

## SCHEDULES

### SCHEDULE 5

#### TRANSFERS OF STAFF

##### PART I

##### STAFF EMPLOYED AT THE TUNNEL CROSSING BEFORE THE TRANSFER DATE

###### *Application of Employment Transfer Regulations*

- 1 (1) For the purposes of the Employment Transfer Regulations section 6 or, where section 7 applies, section 7 of this Act shall be treated (without prejudice to any effect it may have for those purposes apart from this sub-paragraph) as effecting on the transfer date a transfer to which those regulations apply of an undertaking in which all relevant employees of Kent County Council were then employed.
- (2) In their application in relation to any transfer of an undertaking effected, or treated by virtue of sub-paragraph (1) above as effected, by section 6 or 7 of this Act, those regulations shall be subject to the following provisions of this paragraph.
- (3) Subject to sub-paragraph (4) below, where section 7 of this Act applies the transferee for the purposes of those regulations in relation to all relevant employees shall be taken to be the person appointed under section 11 of this Act to levy tolls.
- (4) In relation to any relevant employees who immediately before the transfer date were employed by that Council in activities carried on for the purposes of or in connection with the exercise by the Councils of any function which on that date becomes a function of the Secretary of State, sub-paragraph (3) above shall not apply unless the function in question is subject to an agreement taking effect on that date for the delegation of that function under section 12 of this Act to the person appointed.
- (5) The transferee for the purposes of those regulations shall be taken to be the Secretary of State—
  - (a) where section 7 of this Act does not apply; or
  - (b) in relation to any relevant employees who by virtue of sub-paragraph (4) above do not fall, following the transfer, to be treated by virtue of regulation 5 of those regulations as employed by the person appointed.

###### *Provision with respect to pensions, etc.*

- 2 (1) The application to any relevant employee of Kent County Council whose contract of employment is preserved by regulation 5(1) of the Employment Transfer Regulations of new pension terms applied to that employee by the transferee on the transfer of the undertaking shall be regarded as a change in his terms of employment made by the transferee after the transfer (and not as arising by virtue of the transfer).

---

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

---

- (2) Accordingly, the application to the employee of the new pension terms—
- (a) shall be treated as a change in his terms of employment falling within section 4(1) of the Employment Protection (Consolidation) Act 1978 (written notification of changes in terms of employment); and
  - (b) shall not be regarded for the purposes of subsection (4) of that section (which excludes the requirement of a full statement of terms under section 1 of that Act from applying where there is a change of identity of an employer without a break in continuity of employment, except where other changes are involved) as a change involved in the change in the identity of his employer arising from the transfer of the undertaking.
- (3) In this paragraph “pension terms” means terms with respect to any matters to which regulations 5 and 6 of the Employment Transfer Regulations are excluded from applying by regulation 7 of those regulations.