

## SCHEDULES

### SCHEDULE 3

Section 47

#### ORDERS UNDER SECTION 46: TRANSFER SCHEMES

##### *Power to make transfer schemes*

- 1 (1) The Secretary of State may exercise the power in sub-paragraph (2) in connection with the making of an order under section 46 providing for a person (“the transferee”) to carry out EMR functions in place of another person (“the transferor”).
- (2) The Secretary of State may make one or more schemes for the transfer of designated property, rights or liabilities of the transferor to the transferee.
- (3) On the transfer date, the designated property, rights and liabilities are transferred and vest in accordance with the scheme.
- (4) The rights and liabilities that may be transferred by a scheme include those arising under or in connection with a contract of employment.
- (5) A certificate by the Secretary of State that anything specified in the certificate has vested in any person by virtue of a scheme is conclusive evidence for all purposes of that fact.
- (6) In this Schedule—
  - “designated”, in relation to a scheme, means specified in or determined in accordance with the scheme;
  - “EMR functions” has the same meaning as in section 46;
  - “property” includes interests of any description;
  - “the transfer date” means a date specified by a scheme as the date on which the scheme is to have effect.

##### *Contents of a scheme*

- 2 (1) A scheme may make provision—
  - (a) for anything done by or in relation to the transferor in connection with any property, rights or liabilities transferred by the scheme to be treated as done, or to be continued, by or in relation to the transferee;
  - (b) for references to the transferor in any agreement (whether written or not), instrument or other document relating to any property, rights or liabilities transferred by the scheme to be treated as references to the transferee;
  - (c) about the continuation of legal proceedings;
  - (d) for transferring property, rights or liabilities which could not otherwise be transferred or assigned;
  - (e) for transferring property, rights and liabilities irrespective of any requirement for consent which would otherwise apply;

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*Status: This is the original version (as it was originally enacted).*

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- (f) for preventing a right of pre-emption, right of reverter, right of forfeiture, right to compensation or other similar right from arising or becoming exercisable as a result of the transfer of property, rights or liabilities;
  - (g) for dispensing with any formality in relation to the transfer of property, rights or liabilities by the scheme;
  - (h) for transferring property acquired, or rights or liabilities arising, after the scheme is made but before it takes effect;
  - (i) for apportioning property, rights or liabilities;
  - (j) for creating rights, or imposing liabilities, in connection with property, rights or liabilities transferred by the scheme;
  - (k) for requiring the transferee to enter into any agreement of any kind, or for a purpose, specified in or determined in accordance with the scheme.
- (2) Sub-paragraph (1)(b) does not apply to references in primary legislation or in subordinate legislation.

### *Compensation*

- 3        A scheme must contain provision for the payment by the Secretary of State of such amounts of compensation as the Secretary of State considers appropriate to any person whose interests are adversely affected by it.