
Status: This is the original version (as it was originally enacted).

SCHEDULE 6

(introduced by section 121)

TRANSFER OF STAFF, PROPERTY ETC.

Interpretation

- 1 In this schedule—
- “appointed day” means such day as the Scottish Ministers may by order appoint (and different days may be appointed for different purposes),
 - “joint board” means a joint fire and rescue board constituted by a scheme made under section 2(1) of the 2005 Act,
 - “relevant employer”, in relation to—
 - (a) a person employed by a local authority, means the local authority with which the person has a contract of employment,
 - (b) a person who is a member of the staff of the Scottish Ministers, means the Scottish Ministers,
 - “transfer day”, in relation to a person, means the day on which a staff transfer scheme comes into force in relation to the person,
 - “transferring employee” means a person who, immediately before the appointed day, is an employee of a joint board.

Joint board staff

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- (1) A transferring employee’s contract of employment has effect on and after the appointed day as if originally made between the employee and SFRS.
 - (2) The rights, powers, duties and liabilities of the joint board under or in connection with the contract of employment are by virtue of this paragraph transferred to SFRS on the appointed day.
 - (3) Anything done before the appointed day by or in relation to the joint board in respect of the contract of employment or the transferring employee is to be treated on and after that day as having been done by or in relation to SFRS.
 - (4) If, before the appointed day, a transferring employee informs the joint board that the person does not wish to become an employee of SFRS—
 - (a) sub-paragraphs (1) to (3) do not apply in relation to the transferring employee, and
 - (b) the transferring employee’s contract of employment is terminated on the appointed day.
 - (5) A transferring employee is not to be treated for any purpose as being dismissed by reason of the operation of any provision of this paragraph in relation to the employee.
 - (6) Nothing in this paragraph affects any right of a transferring employee to terminate the employee’s contract of employment if a substantial detrimental change in the employee’s working conditions is made.
 - (7) No such right arises by reason only that, by virtue of this paragraph, the identity of the transferring employee’s employer changes.

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Local authority staff and civil servants

- 3 (1) The Scottish Ministers may make a staff transfer scheme.
- (2) A staff transfer scheme is a scheme making provision for or in connection with the transfer to SFRS of persons who are—
 - (a) employed by a local authority, or
 - (b) members of the staff of the Scottish Ministers.
- (3) A staff transfer scheme may in particular—
 - (a) prescribe rules by which the transfer of specified persons, or classes of specified person, can be determined,
 - (b) provide that specified persons, or classes of specified person, are to become employees of SFRS.
- (4) A staff transfer scheme may make provision only in relation to persons whose employment relates to the carrying out of functions conferred on SFRS by or under the 2005 Act or any other enactment.
- (5) In this paragraph, “specified” means specified in a staff transfer scheme.

Transfers under paragraph 3: effect on contract of employment

- 4 (1) This paragraph applies where—
 - (a) a person is to be transferred by virtue of a staff transfer scheme, and
 - (b) immediately before the transfer day the person has a contract of employment with a relevant employer.
- (2) The contract of employment has effect on and after the transfer day as if originally made between the person and SFRS.
- (3) The rights, powers, duties and liabilities of the relevant employer under or in connection with the contract of employment are by virtue of this paragraph transferred to SFRS on the transfer day.
- (4) Anything done before the transfer day by or in relation to the relevant employer in respect of the contract of employment or the person is to be treated on and after that day as having been done by or in relation to SFRS.
- (5) If, before the transfer day, the person informs the relevant employer that the person does not wish to become an employee of SFRS—
 - (a) sub-paragraphs (2) to (4) do not apply in relation to the person, and
 - (b) the person’s contract of employment is terminated on the day before the transfer day.
- (6) A person is not to be treated for any purpose as being dismissed by reason of the operation of any provision of this paragraph in relation to the person.
- (7) Nothing in this paragraph affects any right of a person to terminate the person’s contract of employment if a substantial detrimental change in the person’s working conditions is made.
- (8) No such right arises by reason only that, by virtue of this paragraph, the identity of the person’s employer changes.

- (9) Before making a staff transfer scheme under paragraph 3, the Scottish Ministers must consult any local authority or other person whose rights, liabilities and obligations (or any of them) are to be transferred by virtue of the scheme.

Property transfer scheme: transfers to SFRS

- 5 (1) The Scottish Ministers may make an SFRS property transfer scheme.
- (2) An SFRS property transfer scheme is a scheme making provision for or in connection with the transfer to SFRS of property, rights, liabilities and obligations of—
- (a) the Scottish Ministers,
 - (b) a local authority,
 - (c) a joint board.
- (3) An SFRS property transfer scheme may make provision by virtue of sub-paragraph (2) only in so far as the property, rights, liabilities and obligations relate to functions of SFRS conferred by or under the 2005 Act or any other enactment.
- (4) A person mentioned in sub-paragraph (2)(b) or (c) must provide the Scottish Ministers with such information or assistance as they may reasonably require for the purposes of or in connection with the making of an SFRS property transfer scheme.
- (5) On the transfer date—
- (a) any property or rights to which an SFRS property transfer scheme applies transfers to and vests in SFRS,
 - (b) any liabilities or obligations to which such a scheme applies become liabilities or obligations of SFRS.
- (6) An SFRS property transfer scheme may make provision for the payment by SFRS of compensation in respect of property and rights transferred by virtue of the scheme.

Property transfer scheme: transfers to local authorities

- 6 (1) The Scottish Ministers may make a local authority property transfer scheme.
- (2) A local authority property transfer scheme is a scheme making provision for or in connection with the transfer to a specified local authority of property, rights, liabilities and obligations of a specified joint board.
- (3) A joint board must provide the Scottish Ministers with such information or assistance as they may reasonably require for the purposes of or in connection with the making of a local authority property transfer scheme.
- (4) On the transfer date—
- (a) any property or rights to which a local authority property transfer scheme applies transfers to and vests in the specified local authority,
 - (b) any liabilities or obligations to which such a scheme applies become liabilities or obligations of the specified local authority.
- (5) A local authority property transfer scheme may make provision for the payment by a local authority of compensation in respect of property and rights transferred by virtue of the scheme.

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- (6) In this paragraph, “specified” means specified in the local authority property transfer scheme.

Property transfer schemes: general

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- (1) This paragraph applies in relation to a scheme under paragraph 5 or 6.
 - (2) The scheme must specify a date (the “transfer date”) on which the transfer is to take effect.
 - (3) The scheme may—
 - (a) specify different dates in relation to different property, rights, liabilities and obligations,
 - (b) make different provision in relation to different cases or classes of case.
 - (4) The scheme may make provision for the creation of rights, or the imposition of obligations or liabilities, in relation to the property, rights, liabilities or obligations transferred by virtue of the scheme.
 - (5) The scheme may make provision requiring the person to whom property is transferred by the scheme to comply with requirements or conditions specified by the Scottish Ministers in relation to the property.
 - (6) A requirement or condition specified under sub-paragraph (5) may include in particular—
 - (a) a requirement that the property may not be disposed of unless the Scottish Ministers consent,
 - (b) a condition in relation to use of the property.
 - (7) A certificate issued by the Scottish Ministers that any property, right, liability or obligation has, or has not, been transferred by virtue of the scheme is conclusive evidence of the transfer or the fact that there has not been a transfer.
 - (8) The scheme may in particular make provision about the continuation of legal proceedings.

Transfer schemes: additional provision

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- A staff transfer scheme or a property transfer scheme under paragraph 5 or 6 may include such incidental, consequential, supplementary, transitional, transitory or saving provision as the Scottish Ministers consider appropriate.