

## SCHEDULES

### SCHEDULE 2

Article 3.

#### TRANSFER OF FUNCTIONS, ASSETS, LIABILITIES AND STAFF OF FIRE AUTHORITY FOR NORTHERN IRELAND

##### *Interpretation*

1. In this Schedule “the Authority” means the Fire Authority for Northern Ireland.

##### *Transfer of functions*

2.—(1) The functions exercisable by the Authority immediately before the appointed day under any statutory provision, shall as from that day be exercisable by the Board.

- (2) Sub-paragraph (1) applies only to provisions which have continuing effect.

##### *Transfer of assets and liabilities*

3.—(1) All property, rights and liabilities to which the Authority is entitled or subject immediately before the appointed day shall on that day be transferred to, and by virtue of this paragraph vest in, the Board.

- (2) Sub-paragraph (1)—

- (a) has effect in relation to property, rights or liabilities to which it applies in spite of any provision (of whatever nature) which would prevent or restrict the transfer of the property, rights or liabilities otherwise than by that sub-paragraph; but
- (b) does not apply to rights and liabilities under a contract of employment (which are dealt with by paragraph 4).

(3) A certificate issued by the Department that any property, rights or liabilities have been transferred to the Board under this paragraph shall be conclusive evidence of the transfer.

##### *Transfer of employed staff*

4.—(1) Subject to sub-paragraphs (2) and (3), this paragraph applies to a person who immediately before the appointed day is employed by the Authority.

(2) This paragraph does not apply to a person if his contract of employment terminates on the day immediately before the appointed day.

- (3) Where a person—

- (a) has, prior to the appointed day, entered into a contract of employment with the Authority which is to come into effect on or after that day, and
- (b) would, if the contract had come into effect before that day, have been a person to whom this paragraph applies,

he shall be treated as if he were a person to whom this paragraph applies.

*Status: This is the original version (as it was originally made).*

(4) A contract of employment between a person to whom this paragraph applies and the Authority shall have effect from the appointed day as if originally made between that person and the Board.

(5) Without prejudice to sub-paragraph (4)–

- (a) all the Authority’s rights, powers, duties and liabilities under or in connection with the contract of employment are by virtue of this paragraph transferred to the Board on the appointed day; and
- (b) anything done before that day by or in relation to the Authority in respect of that contract or the employee is to be treated from that day to have been done by or in relation to the Board.

(6) If a person informs the Authority that he objects to the transfer of his contract of employment under this paragraph–

- (a) sub-paragraphs (4) and (5) do not apply in relation to him; and
- (b) his contract of employment with the Authority is terminated immediately before the appointed day.

(7) A person is not to be treated for the purposes of the [Employment Rights \(Northern Ireland\) Order 1996 \(NI 16\)](#) as having been dismissed by the Authority by reason of–

- (a) his transfer under this paragraph; or
- (b) the termination of his contract of employment under sub-paragraph (6).

(8) This paragraph does not prejudice any right of an employee to terminate his contract of employment if a substantial change is made to his detriment in his working conditions, but no such right arises by reason only that, by virtue of this paragraph the identity of his employer changes unless the employee shows that, in all the circumstances, the change is a significant change and to his detriment.

*References to, and acts, etc. done by, or in relation to, the Authority*

5.—(1) Any reference in any statutory provision or document to the Authority shall, in relation to any time after the appointed day, be construed as a reference to the Board.

(2) Nothing in this Order affects the validity of anything done by, or in relation to, the Authority before the appointed day.

(3) Anything which before the appointed day was done by or in relation to the Authority shall, if in effect immediately before that day, continue to have effect to the same extent and subject to the same provisions as if it had been done by, or in relation to, the Board.

(4) Anything (including any legal proceedings) in the process of being done by or in relation to the Authority immediately before the appointed day may be continued by or in relation to the Board.

*Accounts: transitional arrangements*

6.—(1) In this paragraph “the relevant period” means the period–

- (a) beginning on 1st April 2006; and
- (b) ending immediately before the appointed day.

(2) The Board shall–

- (a) prepare a statement of accounts for the Authority in respect of the relevant period in such form and containing such information as the Department may direct;
- (b) send copies of that statement to the Department and the Comptroller and Auditor General for Northern Ireland within such period after the end of the relevant period as the Department may direct.

- (3) The Comptroller and Auditor General shall—
  - (a) examine, certify and report on the statement of accounts received by him under subparagraph (2)(b); and
  - (b) send a copy of his report to the Department.
- (4) The Department shall lay a copy of the statement of accounts and of the Comptroller and Auditor General's report before the Assembly.