

SCHEDULES

SCHEDULE 7

TRANSITIONAL PROVISIONS AND SAVINGS

PART I

SEPARATION OF ELECTRICITY SUPPLY AND DISTRIBUTION

Nominations and transfer schemes

- 2 (1) Before such date as the Secretary of State may direct, a person to whom paragraph 1 applies may (subject to paragraph 3)—
- (a) make a nomination for the purposes of paragraph (a) of paragraph 1(3) and make a scheme for the division of all his property, rights and liabilities between himself and the associate nominated under that paragraph; or
 - (b) make two nominations for the purposes of paragraph (b) of paragraph 1(3) and make a scheme for the division of all his property, rights and liabilities between himself and the associates so nominated;
- and in this Part of this Schedule the person who makes such a scheme is referred to as “the supplier”.
- (2) A scheme under sub-paragraph (1) (referred to in this Part of this Schedule as “a transfer scheme”) may—
- (a) define the property, rights and liabilities to be allocated to a nominated associate—
 - (i) by specifying or describing the property, rights and liabilities in question;
 - (ii) by referring to all (or all but as much as may be excepted) of the property, rights and liabilities comprised in a specified part of the supplier’s undertaking; or
 - (iii) partly in the one way and partly in the other;
 - (b) provide that any rights or liabilities specified or described in the scheme shall be enforceable either by or against any one or more of the persons between whom the supplier’s property, rights and liabilities are being divided;
 - (c) impose on any of those persons an obligation to enter into such written agreements with, or execute such other instruments in favour of the other such person or, where sub-paragraph (1)(b) applies, either or both of the other such persons as may be specified in the scheme; and
 - (d) make such supplemental, incidental and consequential provision as the supplier considers appropriate.
- (3) Without prejudice to the generality of sub-paragraph (2)(d), a transfer scheme may, in relation to transfers or transactions effected in pursuance of the scheme, make provision, either generally or for specified purposes—

Status: This is the original version (as it was originally enacted).

- (a) for the transfers or transactions to be regarded as taking place in a specified order; and
 - (b) for the nominated associate or, where sub-paragraph (1)(b) applies, either or both of the nominated associates to be treated as the same person in law as the supplier.
- (4) An obligation imposed by a provision included in a transfer scheme by virtue of sub-paragraph (2)(c) shall be enforceable by civil proceedings by the person or persons to whom it is owed for an injunction or for interdict or for any other appropriate relief or remedy.
- (5) A transaction of any description which is effected in pursuance of a provision included in a transfer scheme by virtue of sub-paragraph (2)(c)—
- (a) shall have effect subject to any statutory requirements for transactions of that description to be registered in any statutory register; but
 - (b) subject to that, shall be binding on all other persons, notwithstanding that it would, apart from this sub-paragraph, have required the consent or concurrence of any other person.
- In this sub-paragraph “statutory requirements” means requirements imposed by or under any Act or any Act of the Scottish Parliament.
- (6) Where a lease of any land is granted in pursuance of a provision included in a transfer scheme by virtue of sub-paragraph (2)(c), any right of pre-emption or other like right affecting that land—
- (a) shall not become exercisable by reason of the grant of the lease; but
 - (b) shall have effect as if the lessee were the same person in law as the lessor.
- 3 (1) If the supplier is a supplier to whom paragraph 1(5) applies, he may, before such date as the Secretary of State may direct—
- (a) make such nomination or nominations as he thinks fit for either or both of the purposes mentioned in paragraph 1(6); and
 - (b) include the associate or associates so nominated among the persons between whom his property, rights and liabilities may be divided by the transfer scheme.
- (2) Paragraph 2 applies to a transfer scheme dividing property, rights and liabilities between persons including persons nominated for the purposes of paragraph 1(6) with the substitution—
- (a) in sub-paragraph (2)(c) for the words from “the other such” to “both”; and
 - (b) in sub-paragraph (3)(b) for the words from “the” (in the first place it appears) to “both”,
- of the words “any one or more”.
- 4 The Secretary of State may, on the application of a person to whom paragraph 1 applies, direct that paragraphs 1 and 2 are to apply to his existing supply licence (or such of his existing supply licences as may be nominated under paragraph 1(4)) as if—
- (a) in paragraph 1(2) for “a distribution licence” there were substituted “two distribution licences”;
 - (b) in paragraph 1(3) for “one” there were substituted “two” and for “two” there were substituted “three”;
 - (c) in paragraph 2(1)(a) for “a nomination” and “associate” there were substituted respectively “two nominations” and “associates”; and

(d) in paragraph 2(1)(b) for “two” there were substituted “three”.