



Criminal Justice and Court Services Act 2000

2000 CHAPTER 43

PART I

THE NEW SERVICES

CHAPTER III

GENERAL

Property and staff

18 Definitions.

- (1) This section applies for the purposes of sections 19 to 21 and Schedule 3.
- (2) “Eligible employee” means—
 - (a) in relation to a local authority or the Official Solicitor or the Receiver for the Metropolitan Police District, a person who is employed under a contract of employment with the authority, the solicitor or the receiver on work which would have continued but for this Part,
 - ^{F1}(b)
- (3) “New employer” means ^{F2}... the Service.
- (4) “Old employer” means a local authority, ^{F3}..., the Official Solicitor or the Receiver for the Metropolitan Police District.
- (5) “Property” includes rights and interests of any description, other than—
 - (a) those under a contract of employment,
 - (b) land, in the case of transfers to a local board.

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Textual Amendments

- F1** S. 18(2)(b) repealed (1.4.2008 for specified purposes, 1.4.2009 for specified purposes, 1.4.2010 in so far as not already in force) by [Offender Management Act 2007 \(c. 21\), s. 41\(1\), Sch. 5 Pt. 1](#); [S.I. 2008/504, art. 4\(1\)\(m\)\(iv\)\(2\)](#); [S.I. 2009/547, art. 2\(1\)\(m\)\(iv\)\(2\)](#); [S.I. 2010/191, art. 2\(13\)\(d\)](#)
- F2** Words in s. 18(3) repealed (1.4.2008 for specified purposes, 1.4.2009 for specified purposes, 1.4.2010 in so far as not already in force) by [Offender Management Act 2007 \(c. 21\), s. 41\(1\), Sch. 5 Pt. 1](#); [S.I. 2008/504, art. 4\(1\)\(m\)\(iv\)\(2\)](#); [S.I. 2009/547, art. 2\(1\)\(m\)\(iv\)\(2\)](#); [S.I. 2010/191, art. 2\(13\)\(d\)](#)
- F3** Words in s. 18(4) repealed (1.4.2008 for specified purposes, 1.4.2009 for specified purposes, 1.4.2010 in so far as not already in force) by [Offender Management Act 2007 \(c. 21\), s. 41\(1\), Sch. 5 Pt. 1](#); [S.I. 2008/504, art. 4\(1\)\(m\)\(iv\)\(2\)](#); [S.I. 2009/547, art. 2\(1\)\(m\)\(iv\)\(2\)](#); [S.I. 2010/191, art. 2\(13\)\(d\)](#)

19 Property.

- (1) The [^{F4}Secretary of State] may by order make a scheme—
- for the transfer to the [^{F4}Secretary of State] or the Service of any property belonging to the old employer,
 - for the transfer to the [^{F4}Secretary of State] or the Service of any liabilities to which the old employer is subject,
 - for the transfer of property or liabilities to a new employer after an initial transfer to the [^{F4}Secretary of State] under paragraph (a) or (b),
 - for the Service to have any rights or interests which the [^{F4}Secretary of State] considers appropriate in relation to any property transferred to the [^{F4}Secretary of State] under the scheme.
- (2) Stamp duty is not chargeable in respect of any transfer or grant to the Service effected by virtue of this section.
- (3) No instrument made or executed under or in pursuance of the scheme for the purposes of such a transfer or grant is to be treated as duly stamped unless—
- it is stamped with the duty to which it would, but for this section, be liable, or
 - it has, in accordance with the provisions of section 12 of the ^{M1}Stamp Act 1891, been stamped with a particular stamp denoting that it is not chargeable with any duty or that it has been duly stamped.
- (4) Schedule 3 (contents of schemes) applies in relation to a scheme under this section.
- [^{F5}(5) For the purposes of stamp duty land tax, a land transaction effected by virtue of this section, under which the purchaser is the Service, is exempt from charge.
- (6) Relief under subsection (5) must be claimed in a land transaction return or an amendment of such a return.
- (7) In this section—
- “land transaction” has the meaning given by section 43(1) of the Finance Act 2003;
 - “land transaction return” has the meaning given by section 76(1) of that Act;
 - “purchaser” has the same meaning as in Part 4 of that Act.]

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Textual Amendments

- F4** Words in s. 19 substituted (12.1.2004) by [The Transfer of Functions \(Children, Young People and Families\) Order 2003 \(S.I. 2003/3191\)](#), art. 1(2), **Sch. para. 4(2)**
- F5** S. 19(5)-(7) inserted (1.12.2003) by [The Stamp Duty Land Tax \(Consequential Amendment of Enactments\) Regulations 2003 \(S.I. 2003/2867\)](#), reg. 1, **Sch. para. 30**

Modifications etc. (not altering text)

- C1** S. 19: transfer of functions (12.1.2004) by [The Transfer of Functions \(Children, Young People and Families\) Order 2003 \(S.I. 2003/3191\)](#), arts. 1(2), 3, 4

Marginal Citations

- M1** 1891 c. 39.

20 Transfer of staff.

(1) The [^{F6}Secretary of State] may by order make a scheme for the transfer to a new employer of any eligible employee.

^{F7}(2)

(3) A scheme may apply—

- (a) to all, or any description of, eligible employees or persons so employed, or
- (b) to any individual eligible employee or person so employed.

(4) A scheme may be made only if any directions about consultation given by the [^{F6}Secretary of State] have been complied with in relation to each of the eligible employees and chief probation officers to be transferred or appointed in pursuance of the scheme.

Textual Amendments

- F6** Words in s. 20 substituted (12.1.2004) by [The Transfer of Functions \(Children, Young People and Families\) Order 2003 \(S.I. 2003/3191\)](#), art. 1(2), **Sch. para. 4(2)**
- F7** S. 20(2) repealed (1.4.2008 for specified purposes, 1.4.2009 for specified purposes, 1.4.2010 in so far as not already in force) by [Offender Management Act 2007 \(c. 21\)](#), s. 41(1), **Sch. 5 Pt. 1**; [S.I. 2008/504](#), art. 4(1)(m)(v)(2); [S.I. 2009/547](#), art. 2(1)(m)(v)(2); [S.I. 2010/191](#), art. 2(13)(e)

Modifications etc. (not altering text)

- C2** S. 20: transfer of functions (12.1.2004) by [The Transfer of Functions \(Children, Young People and Families\) Order 2003 \(S.I. 2003/3191\)](#), arts. 1(2), 3, 4

21 Effect of transfer of eligible employees.

(1) The contract of employment of an employee transferred under a scheme—

- (a) is not terminated by the transfer,
- (b) has effect from the date of transfer as if originally made between the employee and the transferee.

(2) Where an employee is transferred under a scheme—

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- (a) all the rights, powers, duties and liabilities of the old employer under or in connection with the contract of employment are by virtue of this subsection transferred to the transferee on the date of transfer, and
- (b) anything done before that date by or in relation to the old employer in respect of that contract or the employee is to be treated from that date as having been done by or in relation to the transferee.

This subsection does not prejudice the generality of subsection (1).

- (3) But if the employee informs the old employer or the transferee that he objects to the transfer—
 - (a) subsections (1) and (2) do not transfer his contract of employment, or the rights, powers, duties and liabilities under or in connection with it, and
 - (b) the contract of employment is terminated immediately before the date of transfer.
- (4) An employee is not to be treated, for the purposes of the ^{M2}Employment Rights Act 1996, as having been dismissed by the old employer by reason of—
 - (a) the transfer of his contract of employment under a scheme, or
 - (b) the termination of his contract of employment by virtue of subsection (3).

^{F8}(5)

- (6) This section 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 section, the identity of his employer changes unless the employee shows that, in all the circumstances, the change is a significant change and is to his detriment.

- (7) In this section—
 - “date of transfer” means the date of transfer determined under the scheme in relation to the employee,
 - “scheme” means a scheme made by virtue of section 20,
 - “transferee” means the new employer to whom the employee is or would be transferred under the scheme.

Textual Amendments

F8 S. 21(5) repealed (1.4.2008 for specified purposes, 1.4.2009 for specified purposes, 1.4.2010 in so far as not already in force) by [Offender Management Act 2007 \(c. 21\), s. 41\(1\)](#), [Sch. 5 Pt. 1](#); [S.I. 2008/504, art. 4\(1\)\(m\)\(vi\)\(2\)](#); [S.I. 2009/547, art. 2\(1\)\(m\)\(vi\)\(2\)](#); [S.I. 2010/191, art. 2\(13\)\(f\)](#)

Marginal Citations

M2 [1996 c. 18.](#)

^{F9}**22** **Effect of transfer of chief probation officers.**

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Textual Amendments

- F9** S. 22 repealed (1.4.2008 for specified purposes, 1.4.2009 for specified purposes, 1.4.2010 in so far as not already in force) by [Offender Management Act 2007 \(c. 21\)](#), s. 41(1), [Sch. 5 Pt. 1](#); S.I. 2008/504, art. 4(1)(m)(vii)(2); S.I. 2009/547, art. 2(1)(m)(vii)(2); S.I. 2010/191, art. 2(13)(g)

23 Transfer of staff in consequence of arrangements under Part I.

- (1) This section applies where, by reason of the implementation or termination of any arrangements under section 5, 8 or 13, any functions exercisable by any person (the “old employer”) become exercisable by another person (whether on behalf, or instead, of the old employer).
- (2) The [^{F10}Secretary of State] may by order make a scheme for the transfer to the other person (the “transferee”) of any person (an “eligible employee”) employed under a contract of employment with the transferor on work which would have continued but for the implementation or termination of the arrangements.
- (3) A scheme may apply—
 - (a) to all, or any description of, eligible employees, or
 - (b) to any individual eligible employee.
- (4) A scheme may be made only if any directions about consultation given by the [^{F10}Secretary of State] have been complied with in relation to each of the eligible employees to be transferred in pursuance of the scheme.
- (5) Section 21 (except subsection (5) and the definitions of “scheme” and “transferee”) applies to a scheme made by virtue of this section as it applies to a scheme made by virtue of section 20, and as if “old employer” and “transferee” had the same meanings as in this section.

Textual Amendments

- F10** Words in s. 23 substituted (12.1.2004) by [The Transfer of Functions \(Children, Young People and Families\) Order 2003 \(S.I. 2003/3191\)](#), art. 1(2), [Sch. para. 4\(2\)](#)

Modifications etc. (not altering text)

- C3** S. 23: transfer of functions (12.1.2004) by [The Transfer of Functions \(Children, Young People and Families\) Order 2003 \(S.I. 2003/3191\)](#), arts. 1(2), [3](#), [4](#)

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