

SCHEDULE 7

Article 10

TRANSITIONAL PROVISIONS AND SAVINGS

**PART 1**

General provisions

**Interpretation**

1.—(1) In this Schedule—

“the transfer date” (“*y dyddiad trosglwyddo*”) means 1 April 2013;

“transferee” (“*trosglwyddai*”) means the body or person by whom a transferred function becomes exercisable on the transfer date;

“transferor” (“*trosglwyddwr*”) means the body or person by whom a transferred function was exercisable immediately before the transfer date;

“transferred function” (“*swyddogaeth drosglwyddedig*”) means any function which, by virtue of any provision made by this Order, becomes exercisable on the transfer date by a body or person other than the body or person by whom it was exercisable immediately before that date.

(2) For the purpose of the definition of “transferred function”, it does not matter that a function continues to be exercisable on and after the transfer date by the transferor as well as the transferee (whether jointly or otherwise).

(3) In this Schedule, any reference to anything done by or in relation to a transferor includes a reference to anything which, by virtue of any enactment, is treated as having been done by or in relation to that transferor.

**Continuity of exercise of functions**

2.—(1) None of the following, that is to say—

(a) the abolition of the CCW,

(b) the transfer, modification, repeal or revocation by this Order of any function, or

(c) the transfer by this Order of any property, rights or liabilities,

affects the validity of anything done before the abolition, transfer, modification, repeal or revocation takes effect.

(2) Anything (including, without limitation, legal proceedings) which, at the transfer date, is in the process of being done by or in relation to a transferor in the exercise of, or in connection with, a transferred function may be continued by or in relation to the transferee.

(3) Anything done by or in relation to a transferor before the transfer date in the exercise of, or otherwise in connection with, a transferred function is, so far as is required for continuing its effect on and after that date, to have effect as if done by or in relation to the transferee.

(4) Any reference to a transferor (and any reference which is to be read as a reference to a transferor) in any document constituting or relating to anything to which the provisions of this paragraph apply is, so far as is required for giving effect to those provisions, to be treated as a reference to the transferee.

3.—(1) This paragraph applies where—

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- (a) a function (“the old function”) was conferred on the CCW by Part 7 of the 1990 Act or any other provision which is repealed by this Order;
  - (b) an equivalent function (“the new function”) is conferred on the Body by any provision of the Establishment Order (as amended by this Order).
- (2) Anything (including, without limitation, legal proceedings) which, at the transfer date, is in the process of being done in relation to the old function may be continued in relation to the new function.
- (3) Anything done in relation to the old function is, so far as is required for continuing its effect on and after the transfer date, to have effect as if done in relation to the new function.
- (4) Any reference to the CCW (and any reference which is to be read as a reference to the CCW) in any document relating to the old function is, so far as is required for giving effect to this paragraph, to be treated as a reference to the Body.
4. The provisions of this Part—
- (a) are without prejudice to any provision made by this Order in relation to any particular functions;
  - (b) are not to be treated as continuing in force any contract of employment made by a transferor.

## PART 2

### Directions

#### General directions

- 5.—(1) A direction which was given under section 3(1) of the National Parks and Access to the Countryside Act 1949<sup>(1)</sup> or section 131(4) of the 1990 Act before the transfer date is to be treated on and after the transfer date as a direction given to the Body under article 11(1) of the Establishment Order.
- (2) A direction which was given for the purposes of section 1(4) of the Forestry Act 1967<sup>(2)</sup> before the transfer date is, to the extent that it applies in relation to a function that becomes exercisable by the Body by virtue of any provision made by this Order, to be treated on and after the transfer date as a direction given to the Body under article 11(1) of the Establishment Order.
- (3) A direction which was given under section 40(1) of the 1995 Act before the transfer date is, to the extent that it applies in relation to a transferred function, to be treated on and after the transfer date as a direction given to the Body under article 11(1) of the Establishment Order.
- (4) A direction which was given under section 40(2) of the 1995 Act before the transfer date is, to the extent that it applies in relation to Wales, to be treated on and after the transfer date as a direction given to the Body under article 11(3) of the Establishment Order (as substituted by this Order), but this is subject to any provision made by this Part in relation to particular directions.

#### **The River Basin Districts Surface Water and Groundwater Classification (Water Framework Directive) (England and Wales) Direction 2009**

- 6.—(1) The River Basin Districts Surface Water and Groundwater Classification (Water Framework Directive) (England and Wales) Direction 2009 is to be treated on and after the transfer date as a direction given to the appropriate agency—

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(1) 1949 c. 97.  
(2) 1967 c. 10.

- (a) under article 11(3) of the Establishment Order (as substituted by this Order) in so far as the direction applies where the appropriate agency is the Natural Resources Body for Wales;
- (b) under section 40(2) of the 1995 Act in so far as the direction applies where the appropriate agency is the Environment Agency;
- (c) under article 11(3) of the Establishment Order (3)(as substituted by this Order) and under section 40(2) of the 1995 Act in so far as the direction applies where the appropriate agency is the Natural Resources Body for Wales and the Environment Agency acting jointly.

(2) In this paragraph “appropriate agency” (“*asiantaeth briodol*”) has the same meaning as in regulation 2(1) of the Water Environment (Water Framework Directive) (England and Wales) Regulations 2003 as amended by this Order.

### **The River Basin Districts Typology, Standards and Groundwater threshold values (Water Framework Directive) (England and Wales) Directions 2010**

7.—(1) The River Basin Districts Typology, Standards and Groundwater threshold values (Water Framework Directive) (England and Wales) Directions 2010 are to be treated on and after the transfer date as directions given to the appropriate agency—

- (a) under articles 11(3) and 11A(3) of the Establishment Order (as substituted by this Order) in so far as the directions apply where the appropriate agency is the Natural Resources Body for Wales;
- (b) under sections 40(2) and 122(2) of the 1995 Act in so far as the directions apply where the appropriate agency is the Environment Agency; and
- (c) under articles 11(3) and 11A(3) of the Establishment Order (as substituted by this Order) and under sections 40(2) and 122(2) of the 1995 Act in so far as the directions apply where the appropriate agency is the Natural Resources Body for Wales and the Environment Agency acting jointly.

(2) In this paragraph, “appropriate agency” (“*asiantaeth briodol*”) has the same meaning as in regulation 2(1) of the Water Environment (Water Framework Directive) (England and Wales) Regulations 2003 as amended by this Order.

## **PART 3**

### **Provisions relating to amendments of specific enactments**

#### **Environmental Protection Act 1990**

8. Notwithstanding the repeal by this Order of Schedules 8 and 9 to the 1990 Act, the amendments made by those Schedules to other Acts continue to have effect to the extent that they had effect immediately before the coming into force of this Order, subject to any amendments to those other Acts made by this Order.

#### **Control of Major Accident Hazards Regulations 1999**

9.—(1) This paragraph applies for the purposes of regulation 7(11) of the Control of Major Accident Hazards Regulations 1999(4).

(2) Where—

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(3) S.I.2003/3242 as amended by S.I. 2005/2035, S.I. 2007/3538, S.I. 2008/1097 (partly as from 14/05/08, fully as from 24/03/15), S.I. 2010/630 (C. 42), S.I. 2011/556 (C. 19).

(4) S.I. 1999/743 as amended by S.I. 2002/2469, S.I. 2005/1088, S.I. 2008/960, S.I. 2008/1087, S.I. 2009/1595.

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- (a) a safety report is sent to the competent authority in relation to an establishment in Wales;
- (b) that safety report includes information by reference to information contained in another report or notification sent to the Environment Agency pursuant to a requirement imposed by or under any enactment; and
- (c) the other report or notification was sent to the Environment Agency before the transfer date;

then the report or notification sent to the Environment Agency is deemed to have been sent to the appropriate agency.

(3) In this paragraph, “appropriate agency” (“*asiantaeth briodol*”), “establishment” (“*sefydliad*”), “notification” (“*hysbysiad*”) and “safety report” (“*adroddiad diogelwch*”) have the meanings given by regulation 2(1) of the Control of Major Accident Hazards Regulations 1999 as amended by this Order.

### **Forest Reproductive Material (Great Britain) Regulations 2002**

**10.**—(1) A person who is an authorised officer for the purposes of the Forest Reproductive Material (Great Britain) Regulations 2002<sup>(5)</sup> immediately before the transfer date is thereafter deemed to be an authorised officer by virtue of being authorised by both the Commissioners and by the Welsh Ministers.

(2) Sub-paragraph (1) does not affect the powers of the Commissioners and the Welsh Ministers to revoke, on or after the transfer date, any authorisation of a person or to subsequently renew that authorisation.

### **Plant Health (Forestry) Order 2005**

**11.**—(1) A person who is an inspector for the purposes of the Plant Health (Forestry) Order 2005<sup>(6)</sup> immediately before the transfer date is thereafter deemed to be an inspector by virtue of being authorised by both the Commissioners and by the Welsh Ministers.

(2) Sub-paragraph (1) does not affect the powers of the Commissioners and the Welsh Ministers to revoke, on or after the transfer date, any authorisation of a person or to subsequently renew that authorisation.

### **Environmental Civil Sanctions (Wales) Order 2010**

**12.**—(1) In this paragraph—

“the 2008 Act” (“*Deddf 2008*”) means the Regulatory Enforcement and Sanctions Act 2008;  
“the 2010 Order” (“*Gorchymyn 2010*”) means the Environmental Civil Sanctions (Wales) Order 2010<sup>(7)</sup> as amended by this Order.

(2) Section 67 of the 2008 Act applies to the 2010 Order as if—

- (a) in subsection (2) there were substituted, for the period of three years, a period of one year; and
- (b) any provision of the 2010 Order conferring power on a regulator to impose a civil sanction in relation to an offence—
  - (i) had been made under or by virtue of Part 3 of the 2008 Act; and
  - (ii) had come into force on the transfer date.

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<sup>(5)</sup> S.I. 2002/3026 as amended by S.I. 2006/2530.

<sup>(6)</sup> S.I. 2005/2517 as amended by S.I. 2006/2696, S.I. 2008/644, S.I. 2009/594, S.I. 2009/3020.

<sup>(7)</sup> S.I. 2010/1821 (W. 178).

## **PART 4**

### **Provisions relating to abolition of CCW**

#### **Interpretation**

**13.** In this Part, “the relevant period” (“*y cyfnod perthnasol*”) means the period commencing on 1 April 2012 and ending on 31 March 2013.

#### **Final statement of accounts in relation to CCW**

**14.**—(1) The Body must prepare a statement of accounts in relation to the CCW for the relevant period.

(2) The Body must submit the statement of accounts to the Welsh Ministers in such form and at such time as they may direct.

(3) The Welsh Ministers must send a copy of the statement of accounts to the Auditor General for Wales on or before 31 August 2013.

(4) The Auditor General for Wales must—

- (a) examine, certify and report on the statement of accounts;
- (b) provide a copy of the certified statement of accounts together with his or her report on it to the Body; and
- (c) no later than 4 months after the statement of accounts is submitted, lay before the National Assembly for Wales a copy of the certified statement of accounts and report.

#### **Final report in relation to CCW**

**15.**—(1) The Body must prepare for the Welsh Ministers a report on the exercise and performance of the functions of the CCW during the relevant period.

(2) The Body must submit the report to the Welsh Ministers as soon as possible after 31 March 2013.

(3) The Welsh Ministers must lay a copy of the report before the National Assembly for Wales.