

SCHEDULES

SCHEDULE 9

Section 54

NHS FOUNDATION TRUSTS: TRANSFER OF STAFF

- 1 An order under section 54(4) may provide for the transfer of employees of an NHS foundation trust to a person mentioned in that subsection.
- 2 The contract of employment of an employee transferred under such an order—
 - (a) is not terminated by the transfer,
 - (b) has effect from the date of transfer as if originally made between the employee and the transferee.
- 3 Where an employee is so transferred—
 - (a) all the rights, powers, duties and liabilities of the trust under or in connection with the contract of employment are by virtue of this paragraph transferred to the transferee on the date of transfer, and
 - (b) anything done before that date by or in relation to the trust in respect of that contract or the employee must be treated from that date as having been done by or in relation to the transferee.

This paragraph does not affect the generality of paragraph 2.
- 4 But if the employee informs the trust or the proposed transferee that he objects to the transfer—
 - (a) paragraphs 2 and 3 do not apply, and
 - (b) the contract of employment is terminated immediately before the date of transfer but the employee must not be treated, for any purpose, as having been dismissed by the trust.
- 5 This Schedule does not affect any right of an employee to terminate his contract of employment if (apart from the change of employer) a substantial change is made to his detriment in his working conditions.
- 6 In this Schedule, “date of transfer” means the date decided under the order for the transfer of the employee.