
Changes to legislation: There are currently no known outstanding effects for the Public Audit (Wales) Act 2004, Cross Heading: Preparation of transfer schemes. (See end of Document for details)

SCHEDULES

SCHEDULE 3

TRANSFER SCHEMES

Preparation of transfer schemes

- 1 (1) The Secretary of State may, with the consent of the Assembly, by order—
- (a) make one or more schemes for the transfer to the [^{F1}Wales Audit Office] of defined property, rights and liabilities of the Comptroller and Auditor General, ^{F2}...
 - ^{F2}(b)
- (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) For the purpose of dividing any property, rights or liabilities in connection with a scheme, the scheme may—
- (a) create in favour of the transferor an interest in, or right over, any property transferred in accordance with the scheme;
 - (b) create in favour of the [^{F1}Wales Audit Office] an interest in, or right over, any property retained by the transferor;
 - (c) create new rights and liabilities as between the [^{F1}Wales Audit Office] and the transferor; or
 - (d) in connection with provision made under paragraph (a), (b) or (c), make incidental provision as to the interests, rights and liabilities of persons other than the transferor and the [^{F1}Wales Audit Office] with respect to the subject-matter of the scheme;
- and references in this Schedule (other than this sub-paragraph) or section 68 to the transfer of property, rights or liabilities (so far as relating to transfers provided for in a scheme) are accordingly to be construed as including references to the creation of any interests, rights or liabilities by virtue of paragraph (a), (b) or (c) or the making of provision by virtue of paragraph (d).
- (4) A scheme 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).
- (5) A scheme may include supplementary, incidental, transitional and consequential provision.
- (6) The provision that may be made by virtue of sub-paragraph (3)(c) includes—
- (a) provision for treating any person who is entitled by virtue of an order under this paragraph to possession of a document as having given another person

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- an acknowledgement in writing of the right of that other person to the production of the document and to delivery of copies of it, and
- (b) provision applying section 64 of the Law of Property Act 1925 (c. 20) (production and safe custody of documents) in relation to any case in relation to which provision within sub-paragraph (3)(a) has effect.
- (7) Sub-paragraph (8) applies in the case of a scheme which contains provision for the transfer of rights or liabilities under the contract of employment of an individual (“the employee”).
- (8) The provision that may be made in the scheme by virtue of sub-paragraph (5) includes provision with respect to—
- (a) the employee’s eligibility to become a member of any pension scheme by virtue of his employment with the transferee if the rights or liabilities relating to his contract of employment are transferred in accordance with the scheme, and
- (b) rights of, or rights or liabilities in respect of, the employee under—
- (i) any pension scheme of which he may become a member by virtue of his employment with the transferee, or
- (ii) any pension scheme of which he is a member by virtue of his employment immediately before the transfer,
- (and for the purposes of this sub-paragraph “pension scheme” includes any scheme made under section 1 of the Superannuation Act 1972 (c. 11) (superannuation schemes as respects civil servants etc)).
- (9) The power to make an order under this paragraph is exercisable by statutory instrument, and any such instrument is subject to annulment in pursuance of a resolution of either House of Parliament.

Textual Amendments

- F1** Words in Sch. 3 substituted (1.4.2014) by [The Public Audit \(Wales\) Act 2013 \(Consequential Amendments\) Order 2014 \(No. 77\)](#), arts. 1(1), **3(4)**
- F2** Sch. 3 para. 1(1)(b) and preceding word omitted (1.4.2015) by virtue of [Local Audit and Accountability Act 2014 \(c. 2\)](#), s. 49(1), **Sch. 12 para. 65(2)** (with Sch. 12 para. 66); S.I. 2015/841, art. 3(x)

- 2 Before making an order under paragraph 1, the Secretary of State must consult—
- (a) the [^{F1}Wales Audit Office], [^{F3}and]
- (b) ^{F4}... the Comptroller and Auditor General, ^{F5}...
- ^{F5}(c)

Textual Amendments

- F1** Words in Sch. 3 substituted (1.4.2014) by [The Public Audit \(Wales\) Act 2013 \(Consequential Amendments\) Order 2014 \(No. 77\)](#), arts. 1(1), **3(4)**
- F3** Word in Sch. 3 para. 2(a) inserted (1.4.2015) by [Local Audit and Accountability Act 2014 \(c. 2\)](#), s. 49(1), **Sch. 12 para. 65(3)(a)** (with Sch. 12 para. 66); S.I. 2015/841, art. 3(x)
- F4** Words in Sch. 3 para. 2(b) omitted (1.4.2015) by virtue of [Local Audit and Accountability Act 2014 \(c. 2\)](#), s. 49(1), **Sch. 12 para. 65(3)(b)** (with Sch. 12 para. 66); S.I. 2015/841, art. 3(x)
- F5** Sch. 3 para. 2(c) and preceding word omitted (1.4.2015) by virtue of [Local Audit and Accountability Act 2014 \(c. 2\)](#), s. 49(1), **Sch. 12 para. 65(3)(c)** (with Sch. 12 para. 66); S.I. 2015/841, art. 3(x)

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