

**Status:** Point in time view as at 27/07/2010. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:** There are currently no known outstanding effects for the  
Constitutional Reform and Governance Act 2010, Part 4. (See end of Document for details)

## SCHEDULES

VALID FROM 11/11/2010

### SCHEDULE 2 **U.K.**

#### CONSEQUENTIAL AMENDMENTS AND TRANSITIONAL PROVISION RELATING TO PART 1

#### PART 4 **U.K.**

##### OTHER TRANSITIONAL PROVISION

##### *Application of section 16(1) of the Interpretation Act 1978*

- 38 (1) In this Part of this Schedule “old management functions” means functions that cease to be exercisable on the coming into force of section 3 of this Act.
- (2) Section 16(1) of the Interpretation Act 1978 applies in relation to an old management function ceasing to be exercisable as if—
- (a) the function had been conferred by an Act, and
  - (b) that Act were repealed by section 3 of this Act.
- (3) So far as not covered by sub-paragraph (2), section 16(1) of the 1978 Act applies in relation to the revocation of an Order in Council by Part 2 of this Schedule as if it were the repeal of an Act.

##### *Power to manage the civil service*

- 39 (1) Anything done under old management functions by—
- (a) a Minister of the Crown, or
  - (b) any other servant of the Crown under a delegation under section 1 of the Civil Service (Management Functions) Act 1992,
- is treated as done under subsection (1) or (2) of section 3 of this Act (as the case may be) so far as necessary or appropriate for continuing its effect after the coming into force of section 3.
- (2) Civil servants who, immediately before section 3 comes into force, held their positions in the civil service under or subject to old management functions, continue to hold their positions but under or subject to subsection (1) or (2) of that section (as the case may be).
- (3) The powers in subsections (1) and (2) of section 3 may (in particular) be used to deal with transitional matters.
- (4) Section 1 of this Act applies for the purposes of this paragraph as it applies for the purposes of Chapter 1 of this Part of this Act.

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- 40 (1) So far as—
- (a) an Order in Council revoked by Part 2 of this Schedule was not made under old management functions, or
  - (b) a relevant transferred function is not an old management function,
- the subject matter of the Order or function reverts to Her Majesty and may be dealt with (including delegated) by Her accordingly.
- (2) Civil servants who, immediately before this paragraph comes into force, held their positions in the civil service of the State under or subject to—
- (a) an Order in Council revoked by Part 2 of this Schedule so far as it was not made under old management functions, or
  - (b) a relevant transferred function so far as it is not an old management function,
- continue to hold their positions but on the basis mentioned in sub-paragraph (1).
- (3) “Relevant transferred function” means a function which—
- (a) has been delegated by Her Majesty in relation to the management of the civil service of the State (excluding the Northern Ireland Civil Service), and
  - (b) has been the subject of a transfer of functions Order (as that term was defined in section 1(5) of the Civil Service (Management Functions) Act 1992 before its repeal by Part 1 of this Schedule).

*Selection on merit etc*

- 41 (1) In determining for the purposes of section 10(1) of this Act whether or not a person is a civil servant, ignore any appointment for which the person was selected in reliance on an exception made by the old commission (within the meaning of Part 3 of this Schedule) from a requirement for selection for the appointment to be on merit on the basis of fair and open competition.
- (2) But the recruitment principles (within the meaning of Chapter 1 of this Part of this Act) may disapply sub-paragraph (1) in specified cases.
- 42 For the purpose of determining whether a selection for an appointment complies with the requirement in section 10(2) of this Act in a case in which the selection process began before section 10(2) comes into force, account must be taken of anything done under or in relation to the selection process before section 10(2) comes into force.

*Special advisers*

- 43 (1) This paragraph applies to a person who, immediately before the coming into force of this paragraph, holds a position in the civil service of the State for which the person was selected for appointment in reliance on article 3(2), (4) or (5) of the Civil Service Order in Council 1995.
- (2) For the purposes of Chapter 1 of this Part of this Act the person is treated as a special adviser so long as the person remains in that position on the same terms and conditions.

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