

*Status: Point in time view as at 22/08/1996.*

*Changes to legislation: There are currently no known outstanding effects for the Employment Act 1989, SCHEDULE 5. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 5

Section 22(5).

#### DISSOLUTION OF TRAINING COMMISSION: SUPPLEMENTARY PROVISIONS

##### *Interpretation*

1 In this Schedule—

“the 1982 Act” means the <sup>M1</sup>Industrial Training Act 1982;

“the 1988 Order” means the <sup>M2</sup>Training Commission (Incidental and Transitional Provisions) Order 1988;

“the Commission” means the Training Commission; and

“the relevant Minister” (subject to paragraph 5(3) of this Schedule) means—

- (a) in relation to any function of the Commission, the Secretary of State; and
- (b) in relation to any property, right or liability of the Commission, the Secretary of State for Employment.

##### **Marginal Citations**

**M1** 1982 c. 10.

**M2** S.I. 1988/1905.

##### *Incorporation of Secretary of State for Employment*

- 2
- (1) The person who on the date on which this Act is passed is Secretary of State for Employment and his successors shall be, by that name, a corporation sole, with a corporate seal.
  - (2) The corporate seal of the Secretary of State for Employment shall be authenticated by the signature of a Secretary of State or of a Secretary to the Department of Employment, or by a person authorised by a Secretary of State to act for the purpose.
  - (3) The corporate seal of the Secretary of State for Employment shall be officially and judicially noticed, and every document purporting to be an instrument made or issued by the Secretary of State for Employment and to be sealed with that seal authenticated in the manner provided by sub-paragraph (2), or to be signed or executed by a Secretary to the Department of Employment, or a person authorised as mentioned in that sub-paragraph, shall be received in evidence and be deemed to be so made or issued without further proof, unless the contrary is shown.
  - (4) A certificate signed by the Secretary of State for Employment that any instrument purporting to be made or issued by him was so made or issued shall be conclusive evidence of that fact.

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- (5) Any document made or issued at any time before the date on which this Act is passed—
- (a) by the Secretary of State for Employment (whether as such or as the Secretary of State for Employment and Productivity), or
  - (b) by the Minister of Labour in connection with matters which, on that date, fall within the responsibilities of the Secretary of State for Employment,
- shall, if effective immediately before that date, have effect as from that date as if it had been made or issued by the Secretary of State for Employment as a corporation sole; and where the document was sealed or signed as mentioned in section 11(2) of the <sup>M3</sup>New Ministries and Secretaries Act 1916 (as in force at the time of the sealing or signing of the document) it shall have effect as from that date as if it had been sealed or (as the case may be) signed as mentioned in sub-paragraph (3) above.
- (6) Accordingly any document to which section 11(2) of that Act applied immediately before that date shall be treated for the purposes of sub-paragraph (3) above as if it were a document purporting to be such an instrument as is mentioned in that sub-paragraph; and the repeal by this Act of section 11(3) of that Act shall not affect the validity of any certificate issued before that date in pursuance of that provision.

#### **Marginal Citations**

**M3** 1916 c. 68.

#### *Provisions as to the vesting of property etc. of Commission*

- 3 (1) Anything done by or in relation to the Commission, if in force or effective immediately before the date on which this Act is passed, shall have effect, so far as may be required for continuing its effect on or after that date, as if done by or in relation to the relevant Minister.
- (2) Anything which immediately before that date was in the process of being done by or in relation to the Commission may be continued on or after that date by or in relation to the relevant Minister.
- (3) This paragraph applies in particular to things done by or in relation to the Commission for purposes of, or in connection with, functions which are transferred to the Secretary of State by section 22(4) of, and Schedule 4 to, this Act; but sub-paragraph (1) is subject to paragraph 7 of this Schedule.
- 4 (1) Any legal proceedings to which the Commission was a party immediately before the date on which this Act is passed may be continued on or after that date by or in relation to the relevant Minister.
- (2) Every agreement (whether written or not), and every instrument or other document, which relates to any function, property, right or liability of the Commission shall have effect, so far as may be required for continuing its effect on or after the date on which this Act is passed, as if—
- (a) where the Commission is a party to it, the relevant Minister were substituted as that party,
  - (b) for any reference to the Commission (including any reference which is to be construed as such a reference) there were substituted a reference to the relevant Minister,

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- (c) for any reference (however worded and whether express or implied) to the chairman or deputy chairman or any member of the Commission (including any reference which is to be construed as such a reference) there were substituted a reference to such officer or officers as the relevant Minister shall appoint for the purpose, and
- (d) for any reference to the office or place of business of the Commission (including any reference which is to be construed as such a reference) there were substituted a reference to the principal office of the relevant Minister.
- 5 (1) The power of the Secretary of State to make determinations under paragraph 6 of Schedule 1 to the <sup>M4</sup>Employment and Training Act 1973 shall, notwithstanding the repeal by this Act of that paragraph, continue to be exercisable by him in relation to preserved pensions.
- (2) Any function which immediately before the date on which this Act is passed was a function of the Commission in relation to preserved pensions (other than its function of making payments in respect of such pensions) shall on that date become a function of the Secretary of State.
- (3) References to the relevant Minister in paragraphs 3 and 4 of this Schedule shall, in the application of those paragraphs in relation to—
- (a) the Commission’s function of making payments in respect of preserved pensions, or
- (b) any liability in respect of such pensions which is transferred by section 22(3) of this Act,
- be construed as references to the Paymaster General.
- (4) In this paragraph “preserved pensions” means pensions, superannuation allowances or gratuities in respect of which liabilities are transferred to the Paymaster General by section 22(3) of this Act.

#### Marginal Citations

M4 1973 c. 50.

#### *Final accounts*

- 6 (1) The Secretary of State shall not later than eight months after the date on which this Act is passed prepare and send to the Comptroller and Auditor General a statement of accounts relating to the Commission in respect of the period between the end of the accounting year for which the last statement of accounts under paragraph 14 of Schedule 1 to the Employment and Training Act 1973 was prepared and the date on which this Act is passed.
- (2) The statement of accounts prepared under sub-paragraph (1) shall be in such form as the Treasury may approve.
- (3) The Comptroller and Auditor General shall examine, certify and report on the statement sent to him under sub-paragraph (1) and shall lay copies of the statement and of his report before each House of Parliament.

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*Provisions relating to the 1982 Act*

- 7 Where anything done by the Commission before the date on which this Act is passed for the purposes of any provision of the 1982 Act required the approval of the Secretary of State, it shall not have effect by virtue of paragraph 3(1) of this Schedule as if done by the Secretary of State unless it was done with his approval.
- 8 It is hereby declared for the avoidance of doubt that where before the date on which this Act is passed—
- (a) levy proposals were approved by the Commission under section 11(1) of the 1982 Act, or
  - (b) proposals for the issue of exemption certificates were approved by the Commission under section 13 of the 1982 Act,
- the proposals shall not by virtue of paragraph 3(1) of this Schedule be taken to have been approved by the Secretary of State.
- 9 (1) For the purposes of subsection (4) of section 1 of the 1982 Act (as substituted by section 23 of this Act) any consultation carried out by the Commission in pursuance of subsection (5) of that section before the date on which this Act is passed in connection with a proposed industrial training order shall be taken to have been carried out by the Secretary of State in connection with that proposed order.
- (2) For the purposes of subsection (1) of section 3 of the 1982 Act (as substituted by paragraph 3 of Schedule 4 to this Act), any consultation carried out by the Commission in pursuance of that subsection before that date in connection with a request made under that subsection shall be taken to have been carried out by the Secretary of State in connection with that request.
- (3) For the purposes of section 15 of the 1982 Act (as amended by paragraph 13 of that Schedule)—
- (a) any direction of the Commission given before that date under section 15(1) shall have effect as if given by the Secretary of State under section 15(1) (as so amended),
  - (b) any direction of the Commission given before that date under section 15(2) or (3) shall have effect as if given by the Secretary of State under section 15(2) (as so amended),
  - (c) any proposals submitted to the Commission before that date in pursuance of a direction under section 15(1) shall be taken to have been submitted to the Secretary of State in pursuance of a direction given by him under section 15(1) (as so amended), and
  - (d) any proposals submitted to the Commission before that date in pursuance of a direction under section 15(2) or (3) shall be taken to have been submitted to the Secretary of State in pursuance of a direction given by him under section 15(2) (as so amended).
- (4) Sub-paragraphs (1) to (3) are without prejudice to the generality of paragraph 3 of this Schedule.

*Notifications of vacancies etc. for purposes of unemployment benefit*

- 10 (1) For the purposes of section 20 of the <sup>M5</sup>Social Security Act 1975, where any person before the date on which this Act is passed—
- (a) has been notified by the Commission that a situation in any employment is or is about to become vacant, or

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(b) has been given recommendations in writing by an officer of the Commission with a view to assisting that person to find employment,  
he shall, on or after that date, be taken to have been so notified, or to have been given the recommendations, by the Secretary of State.

(2) Sub-paragraph (1) is without prejudice to the generality of paragraph 3 of this Schedule.

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**Marginal Citations**

**M5** [1975 c. 14.](#)

*Saving of 1988 Order*

11 Any provisions of the <sup>M6</sup>1988 Order having effect immediately before the date on which this Act is passed shall continue in force notwithstanding the repeal by this Act of provisions of Schedule 2 to the Employment Act 1988.

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**Marginal Citations**

**M6** [1988 c. 19.](#)

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