

## SCHEDULE 1

*(introduced by section 14(3))*

### TRANSITIONAL PROVISIONS

#### *Transfer of staff*

- 1 (1) All staff, other than excepted staff, employed immediately before the coming into force of this paragraph in the Executive Agency of Ministers known as the Scottish Housing Regulator are transferred to, and become members of staff of, the Regulator. Accordingly—
- (a) the contract of employment of a transferred person—
    - (i) is not terminated by the transfer, and
    - (ii) has effect from the date of transfer as if originally made between the person and the Regulator,
  - (b) all the rights, powers, duties and liabilities of Ministers under or in connection with a transferred person's contract of employment are transferred to the Regulator, and
  - (c) anything done before that date by or in relation to Ministers in respect of that contract of employment or a transferred person is to be treated from that date as having been done by, or in relation to, the Regulator.
- (2) The excepted staff are staff on secondment or loan to the Agency from another part of the Scottish Administration.
- (3) Sub-paragraph (1) does not affect the right of a transferred person to terminate that person's contract of employment if the terms of employment are changed substantially to the detriment of the person; but such a change is not to be taken to have occurred by reason only that the identity of that person's employer has changed.
- (4) A determination by Ministers that any member of their staff is employed as mentioned in sub-paragraph (1) or excepted by virtue of sub-paragraph (2) is conclusive of that fact for the purposes of this paragraph.

#### *Transfer of assets and liabilities*

- 2 (1) Ministers may by order provide for the transfer to the Regulator of—
- (a) any assets held or used by them for or in connection with the purposes of the Executive Agency of Ministers known as the Scottish Housing Regulator,
  - (b) any liabilities of Ministers incurred for or in connection with those purposes.
- (2) An order under sub-paragraph (1) may, in particular—
- (a) provide for the creation of rights or interests, or the imposition of liabilities or conditions, in relation to assets transferred, or rights or interests acquired, by virtue of the order,
  - (b) provide for any assets, liabilities or conditions to be determined under the order.
- (3) An order under sub-paragraph (1) has effect in relation to any assets or liabilities to which it applies despite any provision (of whatever nature) which would otherwise prevent, penalise or restrict the transfer of the assets or liabilities.
- (4) A right of pre-emption, right of irritancy, right of return or other similar right—

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

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- (a) does not operate or become exercisable as a result of any transfer of assets by virtue of an order under sub-paragraph (1), and
  - (b) accordingly has effect in the case of any such transfer as if the Regulator were the same person in law as Ministers and as if no transfer of the assets had taken place.
- (5) Such compensation as is just is to be paid (by Ministers or by the Regulator or by both) to any person in respect of any such right which—
  - (a) would but for sub-paragraph (4) have operated in favour of, or become exercisable by, that person, but
  - (b) because of the operation of that sub-paragraph, cannot subsequently operate in the person's favour or (as the case may be) become exercisable by the person.
- (6) An order under sub-paragraph (1) may provide for the determination of disputes as to—
  - (a) whether and, if so, how much compensation is payable, and
  - (b) the person to whom or by whom it is to be paid.
- (7) A certificate given by Ministers which states whether an asset or liability has, or has not, been transferred by virtue of an order under sub-paragraph (1) is conclusive evidence of whether the asset or liability has been so transferred.
- (8) In this paragraph “right of return” means any right for the return or reversion of assets in specified circumstances.