

Status: Point in time view as at 11/03/2004.

Changes to legislation: There are currently no known outstanding effects for the Health and Social Care (Community Health and Standards) Act 2003, SCHEDULE 8. (See end of Document for details)

SCHEDULES

SCHEDULE 8

Section 43

CHAI AND CSCI: TRANSFERS OF PROPERTY AND STAFF, ETC

Transfer schemes

- 1 (1) The Secretary of State may make one or more schemes for—
- (a) the transfer of property, rights and liabilities of the National Care Standards Commission to the CHAI or the CSCI;
 - (b) the transfer of property, rights and liabilities of the Audit Commission to the CHAI or the CSCI;
 - (c) the transfer of property, rights and liabilities of the Commission for Health Improvement to the CHAI;
 - (d) the transfer of property, rights and liabilities of the Crown to the CHAI or the CSCI.
- (2) The property, rights and liabilities which may be the subject of a scheme include—
- (a) any that would otherwise be incapable of being transferred or assigned, and
 - (b) rights and liabilities under a contract of employment.
- (3) A scheme under this paragraph may define the property, rights and liabilities to be transferred by specifying or describing them (including describing them by reference to a specified part of the transferor's undertaking).
- (4) A scheme under this paragraph may contain provision for the payment of compensation by the Secretary of State to any person or body (other than one mentioned in sub-paragraph (1)) whose interests are adversely affected by the scheme.
- (5) A scheme under this paragraph may include supplementary, incidental, transitional and consequential provision.

Commencement Information

II Sch. 8 para. 1 in force at 11.3.2004 by S.I. 2004/759, art. 5(1)(a)

Transfer

- 2 The property, rights and liabilities which are the subject of a scheme under paragraph 1 are, by virtue of this paragraph, transferred on the day appointed by the scheme in accordance with the provisions of the scheme.

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Commencement Information

I2 Sch. 8 para. 2 in force at 11.3.2004 by S.I. 2004/759, art. 5(1)(a)

Employment

- 3 The transfer by paragraph 2 of the rights and liabilities relating to an individual's contract of employment does not break the continuity of his employment, and, accordingly—
- (a) he is not to be regarded for the purposes of Part 11 of the Employment Rights Act 1996 (c. 18) as having been dismissed by virtue of the transfer, and
 - (b) his period of employment with the transferor counts as a period of employment with the transferee for the purposes of that Act.

Commencement Information

I3 Sch. 8 para. 3 in force at 11.3.2004 by S.I. 2004/759, art. 5(1)(a)

- 4 (1) Paragraph 2 does not operate to transfer the rights and liabilities under an individual's contract of employment if, before the transfer takes effect, he informs the transferor or transferee that he objects to the transfer.
- (2) Where an individual does inform the transferor or transferee as specified in sub-paragraph (1), his contract of employment with the transferor is terminated immediately before the date on which the transfer would occur; but he shall not, for any purpose, be regarded as having been dismissed by the transferor.
- (3) This paragraph is without prejudice to any right of an individual employed by a transferor to terminate his contract of employment if (apart from the change of employer) a substantial change is made to his detriment in his working conditions.

Commencement Information

I4 Sch. 8 para. 4 in force at 11.3.2004 by S.I. 2004/759, art. 5(1)(a)

- 5 For the purposes of this Schedule, where a person holds any office or employment under the Crown on terms which do not constitute a contract of employment between that person and the Crown—
- (a) he shall be regarded as employed by the Crown by virtue of a contract of employment;
 - (b) the terms of his employment shall be regarded as constituting the terms of that contract; and
 - (c) in relation to such a person, the reference in paragraph 4(2) to dismissal by the transferor is to termination of his employment by the Crown.

Commencement Information

I5 Sch. 8 para. 5 in force at 11.3.2004 by S.I. 2004/759, art. 5(1)(a)

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Transitional

- 6 (1) Anything done by or in relation to the transferor for the purposes of or in connection with anything transferred by paragraph 2 which is in effect immediately before it is transferred shall be treated as if done by or in relation to the transferee.
- (2) There may be continued by or in relation to the transferee anything (including legal proceedings) relating to anything so transferred which is in the process of being done by or in relation to the transferor immediately before it is transferred.
- (3) A reference to the transferor in any document relating to anything so transferred shall be taken (so far as necessary for the purposes of or in consequence of the transfer) as a reference to the transferee.
- (4) A transfer under paragraph 2 does not affect the validity of anything done by or in relation to the transferor before the transfer takes effect.

Commencement Information

16 Sch. 8 para. 6 in force at 11.3.2004 by S.I. 2004/759, art. 5(1)(a)

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