

SCHEDULES

SCHEDULE 1

INFECTED BLOOD COMPENSATION AUTHORITY

PART 2

TRANSFER SCHEMES

Power to make transfer schemes

- 20 (1) The Secretary of State or the Minister for the Cabinet Office may make one or more schemes (“transfer schemes”) for the purpose of transferring to the IBCA such property, rights and liabilities of a relevant person as the Secretary of State or Minister considers appropriate for the purposes of enabling the IBCA to carry out its functions under or by virtue of this Act.
- (2) In this paragraph “relevant person” means—
- (a) the Secretary of State;
 - (b) the Minister for the Cabinet Office;
 - (c) a Special Health Authority established under section 28 of the National Health Service Act 2006;
 - (d) the Welsh Ministers;
 - (e) a National Health Service trust established under section 18 of the National Health Service (Wales) Act 2006;
 - (f) a Special Health Authority established under section 22 of the National Health Service (Wales) Act 2006;
 - (g) the Scottish Ministers;
 - (h) a person who has at any time been appointed by the Scottish Ministers under subsection (4)(d) of section 28 of the Smoking, Health and Social Care (Scotland) Act 2005 (asp 13) to manage a scheme made under that section;
 - (i) the Department of Health in Northern Ireland;
 - (j) the Regional Business Services Organisation established by section 14 of the Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1 (N.I.)).
- (3) A transfer scheme may not be made—
- (a) in relation to a relevant person within sub-paragraph (2)(d), (e) or (f), unless the Welsh Ministers consent;
 - (b) in relation to a relevant person within sub-paragraph (2)(g) or (h), unless the Scottish Ministers consent;
 - (c) in relation to a relevant person within sub-paragraph (2)(i) or (j), unless the Department of Health in Northern Ireland consents.
- (4) The things that may be transferred under a transfer scheme include—

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- (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.
- (5) A transfer scheme may make supplementary, incidental, transitional or consequential provision and may, in particular—
- (a) create rights, or impose liabilities, in relation to property or rights transferred;
 - (b) make provision about the continuing effect of things done by a relevant person in respect of anything transferred;
 - (c) make provision about the continuation of things (including legal proceedings) in the process of being done by, on behalf of, or in relation to, a relevant person in respect of anything transferred;
 - (d) make provision for references to an interim compensation authority in an instrument or other document in respect of anything transferred to be treated as references to the IBCA;
 - (e) make provision for the shared ownership or use of property;
 - (f) make provision which is the same as or similar to the Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246);
 - (g) make other supplemental, incidental, transitional or consequential provision.
- (6) A transfer scheme may provide for—
- (a) modifications by agreement;
 - (b) modifications to have effect from the date when the original scheme came into effect.
- (7) For the purposes of this paragraph—
- (a) references to rights and liabilities include rights and liabilities relating to a contract of employment;
 - (b) references to the transfer of property include the grant of a lease.
- (8) For the purposes of sub-paragraph (7)—
- (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 of the State are to be regarded as constituting the terms of the contract of employment.

Tax treatment of transfer schemes

- 21 (1) The Treasury may by regulations make provision varying the way in which a relevant tax has effect in relation to—
- (a) anything transferred under a scheme under paragraph 20, or
 - (b) anything done for the purposes of, or in relation to, a transfer under such a scheme.
- (2) The provision which may be made under sub-paragraph (1)(a) includes in particular provision for—
- (a) a tax provision not to apply, or to apply with modifications, in relation to anything transferred;

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- (b) anything transferred to be treated in a specified way for the purposes of a tax provision;
 - (c) the Secretary of State or the Minister for the Cabinet Office to be required or permitted to determine, or specify the method for determining, anything which needs to be determined for the purposes of any tax provision so far as relating to anything transferred.
- (3) The provision which may be made under sub-paragraph (1)(b) includes in particular provision for—
- (a) a tax provision not to apply, or to apply with modifications, in relation to anything done for the purposes of or in relation to the transfer;
 - (b) anything done for the purposes of, or in relation to, the transfer to have or not have a specified consequence or be treated in a specified way;
 - (c) the Secretary of State or the Minister for the Cabinet Office to be required or permitted to determine, or specify the method for determining, anything which needs to be determined for the purposes of any tax provision so far as relating to anything done for the purposes of, or in relation to, the transfer.
- (4) In this paragraph references to the transfer of property include the grant of a lease.
- (5) In this paragraph—
- “relevant tax” means income tax, corporation tax, capital gains tax, value added tax, stamp duty or stamp duty reserve tax;
 - “tax provision” means any legislation about a relevant tax.