



# Water (Scotland) Act 1967

## 1967 CHAPTER 78

### PART III

#### TRANSFER OF UNDERTAKINGS OF LOCAL WATER AUTHORITIES

#### **18 General provisions for transfer of assets and liabilities**

- (1) The provisions of this section, and of the four next following sections, shall have effect in the case of any local water authority (in those provisions referred to as " the authority ") whose functions are transferred on the second appointed day to a board, being a regional water board or the Central Board (in those provisions referred to as " the board ").
- (2) All property, rights, liabilities and obligations which, immediately before the second appointed day, were property, rights, liabilities and obligations of the authority shall on that day, by virtue of this Act, be transferred to, and vest in, the board.
- (3) Subject to the following provisions of this section, every agreement to which the authority were a party immediately before the second appointed day, whether in writing or not and whether or not of such a nature that rights, liabilities and obligations thereunder could be assigned by the authority, shall, unless its terms or subject-matter make it impossible that it should have effect as modified in the manner provided by this subsection, have effect as from the second appointed day as if—
  - (a) the board had been a party to the agreement;
  - (b) for any reference (however worded and whether express or implied) to the authority there were substituted, in relation to anything falling to be done on or after the second appointed day, a reference to the board ; and
  - (c) for any reference (however worded and whether express or implied) to any member or officer of the authority there were substituted, in relation to anything falling to be done on or after the second appointed day, a reference to such person as the board may appoint, or, in default of appointment, to the member or officer of the board who corresponds as nearly as may be to the member or officer of the authority.

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- (4) Other documents which refer, whether specifically or generally, to the authority shall be construed in accordance with the provisions of the last foregoing subsection, so far as applicable.
- (5) The last foregoing subsection does not apply to enactments, orders, schemes, regulations, awards or byelaws in relation to which the provisions of Schedule 2 to this Act have effect.
- (6) Without prejudice to the generality of the foregoing provisions of this section, where, by the operation of any of those provisions any right, liability or obligation vests in the board, the board and all other persons shall, as from the second appointed day, have the same rights, powers and remedies (and, in particular, the same rights as to the taking or resisting of legal or other proceedings) for ascertaining, completing or enforcing that right, liability or obligation as they would have had if it had at all times been a right, liability or obligation of the board.
- (7) Any legal or other proceedings to which the authority are a party and which are pending on the second appointed day may be continued on and after that day as if the board instead of the authority had been a party thereto.

## **19 Supplementary provisions as to transfer of assets and liabilities**

- (1) The Secretary of State may make regulations providing for the registration of the title of the board to assets vesting in them by virtue of the last foregoing section, being assets of a kind subject to provisions for the registration of title thereto, for the completion of the title of the board to heritable property vesting in them as aforesaid, and for any other matters for which provision appears to the Secretary of State to be necessary or expedient for the purpose of securing the effective transfer of any assets vesting in the board by virtue of that section.
- (2) Where any liability in respect of moneys borrowed by, or on behalf of, the authority is transferred by virtue of the last foregoing section, that liability shall be secured in like manner as moneys which may be borrowed by the board under section 17 of this Act.
- (3) Where it is impracticable that a liability of a local authority, in respect of their functions as a local water authority, should be transferred as aforesaid, by reason of the borrowing arrangements of that authority or otherwise, the board shall, in lieu of payments in respect of that liability, make such payments to the local authority as may be agreed.
- (4) Where the limits of supply of the authority are comprised in two or more regions, the property, rights, liabilities and obligations of that authority shall be allocated among the regional water boards of those regions in such a manner as relates that allocation to the functions transferred to each of those boards, and the provisions of this section and of the last foregoing section shall apply accordingly.
- (5) Where the authority being a local authority have on or after 1st January 1967 used or have had available for use property of the local authority that property shall for the purposes of section 18(2) of this Act be dealt with in accordance with arrangements made between the board and the local authority.
- (6) Property vested in the board by virtue of the last foregoing section shall not be treated as so vested by way of sale for the purpose of section 12 of the Finance Act 1895.

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## **20 Disposal of assets due to be transferred**

Where, on or after 1st January 1967, the authority have disposed of any property which would, but for that disposal, have been transferred to the board on the second appointed day, and the liabilities which are so transferred have not been reduced by an amount equal to the full market value of that property as at the date of its disposal, then, unless either the board or the Secretary of State determine otherwise, that authority shall indemnify the board accordingly, and in this section any reference to the disposal of property includes, in the case of a local water authority being a local authority, a reference to the transfer of property from the local authority in their capacity as a local water authority to themselves in any other capacity.

## **21 Transfer of officers and servants**

- (1) Where all the functions of the authority have been transferred to one board, that board shall take over and employ, as from the second appointed day, any person, who immediately before that day was employed by the authority solely in connection with those functions, where that person is willing to enter the employment of the board on terms and conditions which, so far as practicable, are not less favourable than those on which he was employed by the authority immediately before that day.
- (2) Where the functions of the authority have been transferred to more than one board, any person employed by the authority solely in connection with the functions transferred to one of those boards immediately before the second appointed day shall be taken over and employed by that board where that person is willing to enter the employment of that board on such terms and conditions as aforesaid.

## **22 Determination of disputes**

Any dispute arising from the operation of the foregoing provisions of this Part of this Act shall be determined by the Secretary of State or by an arbiter appointed by him.

## **23 Superannuation**

- (1) As from the first appointed day—
    - (a) a regional water board and a water development board shall be included among the local authorities specified in Part I of Schedule 1 to the Local Government Superannuation (Scotland) Act 1937 (which enumerates local authorities whose whole-time officers are compulsorily superannuable); and
    - (b) the Secretary of State shall, for the purposes of that Act in relation to the employees, being contributory employees or local Act contributors, of each such board, by order designate as the superannuation fund in relation to such employees of a board—
      - (i) in the case of a regional water board, the fund (whether a superannuation fund maintained under Part I of that Act or a fund maintained under a local Act) of the constituent council which he may consider to be the most appropriate ; and
      - (ii) in the case of a water development board, the fund so designated for a constituent board, which he may consider to be the most appropriate;
- and in the said Act in Schedule 1, at the end of Part I, there shall be added the words " a regional water board and a water development board " .

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- (2) For the purposes of the foregoing subsection in relation to such employees as aforesaid.—
- (a) section 4 of the said Act of 1937 shall not apply, and
  - (b) where the fund designated in relation to them is maintained by a local Act authority, they shall be deemed to be the employees of the local Act authority, and section 3 of that Act shall not apply.
- (3) An order under this section may provide for the extending, with such modifications as may be specified in the order, of the provisions of the Local Government Superannuation (Scotland) Acts 1937 to 1953, or any local Act scheme within the meaning of those Acts, to such employees as aforesaid who have entered the employment of the board by virtue of section 21 of this Act, or for modifying, in respect of such employees as may be so specified, the provisions of the said Acts or any such scheme.

## **24 Saving for acts of local water authorities**

- (1) Neither the transfer of functions of a local water authority nor the dissolution of a local water authority by or under this Act shall invalidate any order, regulation, byelaw, appointment, direction, instruction, approval, consent, resolution, requisition, charge, requirement or authorisation made, given, passed, issued or raised or other thing done in the performance of the functions of the local water authority before the second appointed day.
- (2) Subject and without prejudice to the foregoing provisions of this Part of this Act, every such thing as is mentioned in the foregoing subsection, in so far as it could have been done by the board to whom the functions of the local water authority are transferred by section 2 or section 4 of this Act shall be deemed to have been so done, and shall, as from the second appointed day, continue to have the same effect, within the former limits of supply of that local water authority, as it had immediately before that day.