

SCHEDULES

SCHEDULE 4

Section 22.

TRANSFER OF FUNCTIONS: SUPPLEMENTARY PROVISIONS

Continuity of exercise of functions

- 1 (1) The transfer of functions by this Part shall not affect the validity of anything done (or having effect as if done) by or in relation to the Bank before the day on which this Act comes into force (“the transfer day”).
- (2) Anything which, immediately before the transfer day, is in the process of being done by or in relation to the Bank may, if it relates to any of the transferred functions, be continued by or in relation to the Authority.
- (3) Anything done (or having effect as if done) by, or in relation to, the Bank before the transfer day for the purpose of, or in connection with, any of the transferred functions, shall, so far as is required for continuing its effect on and after that day, have effect as if done by, or in relation to, the Authority.
- (4) Any reference to the Bank in any document constituting or relating to anything to which the foregoing provisions of this paragraph apply shall, so far as is required for giving effect to those provisions, be construed as a reference to the Authority.
- (5) The Treasury may, in relation to any of the transferred functions, by order exclude, modify or supplement any of the foregoing provisions of this paragraph or make such other transitional provisions as they think necessary or expedient.

Transfer of staff

- 2 The transfer of functions by this Part shall be regarded for the purposes of the Transfer of Undertakings (Protection of Employment) Regulations 1981 as the transfer of part of an undertaking, whether or not it would be so regarded apart from this provision.

Transfer of property, rights and liabilities

- 3 (1) The Bank shall make a scheme under this paragraph for the transfer to the Authority of such of the Bank’s property, rights and liabilities as appear to the Bank appropriate to be so transferred in consequence of the transfer of functions by this Part.
- (2) A scheme under this paragraph made by the Bank shall not be capable of coming into force unless it is approved by the Treasury.
- (3) The Bank may not submit a scheme under this paragraph to the Treasury for their approval without the consent of the Authority.

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- (4) Where a scheme under this paragraph is submitted to the Treasury for their approval, they may, before approving it, make such modifications to it as appear to them to be appropriate.
- (5) Where this sub-paragraph applies, the Treasury may, after consultation with the Bank and the Authority, make a scheme under this paragraph for the transfer to the Authority of such of the Bank's property, rights and liabilities as appear to them appropriate to be so transferred in consequence of the transfer of functions by this Part.
- (6) Sub-paragraph (5) applies if—
- (a) the Bank fails, before such time as may be notified to it by the Treasury as the latest time for submission of a scheme under this paragraph, to submit such a scheme to them for their approval, or
 - (b) the Treasury decide not to approve a scheme that has been submitted to them by the Bank (either with or without modifications).
- (7) A scheme under this paragraph shall come into force on such day as the Treasury may by order appoint.
- (8) When a scheme under this paragraph comes into force, the property, rights and liabilities of the Bank to which the scheme relates shall, by virtue of this paragraph and without further assurance, be transferred to and vested in the Authority in accordance with the provisions of the scheme.
- (9) The Bank shall provide the Treasury with all such information and other assistance as they may reasonably require for the purposes of, or otherwise in connection with, the exercise of any power conferred on them by this paragraph.
- 4 (1) The property, rights and liabilities capable of being transferred in accordance with a scheme under paragraph 3 shall include property, rights and liabilities that would not otherwise be capable of being transferred or assigned by the Bank.
- (2) The transfers authorised by sub-paragraph (1) include transfers which are to take effect as if there were—
- (a) no such requirement to obtain any person's consent or concurrence,
 - (b) no such liability in respect of a contravention of any other requirement, and
 - (c) no such interference with any interest or right,
- as there would be, in the case of any transaction apart from this Act, by reason of provisions having effect (whether under any enactment or agreement or otherwise) in relation to the terms on which the Bank is entitled or subject in relation to any property, right or liability.
- 5 (1) A scheme under paragraph 3 may also contain provision—
- (a) for rights and liabilities to be transferred so as to be enforceable by or against both the Bank and the Authority,
 - (b) for the creation in favour of the Bank of an interest or right in or in relation to property transferred in accordance with the scheme,
 - (c) for giving effect to a transfer to the Authority in accordance with the scheme by the creation in favour of the Authority of an interest or right in or in relation to property retained by the Bank,
 - (d) for imposing on the Bank and the Authority obligations to enter into such written agreements with each other as may be specified in the scheme, and

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- (e) for imposing on either one of them obligations to execute such instruments in favour of the other as may be so specified.
- (2) An obligation imposed by a provision included in a scheme by virtue of sub-paragraph (1)(d) or (e) shall be enforceable by civil proceedings by the Bank or the Authority for an injunction or for any other appropriate relief.
- (3) A transaction of any description effected in pursuance of a provision included in a scheme by virtue of sub-paragraph (1)(d) or (e)—
 - (a) shall have effect subject to the provisions of any enactment which provides 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 provision, have required the consent or concurrence of any other person.
- 6 (1) A scheme under paragraph 3 may make such supplemental, consequential and transitional provision for the purposes of, or in connection with, any transfer of property, rights or liabilities for which the scheme provides or in connection with any other provisions contained in the scheme as the Bank may consider appropriate.
- (2) In particular, such a scheme may provide—
 - (a) that for purposes connected with any transfer made in accordance with the scheme (including the transfer of rights and liabilities under an enactment) the Authority is to be treated as the same person in law as the Bank,
 - (b) that, so far as may be necessary for the purposes of or in connection with any such transfer, agreements made, transactions effected and other things done by or in relation to the Bank are to be treated as made, effected or done by or in relation to the Authority,
 - (c) that, so far as may be necessary for the purposes of or in connection with any such transfer, references to the Bank in any agreement (whether or not in writing), deed, bond, instrument or other document are to have effect with such modifications as are specified in the scheme,
 - (d) that proceedings commenced by or against the Bank are to be continued by or against the Authority, and
 - (e) that the Bank and the Authority are to co-operate with each other for the purposes of and in connection with the scheme.