

SCHEDULES

SCHEDULE 2

Provisions relating to transfer schemes

Transfer of employees and continuity of employment

10.—(1) Where, by virtue of a transfer scheme, a person employed by Network Rail becomes an employee of the undertaker—

- (a) the person is not to be regarded for the purposes of Part 11 of the Employment Rights Act 1996⁽¹⁾ as having been dismissed by virtue of the transfer,
- (b) the person's period of employment with Network Rail counts, for the purposes of that Act, as a period of employment with the undertaker, and
- (c) the change of employment does not break the continuity of the period of employment for the purposes of that Act.

(2) This sub-paragraph applies where—

- (a) a transfer scheme provides for the transfer of rights, powers, duties and liabilities relating to a person's contract of employment, but
- (b) before the transfer takes effect, the person informs Network Rail or the undertaker that the person objects to the transfer.

(3) Where sub-paragraph (2) applies—

- (a) those rights, powers, duties and liabilities are not transferred to the undertaker;
- (b) the person's contract of employment is terminated immediately before the day on which the transfer would have occurred;
- (c) the person is not, for any purpose, to be regarded as having been dismissed.

(4) Nothing in sub-paragraph (2) or (3) affects the person's right to terminate the contract of employment if, apart from the change of employer, a substantial change is made to the person's detriment in his or her working conditions.

(5) If a transfer scheme provides for the transfer of rights, powers, duties and liabilities relating to a person's contract of employment, it may include provision with respect to the person's eligibility to become a member of a pension scheme by virtue of employment with the undertaker.

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

- (a) a pension scheme of which the person may become a member by virtue of employment with the undertaker, or
- (b) a pension scheme of which the person is a member by virtue of employment immediately before the transfer.

(1) 1996 c. 18.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.