



Public Bodies Act 2011

2011 CHAPTER 24

PART 1

GENERAL ORDER-MAKING POWERS

Transfer of property, rights and liabilities

23 Transfer schemes

- (1) A scheme for the transfer of property, rights and liabilities (a “transfer scheme”) may be made by—
 - (a) a Minister, in connection with an order under sections 1 to 5;
 - (b) the Welsh Ministers, in connection with an order under section 13 or 14.
- (2) In the case of a transfer scheme under subsection (1)(a), property, rights and liabilities must be transferred to —
 - (a) a Minister, where the scheme is made in connection with an order under section 3 or 4 (modification of constitutional or funding arrangements), or
 - (b) an eligible person or a body corporate, in any other case.
- (3) In the case of a transfer scheme under subsection (1)(b), property, rights and liabilities must be transferred to—
 - (a) the Welsh Ministers,
 - (b) a person exercising Welsh devolved functions, or
 - (c) a body corporate.
- (4) A transfer scheme may not transfer anything to a charity unless it has consented.
- (5) The things that may be transferred under a transfer scheme include—
 - (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.

Status: This is the original version (as it was originally enacted).

- (6) A transfer scheme may make consequential, supplementary, incidental or transitional 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 the transferor 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 the transferor in respect of anything transferred;
 - (d) make provision for references to the transferor in an instrument or other document in respect of anything transferred to be treated as references to the transferee;
 - (e) make provision for the shared ownership or use of property;
 - (f) if the TUPE regulations do not apply in relation to the transfer, make provision which is the same or similar.
- (7) A transfer scheme may provide—
- (a) for modification by agreement;
 - (b) for modifications to have effect from the date when the original scheme came into effect.
- (8) For the purposes of this section—
- (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 are to be regarded as constituting the terms of the contract of employment.
- (9) In this section—
- “civil service” means the civil service of the State;
 - “TUPE regulations” means the Transfer of Undertakings (Protection of Employment) Regulations 2006 ([SI 2006/246](#));
 - references to rights and liabilities include rights and liabilities relating to a contract of employment;
 - references to the transfer of property include the grant of a lease.