

## SCHEDULES

### SCHEDULE 4

Section 35

#### TRANSFER OF PROPERTY ETC TO COUNCIL

##### *Preliminary*

- 1 In this Schedule—
- “transfer scheme” has the meaning given by section 35;
  - “transferor” means the body to which section 35 applies and to which the transfer scheme relates.

##### *Contents of transfer schemes*

- 2 (1) The property, rights and liabilities that may be transferred by a transfer scheme include property, rights and liabilities that would not otherwise be capable of being transferred or assigned.
- (2) The transfers authorised by sub-paragraph (1) include transfers of interests and rights that are to take effect in accordance with the scheme as if there were—
- (a) no such requirement to obtain a person’s consent or concurrence,
  - (b) no such liability in respect of a contravention of any other requirement, and
  - (c) no such interference with any interest or right,
- as there would otherwise be by reason of a provision within sub-paragraph (3).
- (3) A provision is within this sub-paragraph to the extent that it has effect (whether under an enactment or agreement or otherwise) in relation to the terms on which the transferor is entitled or subject to anything to which the transfer relates.
- 3 A transfer scheme may define the property, rights and liabilities to be transferred by specifying them or describing them.
- 4 A transfer scheme may contain supplementary, incidental, transitional and consequential provision.

##### *Effect of transfers*

- 5 (1) On the day appointed by a transfer scheme the property, rights and liabilities which are the subject of the scheme are transferred to the Council in accordance with the provisions of the scheme.
- (2) Sub-paragraph (1) 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 virtue of that sub-paragraph.

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*Status: This is the original version (as it was originally enacted).*

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- 6
- (1) So far as is appropriate in consequence of the transfer, anything done by the transferor for the purposes of or in connection with anything transferred which is in effect immediately before it is transferred is to be treated as if done by the Council.
  - (2) A transfer does not affect the validity of anything done by or in relation to the transferor before the transfer takes effect.
  - (3) There may be continued by or in relation to the Council anything (including legal proceedings) relating to anything transferred which is in the process of being done by or in relation to the transferor immediately before it is transferred.
  - (4) So far as is appropriate in consequence of the transfer, the Council is substituted for the transferor in any agreement, instrument or other document relating to anything transferred.

#### *Staff*

- 7
- The Transfer of Undertakings (Protection of Employment) Regulations 2006 ([S.I. 2006/246](#)) apply to a transfer which relates to rights or liabilities under a contract of employment whether or not the transfer would, apart from this paragraph, be a relevant transfer for the purposes of those regulations.
- 8
- Where an employee of the transferor becomes an employee of the Council by virtue of a transfer scheme—
- (a) a period of employment with the transferor is to be treated as a period of employment with the Council, and
  - (b) the transfer to the Council is not to be treated as a break in service.

#### *Chargeable gains: asset to be treated as disposed of without a gain or loss*

- 9
- For the purposes of the Taxation of Chargeable Gains Act 1992 ([c. 12](#)), a transfer of an asset by a transfer scheme is to be treated as a disposal of that asset to the Council for a consideration of such amount as would secure that, on the disposal, neither a gain nor a loss accrues to the transferor.

#### *Continuity in relation to transfer of intangible assets*

- 10
- (1) For the purposes of Schedule 29 to the Finance Act 2002 ([c. 23](#))—
    - (a) a transfer by a transfer scheme of a chargeable intangible asset of the transferor is to be treated as a tax-neutral transfer, and
    - (b) an intangible fixed asset which is an existing asset of the transferor at the time of the transfer is to be treated, on and after the transfer, as an existing asset in the hands of the Council.
  - (2) Expressions used in this paragraph and in that Schedule have the same meanings in this paragraph as in that Schedule.

#### *Corporation Tax Acts*

- 11
- So far as it relates to corporation tax, this Schedule is to be construed as one with the Corporation Tax Acts.

*Modification of transfer schemes after appointed day*

- 12 (1) If, after the day appointed by a transfer scheme, the transferor and the Council so agree in writing, the scheme shall for all purposes be deemed to have come into force on that day with such modifications as may be agreed.
- (2) An agreement under this paragraph may, in connection with giving effect to modifications to the scheme, include supplementary, incidental, transitional and consequential provision.