

Status: Point in time view as at 01/10/2008.

Changes to legislation: There are currently no known outstanding effects for the Health and Social Care Act 2008, SCHEDULE 2. (See end of Document for details)

SCHEDULES

SCHEDULE 2

Section 6

TRANSFERS OF PROPERTY AND STAFF ETC.

Transfer schemes

- 1 (1) The Secretary of State may make one or more transfer schemes for—
- (a) the transfer of property, rights and liabilities of the Commission for Healthcare Audit and Inspection to the Care Quality Commission or the Crown;
 - (b) the transfer of property, rights and liabilities of the Commission for Social Care Inspection to the Care Quality Commission or the Crown;
 - (c) the transfer of property, rights and liabilities of the Mental Health Act Commission—
 - (i) to the Care Quality Commission or the Welsh Ministers, or
 - (ii) to the Crown;
 - (d) the transfer of property, rights and liabilities of the Crown to the Care Quality Commission.
- (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,
 - (b) rights and liabilities under a contract of employment, and
 - (c) criminal liabilities.
- (3) A scheme under this paragraph 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).
- (4) A scheme under this paragraph may contain provision for the payment of compensation by the Secretary of State to any person or body (other than one mentioned in sub-paragraph (1)) whose interests are adversely affected by the scheme.
- (5) A scheme under this paragraph may include supplementary, incidental, transitional and consequential provision.
- (6) The Secretary of State may not make a scheme under this paragraph for the transfer of property, rights or liabilities to the Welsh Ministers unless the scheme is made with the consent of the Welsh Ministers.

Commencement Information

II Sch. 2 para. 1 in force at 1.10.2008 by S.I. 2008/2497, art. 2(o)

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Transfer

- 2 The property, rights and liabilities which are the subject of a scheme under paragraph 1 are, by virtue of this paragraph, transferred on the day appointed by the scheme in accordance with the provisions of the scheme.

Commencement Information

I2 Sch. 2 para. 2 in force at 1.10.2008 by S.I. 2008/2497, art. 2(o)

Employment

- 3 The transfer by paragraph 2 of the rights and liabilities relating to an individual's contract of employment does not break the continuity of the individual's employment and, accordingly—
- (a) the individual is not to be regarded for the purposes of Part 2 of the Employment Rights Act 1996 (c. 18) as having been dismissed by virtue of the transfer, and
 - (b) the individual's period of employment with the transferor counts as a period of employment with the transferee for the purposes of that Act.

Commencement Information

I3 Sch. 2 para. 3 in force at 1.10.2008 by S.I. 2008/2497, art. 2(o)

- 4 (1) Paragraph 2 does not operate to transfer the rights and liabilities under an individual's contract of employment if, before the transfer takes effect, the individual informs the transferor or transferee that the individual objects to the transfer.
- (2) Where an individual does inform the transferor or transferee as specified in sub-paragraph (1), the individual's contract of employment with the transferor is terminated immediately before the date on which the transfer would occur; but the individual is not, for any purpose, to be regarded as having been dismissed by the transferor.
- (3) This paragraph is without prejudice to any right of an individual employed by a transferor to terminate the individual's contract of employment if (apart from the change of employer) a substantial change is made to the individual's detriment in the individual's working conditions.

Commencement Information

I4 Sch. 2 para. 4 in force at 1.10.2008 by S.I. 2008/2497, art. 2(o)

Transitional

- 5 (1) Anything done by or in relation to the transferor for the purposes of or in connection with anything transferred by paragraph 2 which is in effect immediately before it is transferred is to be treated as if done by or in relation to the transferee.

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- (2) There may be continued by or in relation to the transferee anything (including legal proceedings) relating to anything so transferred which is in the process of being done by or in relation to the transferor immediately before it is transferred.
- (3) A reference to the transferor in any document relating to anything so transferred is to be taken (so far as necessary for the purposes of or in consequence of the transfer) as a reference to the transferee.
- (4) A transfer under paragraph 2 does not affect the validity of anything done by or in relation to the transferor before the transfer takes effect.

Commencement Information

I5 Sch. 2 para. 5 in force at 1.10.2008 by S.I. 2008/2497, art. 2(o)

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