person designated by the

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Department or DOE, by either or both of the Department or DOE for any corresponding purpose mentioned in Article 124 of the 2006 Order, and the requirements as to notice in paragraphs 1 and 6 of Schedule 4 to the 2006 Order (or in any other provision of the 2006 Order) shall be deemed to have been satisfied in relation to entry by that person.

(3) Without prejudice to the generality of sub-paragraph (1), any notice served by the Department under Article 50(2) of the 1973 Order which is effective immediately before the transfer date in relation to any of the purposes mentioned in Article 50(1) of that Order shall have effect on and after that date as if it had been given for that purpose by the water undertaker, or the sewerage undertaker, as the case may be, in accordance with any power conferred on that undertaker by the 2006 Order and so much of the period of any such notice served by the Department as has expired before the transfer date shall be taken into account, and counted as if it were part of the period of notice so treated as given, for the purposes of the relevant provision of the 2006 Order.

(4) A warrant issued under Article 50(5) of the 1973 Order to any person before the transfer date in respect of entry to any land or other premises shall have effect on and after that date—

- (a) as a warrant issued under Part I of Schedule 4 to the 2006 Order, authorising that person to enter those premises; or
- (b) as a warrant issued under Part II of that Schedule to the relevant authority (as defined in that Part), authorising it to designate that person as authorised to enter those premises,

according to which Part would have been appropriate if the warrant had been applied for in accordance with that Schedule, and the provisions of that Part of that Schedule shall apply accordingly in relation to a person so authorised provided that, in any case to which Part II of that Schedule so applies, he is designated by the relevant authority on or after the transfer date as being so authorised.

#### Complaints

25. Article 243 of the 2006 Order shall apply in relation to any such works carried out by the Department within the period of 3 months before the transfer date as could have been carried out by the water undertaker or sewerage undertaker (as the case may be) after that date under Article 220 or 222(2) of the 2006 Order as if such works had been carried out by the water undertaker or the sewerage undertaker (as the case may be) under that Article.

#### Power to require occupier to permit works to be executed by owner

26. Any complaint made under Article 16 of the 1973 Order which is outstanding on the transfer date shall have effect on and after that date as if it were an application made under Article 240(2) of the 2006 Order.

#### Compulsory acquisition of land

27.—(1) Any land which has been compulsorily acquired under Article 10 of the 1973 Order before the transfer date shall be treated for the purposes of Article 216 of, and Schedule 7 to, the 2006 Order as compulsorily acquired under that Article and that Schedule—

- (a) by the water undertaker, in relation to land acquired for any purpose in connection with the performance of the Department's functions under Article 3(1)(a) of the 1973 Order; or
- (b) by the sewerage undertaker, in relation to land acquired for any purpose in connection with the performance of the Department's functions under Article 3(1)(b) or (c) of the 1973 Order.

(2) Any vesting order made by the Department under Article 10(2) of the 1973 Order before the transfer date in relation to any land shall have effect on and after that date as if it were a vesting order made under Article 216 of, and Schedule 7 to, the 2006 Order by the Department vesting that land—

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- (a) in the water undertaker, in the case of a vesting order made for any purpose in connection with the performance of the Department's functions under Article 3(1)(a) of the 1973 Order; or
- (b) in the sewerage undertaker, in the case of a vesting order made for any purpose in connection with the performance of the Department's functions under Article 3(1)(b) or (c) of the 1973 Order,

and paragraphs 5 to 20 of Schedule 6 to the Local Government Act (Northern Ireland) 1972 (c.9) shall, by virtue of paragraph 5 of Schedule 7 to the 2006 Order, apply to such a vesting order accordingly.

(3) Any notice served or published or other thing done before the transfer date for the purposes of Article 10(2) or (3) of the 1973 Order in relation to the making of a vesting order shall have effect on and after that date as if served, published or done for the purposes of Article 216 of, and Schedule 7 to, the 2006 Order; and Schedule 6 to the Local Government Act (Northern Ireland) 1972 (c.9), as it applies by virtue of paragraph 5 of the said Schedule 7, shall apply accordingly.