

## SCHEDULES

### SCHEDULE 26

#### TRANSITIONAL PROVISIONS AND SAVINGS

##### PART VIII

###### MISCELLANEOUS AND GENERAL

###### *Notifications by Nature Conservancy Council etc.*

- 48 Anything which has been done by or in relation to a water authority under or for the purposes of any provision of section 22 of the 1973 Act (duties with regard to nature, conservation and amenity) and is effective immediately before the transfer date shall have effect on and after that date—
- (a) as if it had been done by or in relation to both the Authority and every company whose appointment under Chapter I of Part II of this Act as the water undertaker or sewerage undertaker for the whole or any part of the water authority's area comes into force on the transfer date; and
  - (b) as if it had been so done under or for the purposes of the corresponding provision of section 8 or 9 of this Act.

###### *Recreational activities*

- 49 The repeal by this Act of subsections (2) to (5) of section 22 of the Countryside Act 1968 and of subsections (1) and (3) of section 20 of the 1973 Act (powers with respect to recreation) shall not be construed as affecting the power—
- (a) of the Authority; or
  - (b) of any water authority's successor company or of any statutory water company,
- to continue, subject to any transfer in accordance with a scheme under Schedule 2 to this Act of any rights or liabilities which have arisen or might arise under any of those subsections, to do anything on and after the transfer date, in accordance with any powers conferred by virtue of section 8 or 157 of this Act or otherwise by virtue of this Act, which a water authority or statutory water company were doing under any of those subsections immediately before the transfer date.

###### *Overseas activities*

- 50 Any consent given to a water authority for the purposes of section 5 of the Water Act 1983 (overseas activities) and effective immediately before the transfer date shall have effect on and after that date as a consent given to the Authority under section 144 of this Act.

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*Arrangements with local authorities*

- 51 Where any arrangements made by virtue of section 7 of the 1973 Act between a local authority and a water authority are in force immediately before the transfer date, then, subject to any transfer in accordance with a scheme under Schedule 2 to this Act of any rights or liabilities under those arrangements, those arrangements shall continue to have effect on and after that date notwithstanding the repeal by this Act of that section; and, accordingly, a local authority shall have all such powers on and after that date for giving effect to any such arrangements as they would have had by virtue of that section.
- (2) In this paragraph “local authority” has the same meaning as in section 1 of the Local Authorities (Goods and Services) Act 1970.

*Treasury guarantees*

- 52 The repeal by this Act of paragraph 36 of Schedule 3 to the 1973 Act (Treasury guarantees of water authority liabilities) shall have effect subject, in the case of a guarantee given before that date, to the application on and after that date in relation to that guarantee (with such modifications as are necessary in consequence of any transfer in accordance with a scheme under Schedule 2 to this Act of any liability to which the guarantee applies) of sub-paragraphs (2) to (5) of that paragraph.

*Enactments applying particular provisions of Schedule 3 to the 1945 Act*

- 53 The repeals made by this Act shall not affect the operation of the following enactments (each of which applies provisions of Schedule 3 to the 1945 Act), namely—
- (a) sections 12(7) and 14(5) of the Control of Pollution Act 1974; and
  - (b) sections 11(5) and 12(2) of the Local Government (Miscellaneous Provisions) Act 1976.

*Local statutory provisions*

- 54 (1) Where any order made under the 1945 Act has effect immediately before the transfer date in relation to a statutory water company or water authority as a local statutory provision, the repeal by this Act of the power under which that order was made and the repeal of any provision of Part V of that Act shall not, subject to sub-paragraph (2) below, affect the operation on and after that date of that order or, in relation to that order, of that Part.
- (2) Any order which has effect by virtue of sub-paragraph (1) above shall so have effect as if any reference in that order to a particular water authority were a reference to that authority’s successor company; and nothing in that sub-paragraph shall affect the exercise in relation to such an order of the power conferred by section 191 of this Act or prejudice the effect, in relation to any such order of—
- (a) any repeal by this Act of provisions of Schedule 3 to the 1945 Act applied (with or without modifications) by that order;
  - (b) any saving made by the preceding provisions of this Schedule in relation to any such repeal; or
  - (c) in the case of an order making such provision as is mentioned in section 23(1) (c) of that Act or applying, or making provision corresponding to, any of

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sections 74 to 77 of Schedule 3 to that Act, the provisions of Chapter VI of Part II of this Act.

- (3) Without prejudice to any amendment made by or under this Act, the repeal by this Act of subsection (2) of section 6 of the Public Utility Transfers and Water Charges Act 1988 shall not affect any modification made before the transfer date by an order made before that date under that subsection.

*The Town and Country Planning Act 1959 (c. 53)*

- 55 The repeal by this Act of paragraphs 6 and 10 to 12 of Part I of Schedule 4 to the Town and Country Planning Act 1959 shall not affect the operation on and after the transfer date of any enactment in relation to which Part II of that Act has effect and which confers powers on any internal drainage board or any joint board or joint committee.

*Transitory provision relating to rating*

- 56 (1) In relation to the period beginning with the transfer date and ending with 31st March 1990, the provisions of section 31 of and Schedule 4 to the Rate Act 1967 (valuation of water hereditaments) shall have effect—
- (a) as if references in those provisions to any statutory water undertakers or to their undertaking included references to a water undertaker or to the undertaking of a water undertaker;
  - (b) as if the successor company of a water authority were the same person in law as the water authority; and
  - (c) as if any hereditament which—
    - (i) is occupied on and after that date by the Authority; and
    - (ii) was occupied, immediately before that date, by a water authority for the purposes of their functions with respect to the supply of water, were a water hereditament occupied by that water authority's successor company for the purposes of the company's functions (as a water undertaker) with respect to the supply of water.
- (2) Where any hereditament allocated to the Authority by a scheme under Schedule 2 to this Act will fall on and after the transfer date to be treated for the purposes of the provisions mentioned in sub-paragraph (1) above as occupied by a successor company, that scheme may require the Authority to make payments to the successor company, of such amounts and at such times as may be determined in accordance with the scheme, by way of contributions in respect of any liability of the successor company in consequence of those provisions.
- (3) In relation to the period mentioned in sub-paragraph (1) above—
- (a) section 19 of the said Act of 1967 (general rule as to ascertainment of rateable value) shall have effect as if the reference in the definition of “non-industrial building” in that section to premises forming part, and taken into account in the valuation for rating purposes, of a water undertaking included a reference to any such premises transferred in accordance with a scheme under Schedule 2 to this Act to the Authority or a successor company; and
  - (b) section 43 of that Act (exemption of property of certain authorities) shall have effect, subject to that sub-paragraph, as if the references in that

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section to a water authority and to a drainage authority included references, respectively, to the Authority and to an internal drainage board.

*Byelaws*

57 (1) Where any power to make byelaws is exercisable before the transfer date by a water authority or by any statutory water company, then in so far as that power is by virtue of this Act conferred (whether by being amended or by being re-enacted with modifications) on the Authority or on any other body—

- (a) any byelaws made by a water authority or statutory water company in exercise of that power and in force immediately before that date shall have effect on and after the transfer date as if they had been made by the relevant body under the power conferred by virtue of this Act; and
- (b) anything done under any provision of Schedule 7 to the 1973 Act or Schedule 4 to the Land Drainage Act 1976 shall have effect on and after that date as if it had been done under the corresponding provision of Schedule 24 to this Act and, if it was done (in the case of byelaws made by a water authority) by or in relation to that authority, as if it had been done by or in relation to the relevant body;

and references (however framed) in any byelaws which have effect by virtue of this paragraph to the body which made the byelaws shall have effect accordingly.

(2) For the purposes of this paragraph any byelaws in force immediately before the transfer date by virtue of—

- (a) paragraph (c) of section 22(6) of the Countryside Act 1968 (byelaws preventing sewage etc. from entering a waterway); or
- (b) section 18 of the 1945 Act (byelaws preventing pollution of water of undertakers),

shall have effect on and after that date as if the power to make byelaws under section 158 of this Act included power to make such byelaws as could be made under the said paragraph (c) or the said section 18.

(3) Notwithstanding any repeal by this Act, the provisions of subsections (2) to (5) of section 18 of the 1945 Act and of subsection (2), (4) and (5) of section 19 of that Act and, in relation to those provisions, the provisions of Part V of that Act shall have effect in relation to any byelaws under section 18 of that Act having effect by virtue of sub-paragraphs (1) and (2) above—

- (a) as they had effect in relation to those byelaws immediately before the transfer date; but
- (b) as if any references in those provisions of sections 18 and 19 of the 1945 Act to the statutory water undertakers who made the byelaws were references to the relevant body;

and every duty imposed on a water undertaker by virtue of paragraph (b) above shall be enforceable under section 20 of this Act by the Secretary of State.

(4) Without prejudice to the power of the Secretary of State under the Control of Pollution Act 1974 to bring the repeal of section 18 of the 1945 Act into force, the power of the Secretary of State under section 111 of this Act to make an order for the purposes specified in that section shall include power, by an order under that section—

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- (a) to modify the operation of sub-paragraphs (1) to (3) above in relation to any byelaws made under the said section 18 and having effect by virtue of those sub-paragraphs; and
  - (b) to revoke or amend any such byelaws.
- (5) Without prejudice to the power conferred by virtue of sub-paragraph (4) above, the Secretary of State shall not be required to hold a local inquiry before exercising his power under paragraph 5 of Schedule 24 to this Act to revoke any byelaw having effect by virtue of sub-paragraph (2) above.
- (6) Nothing in this Act shall, in relation to any byelaws made before the transfer date and continuing to have effect on and after that date, alter the area in relation to which those byelaws have effect.
- (7) In this paragraph “the relevant body”, in relation to any byelaws—
- (a) in the case of byelaws made by a statutory water company, means that company;
  - (b) in the case of byelaws made by a water authority under section 22(6) of the Countryside Act 1968 (byelaws with respect to certain waterways) with respect to any waterway or land which on and after the transfer date is owned by the water authority’s successor company or (without being owned by the Authority) is managed by that company, means that company; and
  - (c) in any other case, means the Authority.

*Saving for criminal liability of water authorities*

- 58 Nothing in this Act or in any scheme under Schedule 2 to this Act shall have the effect, in relation to any criminal liability of a water authority in respect of an offence committed before the transfer date, of transferring that liability to the Authority or to the water authority’s successor company.

*Periods of time*

- 59 Where any period of time—
- (a) is specified in any enactment to which a provision of this Act corresponds (whether by virtue of its being the re-enactment, with or without modifications, of the whole or any part of that enactment or by virtue of any provision having effect for the purposes of this Schedule); or
  - (b) is specified in an enactment any function under which is transferred by virtue of any provision of this Act from a water authority to any other person,
- then, if any period is current for the purposes of that enactment on the day on which the said provision of this Act comes into force, so much of the period as has expired before that day shall be taken into account, in relation to anything done before that day which is treated as done under that provision or, as the case may be, by or in relation to that person, as if that provision had been in force when the period began to run.