

*Status: Point in time view as at 06/04/2006.*

*Changes to legislation: New Roads and Street Works Act 1991, SCHEDULE 1 is up to date with all changes known to be in force on or before 30 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 1

Section 5(2).

#### SUPPLEMENTARY PROVISIONS AS TO TERMINATION OF CONCESSION

##### *Introductory*

- 1 The provisions of this Schedule apply in relation to the transfer of property, rights and liabilities to the highway authority on the termination of a concession agreement (referred to below as “the ending of the concession”).

##### *Property to vest free from security rights*

- 2 (1) Property vesting in the highway authority shall do so free from any mortgage, charge, lien or other security to which it was subject immediately before the ending of the concession.
- (2) This does not affect the liability secured.

##### *Recovery of property taken in distress, &c.*

- 3 (1) Where before the ending of the concession possession of any property vesting in the highway authority has been taken in pursuance of any legal process or distress, the highway authority may recover it from any person in possession of it without being required to discharge the liability in respect of which the process or distress was issued or levied.
- (2) This does not affect the liability in respect of which the process or distress was issued or levied.

##### *Validity of previous discharge of liabilities*

- 4 Where a liability has been discharged before the ending of the concession which if it had subsisted immediately before the ending of the concession would have fallen to be transferred to the highway authority, nothing in the <sup>M1</sup>Insolvency Act 1986—
- (a) affects the validity of anything done by the concessionaire or any other person in discharging the liability,
  - (b) authorises a court to make an order affecting the property of, or imposing an obligation on, any person in consequence of or in connection with the receipt by him or by any other person of a payment made, property transferred or other benefit provided by the concessionaire or any other person in discharging that liability, or
  - (c) shall be treated as giving rise to a trust affecting money or property so transferred.

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### Marginal Citations

**M1** 1986 c. 45.

#### *Property subject to covenants, conditions or restrictions*

- 5 Except as provided by paragraph 2, property vesting in the highway authority shall be held by the authority subject to all covenants, conditions and restrictions subject to which the property was held by the concessionaire.

#### *Transfer of agreements, &c.*

- 6 (1) Subject to the concession agreement and to paragraph 2, all agreements and other transactions entered into or effected by the concessionaire and subsisting immediately before the ending of the concession, in so far as they relate to property, rights or liabilities transferred to the highway authority shall have effect with the substitution of the authority for the concessionaire.
- (2) Accordingly—
- (a) such an agreement or transaction may be enforced by or against the highway authority, and
  - (b) references to the concessionaire in an agreement (whether or not in writing) and in a deed, bond or other instrument or document, so far as relating to the property, rights or liabilities mentioned above shall be taken after the ending of the concession as referring to the highway authority.

#### *Legal or other proceedings*

- 7 (1) Subject to the concession agreement, all legal or other proceedings begun before the ending of the concession and relating to property, rights or liabilities transferred to the highway authority, other than proceedings for enforcing a security from which the property is released by virtue of paragraph 2, may be carried on with the substitution of the highway authority for the concessionaire.
- (2) Such proceedings may be amended in such manner as may be necessary for that purpose.

#### *Transfer of employees*

- 8 For the purposes of the [<sup>F1</sup>Transfer of Undertakings (Protection of Employment) Regulations 2006], or any regulations replacing those regulations, the concessionaire shall be treated as transferring to the highway authority an undertaking which, if a new concessionaire is appointed, the authority shall be treated as then transferring to the new concessionaire.

### Textual Amendments

**F1** Words in [Sch. 1 para. 8](#) substituted (6.4.2006 with application in accordance with reg. 21(1)) by [The Transfer of Undertakings \(Protection of Employment\) Regulations 2006 \(S.I. 2006/246\)](#), reg. 1(2), [Sch. 2 para. 1\(b\)](#)

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