SCHEDULES

SCHEDULE 12

Section 82

AVIATION SECURITY: FURTHER PROVISION ABOUT TRANSFER SCHEMES

Transfer

1 (1) The property, rights and liabilities that may be transferred by a scheme under section 82 (a "transfer scheme") include property, rights and liabilities that would otherwise be incapable of being transferred.

(2) A transfer scheme may—

(a) create rights, or impose liabilities, in relation to property transferred by the scheme,

(b) create new rights and liabilities as between the Crown and the Civil Aviation Authority ("the CAA"), and

(c) apportion property, rights and liabilities between the Crown and the CAA.

(3) A transfer scheme may include consequential, incidental, supplementary, transitional, transitory and saving provision.

Employment

2 (1) This paragraph has effect where rights, powers, duties and liabilities relating to an individual's contract of employment are transferred in accordance with a transfer scheme.

(2) The transfer 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 11 of the Employment Rights Act 1996 (redundancy) as having been dismissed by virtue of the transfer, and

(b) the individual's period of employment in the civil service of the Crown counts as a period of employment with the CAA for the purposes of that Act.

3 (1) This paragraph has effect where—

(a) a transfer scheme contains provision for the transfer of rights, powers, duties and liabilities relating to an individual's contract of employment, but

(b) before the transfer takes effect, the individual informs the Secretary of State or the CAA that the individual objects to the transfer.

(2) Those rights, powers, duties and liabilities are not transferred under the transfer scheme.

(3) The individual's contract of employment is terminated immediately before the day on which the transfer would occur.

(4) The individual is not, for any purpose, to be regarded as having been dismissed.

(5) Nothing in this paragraph affects the individual's right to terminate the 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.

4 (1) If a transfer scheme contains provision for the transfer of rights, powers, duties and liabilities relating to an individual's contract of employment, it may include provision with respect to the individual's eligibility to become a member of a pension scheme by virtue of employment with the CAA.

(2) The transfer scheme may include provision with respect to rights of, or rights or liabilities in respect of, the individual under—

(a) a pension scheme of which the individual may become a member by virtue of employment with the CAA, or

(b) a pension scheme of which the individual is a member by virtue of employment immediately before the transfer.

(3) In this paragraph "pension scheme" includes a scheme made under section 1 of the Superannuation Act 1972 (superannuation schemes as respects civil servants etc).

Civil servants treated as employed under a contract of employment etc

5 (1) This Schedule applies with the following modifications in relation to employment in the civil service of the Crown on terms which do not constitute a contract of employment.

(2) Where an individual holds such employment—

(a) the individual is to be treated as employed under a contract of employment,

(b) the terms of the employment in the civil service of the Crown are to be treated as the terms of that contract, and

(c) the reference in paragraph 3 to dismissal is to be treated as a reference to termination of the employment in the civil service of the Crown.

Certificate

6 A certificate issued by the Secretary of State that any property, rights, powers, duties or liabilities have been transferred to the CAA under a transfer scheme is conclusive evidence of the transfer.

Validity

7 A transfer under a transfer scheme does not affect the validity of anything done by or in relation to the Crown before the transfer takes effect.

Continuity

8 (1) A transfer scheme may provide for things done by or in relation to the Crown for the purposes of or in connection with anything transferred under a transfer scheme to be—

(a) treated as done by or in relation to the CAA or its members or employees, or

(b) continued by or in relation to the CAA or its members or employees.

(2) A transfer scheme may, in particular—

(a) make provision about the continuation of legal proceedings, and

(b) make provision for references to the Crown in documents to be treated as references to the CAA.