

SCHEDULES

SCHEDULE 6

Sections 51(3) and 65(3)

TRANSFER SCHEMES

Creation and apportionment of property, rights and liabilities etc.

- 1 A scheme may—
 - (a) create for the transferor interests in, or rights over, property transferred by virtue of the scheme,
 - (b) create for a transferee interests in, or rights over, property retained by the transferor or transferred to another transferee,
 - (c) create rights or liabilities between the transferor and a transferee or between transferees.
- 2 (1) A scheme may provide for the transfer of property, rights or liabilities that would not otherwise be capable of being transferred or assigned.
 - (2) In particular, it may provide for the transfer to take effect regardless of a contravention, liability or interference with an interest or right that would otherwise exist by reason of a provision having effect in relation to the terms on which the transferor is entitled to the property or right, or subject to the liability, in question.
 - (3) It does not matter whether the provision referred to in sub-paragraph (2) has effect under an enactment or an agreement or in any other way.
- 3 A certificate by the Secretary of State that anything specified in the certificate has vested in any person by virtue of a scheme is conclusive evidence for all purposes of that fact.

Employment contracts

- 4 (1) This paragraph applies if rights and liabilities under a contract of employment are transferred by virtue of a scheme.
 - (2) The contract of employment—
 - (a) is not terminated by the transfer, and
 - (b) has effect from the transfer date as if made between the employee and the transferee.
 - (3) The rights, powers, duties and liabilities of the transferor under or in connection with the contract are transferred to the transferee on the transfer date.
 - (4) Anything done before the transfer date by or in relation to the transferor in respect of the contract or the employee is to be treated from that date as having been done by or in relation to the transferee.

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- (5) In particular, a period of employment with the transferor is to be treated as a period of employment with the transferee (and the transfer is not to be treated as interrupting the continuity of that employment).
- (6) This paragraph is subject to paragraph 5.
- 5 (1) Rights and liabilities under a contract of employment are not transferred by virtue of a scheme if the employee objects to the transfer and informs the transferor or transferee of that fact.
- (2) If the employee objects to the transfer and informs the transferor or transferee of that fact—
- (a) the employee's contract of employment is terminated immediately before the transfer date, but
 - (b) the employee is not to be treated, for any purpose, as having been dismissed by the transferor.
- 6 If (apart from the change of employer) a substantial detrimental change is made to a person's working conditions, nothing in this Schedule affects any right the person has to terminate the person's contract of employment.

Civil servants treated as employed under a contract of employment etc.

- 7 (1) This Schedule applies with the following modifications in relation to employment in the civil service of the Crown on terms which do not constitute a contract of employment.
- (2) An individual who holds employment in the civil service of the Crown immediately before the transfer date is to be treated as employed by virtue of a contract of employment.
- (3) The terms of the employment in the civil service of the Crown are to be regarded as constituting the terms of the contract of employment.
- (4) The reference in paragraph 5 to dismissal by the transferor is to termination of the employment in the civil service of the Crown.

Compensation

- 8 A scheme may contain provision for the payment of compensation by the Secretary of State to any person whose interests are adversely affected by it.

Continuity

- 9 A transfer by virtue of a scheme does not affect the validity of anything done by or in relation to the transferor before the transfer takes effect.
- 10 Anything which—
- (a) is done by the transferor for the purposes of, or otherwise in connection with, anything transferred by virtue of a scheme, and
 - (b) is in effect immediately before the transfer date,
- is to be treated as done by the transferee.
- 11 There may be continued by or in relation to the transferee anything (including legal proceedings)—

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- (a) which relates to anything transferred by virtue of a scheme, and
 - (b) which is in the process of being done by or in relation to the transferor immediately before the transfer date.
- 12 (1) This paragraph applies to any document—
- (a) which relates to anything transferred by virtue of a scheme, and
 - (b) which is in effect immediately before the transfer date.
- (2) Any references in the document to the transferor are to be read as references to the transferee.

Supplementary etc. provision

- 13 A scheme may include supplementary, incidental, transitional and consequential provision.