



Health and Care Act 2022

2022 CHAPTER 31

PART 1

HEALTH SERVICE IN ENGLAND: INTEGRATION, COLLABORATION AND OTHER CHANGES

Merger of NHS bodies etc

38 Transfer schemes in connection with abolished bodies

- (1) The Secretary of State may make one or more schemes for the transfer of property, rights and liabilities from Monitor or the National Health Service Trust Development Authority to NHS England.
- (2) 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;
 - (c) criminal liabilities.
- (3) A transfer scheme may—
 - (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 which is the same as or similar to the TUPE regulations;
 - (f) make other consequential, supplementary, incidental or transitional provision.

Changes to legislation: There are currently no known outstanding effects for the Health and Care Act 2022, Section 38. (See end of Document for details)

- (4) In subsection (3)(e), “the TUPE regulations” means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246).
- (5) In this section references to rights and liabilities include rights and liabilities relating to a contract of employment.

Commencement Information

- I1** S. 38 not in force at Royal Assent, see [s. 186\(6\)](#)
- I2** [S. 38](#) in force at 9.5.2022 by [S.I. 2022/515](#), [reg. 2\(f\)](#)
- I3** S. 38, to the extent, if any, that it is not already in force, in force at 1.7.2022 by [S.I. 2022/734](#), [reg. 2\(a\)](#), [Sch.](#) (with [regs. 13, 29, 30](#))

Changes to legislation:

There are currently no known outstanding effects for the Health and Care Act 2022, Section 38.