

Changes to legislation: There are currently no known outstanding effects for the Tertiary Education and Research (Wales) Act 2022, SCHEDULE 2. (See end of Document for details)

SCHEDULE 2

(introduced by section 24)

TRANSFERS OF PROPERTY AND STAFF TO THE COMMISSION

Power to make transfer schemes

- 1 (1) The Welsh Ministers may make one or more schemes providing for—
 - (a) staff of the Higher Education Funding Council for Wales or the Welsh Government to become members of staff of the Commission;
 - (b) the transfer of property, rights and liabilities of the Higher Education Funding Council for Wales or the Welsh Ministers to the Commission.
- (2) The things that may be transferred under a scheme under this Schedule (a “transfer scheme”) include—
 - (a) property, rights and liabilities that could not otherwise be transferred;
 - (b) property acquired, and rights and liabilities arising, after the making of the scheme;
 - (c) criminal liabilities.
- (3) A transfer scheme may make consequential, supplementary, incidental, transitional or transitory provision, for example so as to—
 - (a) create rights, or impose liabilities, in relation to property or rights transferred;
 - (b) make provision about the continuing effect of things done in respect of anything transferred;
 - (c) make provision about the continuation of things (including legal proceedings) in the process of being done in respect of anything transferred;
 - (d) make provision for the shared ownership or use of property;
 - (e) make provision for references to the Higher Education Funding Council for Wales, the Welsh Government or the Welsh Ministers in an instrument or other document in respect of anything transferred to be treated as references to the Commission;
 - (f) make provision which is the same as or similar to a provision made by the TUPE regulations in a case where those regulations do not apply in relation to the transfer.

Commencement Information

- I1** Sch. 2 para. 1 not in force at Royal Assent, see [s. 148\(2\)](#)
- I2** Sch. 2 para. 1 in force at 4.9.2023 by [S.I. 2023/919](#), [art. 2\(w\)](#)

Modification of transfer schemes

- 2 (1) The Welsh Ministers may modify a transfer scheme.
- (2) But if a transfer under the scheme has taken effect, any modification that relates to the transfer may be made only with the agreement of the person (or persons) affected by the modification.
- (3) A modification takes effect from the date when the original scheme came into effect or such later date as the Welsh Ministers may specify.

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Commencement Information

- I3** Sch. 2 para. 2 not in force at Royal Assent, see [s. 148\(2\)](#)
I4 [Sch. 2 para. 2](#) in force at 4.9.2023 by [S.I. 2023/919](#), [art. 2\(w\)](#)

Duty to lay transfer schemes before Senedd Cymru

- 3 The Welsh Ministers must lay a copy of a transfer scheme made under this Schedule before Senedd Cymru.

Commencement Information

- I5** Sch. 2 para. 3 not in force at Royal Assent, see [s. 148\(2\)](#)
I6 [Sch. 2 para. 3](#) in force at 4.9.2023 by [S.I. 2023/919](#), [art. 2\(w\)](#)

Interpretation

- 4 (1) For the purposes of this Schedule—
- (a) an individual who holds employment in the civil service is to be treated as employed by virtue of a contract of employment, and
 - (b) the terms of the individual’s employment in the civil service are to be regarded as constituting the terms of the contract of employment.
- (2) In this Schedule—
- “civil service” (“*gwasanaeth sifil*”) means the civil service of the State;
 - “TUPE regulations” (“*rheoliadau TUPE*”) means the Transfer of Undertakings (Protection of Employment) Regulations 2006 ([SI 2006/246](#));
 - references to rights and liabilities include rights and liabilities relating to a contract of employment;
 - references to the transfer of property include the grant of a lease.

Commencement Information

- I7** Sch. 2 para. 4 not in force at Royal Assent, see [s. 148\(2\)](#)
I8 [Sch. 2 para. 4](#) in force at 4.9.2023 by [S.I. 2023/919](#), [art. 2\(w\)](#)

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