

*Status: Point in time view as at 01/04/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Public Audit (Wales) Act 2013, Cross Heading: Transfer of other property, rights and liabilities. (See end of Document for details)*

## SCHEDULE 3

### TRANSITIONAL, SUPPLEMENTARY AND SAVING PROVISIONS

#### PART 3

#### TRANSFER OF FUNCTIONS ETC

##### *Transfer of other property, rights and liabilities*

- 10 (1) On the transfer day, the property, rights and liabilities to which the Auditor General is entitled or subject in connection with any transferred function are transferred to and vest in the WAO.
- (2) Sub-paragraph (1) operates in relation to property, rights and liabilities—
- (a) whether or not they would otherwise be capable of being transferred;
  - (b) irrespective of any kind of requirement for consent that would otherwise apply.
- (3) Anything (including legal proceedings) which relates to—
- (a) any transferred function, or
  - (b) any property, rights or liabilities transferred by virtue of sub-paragraph (1) in connection with any transferred function,
- and which is in the process of being done by or in relation to the Auditor General immediately before the transfer day may be continued on or after that day by or in relation to the WAO.
- (4) Anything which was done by or in relation to the Auditor General for the purposes of or in connection with—
- (a) any transferred function, or
  - (b) any property, rights or liabilities transferred by virtue of sub-paragraph (1) in connection with any transferred function,
- and which is in effect immediately before the transfer day has effect on or after that day as if done by or in relation to the WAO.
- (5) In any instruments, contracts or legal proceedings which relate to—
- (a) any transferred function, or
  - (b) any property, rights or liabilities transferred by virtue of sub-paragraph (1) in connection with any transferred function,
- and which are made or commenced before the transfer day, a reference to the Auditor General is to be treated on or after that day as a reference to, or as including a reference to, the WAO.
- (6) This paragraph does not apply in relation to rights and liabilities under a contract of employment as a member of the staff of the Auditor General transferred to the WAO by virtue of paragraph 5.
- (7) In this paragraph—
- “transferred function” (“*swyddogaeth a drosglwyddir*”) means a function—

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- (a) conferred or imposed on the WAO by a provision of this Act which re-enacts (with or without modifications) a provision of any enactment which conferred or imposed the same or substantially the same function on the Auditor General, or
  - (b) conferred or imposed on the WAO by any enactment in consequence of the amendment of that enactment by or under this Act;
- “transfer day” (“*diwrnod trosglwyddo*”), in relation to a transferred function, means the day when the function first became exercisable by the WAO.

#### Commencement Information

**II** Sch. 3 para. 10 in force at 1.4.2014 by S.I. 2013/1466, art. 3(1)

- 11 (1) A certificate issued by the Welsh Ministers that property has been transferred by virtue of paragraph 10(1) is conclusive evidence of the transfer.
- (2) Paragraph 10 has effect in relation to property, rights or liabilities to which it applies in spite of any provision (of whatever nature) which would otherwise prevent, penalise or restrict the transfer of the property, rights or liabilities.
- (3) A right of pre-emption, right of return or other similar right does not operate or become exercisable as a result of any transfer of property or rights by virtue of paragraph 10(1).
- (4) Any such right has effect in the case of any such transfer as if the transferee were the same person in law as the transferor and no transfer of the property or rights had taken place.
- (5) Such compensation as is just is to be paid to any person in respect of any such right which would, apart from sub-paragraph (3), have operated in favour of or become exercisable by that person but which, in consequence of the operation of that sub-paragraph, cannot subsequently operate in favour or become exercisable by that person.
- (6) But no compensation is to be paid under sub-paragraph (5) to the Auditor General, to the WAO, or to a former Auditor General.
- (7) Compensation payable by virtue of sub-paragraph (5) is to be paid by the WAO.
- (8) Any amount paid under sub-paragraph (7) is to be charged on and paid out of the Welsh Consolidated Fund.
- (9) Sub-paragraphs (2) to (8) apply in relation to the creation of rights or interests, or the doing of anything else, in relation to property as they apply in relation to a transfer of property, and references to the transferor and transferee are to be read accordingly.
- (10) In this paragraph “right of return” means any right under a provision for the return or reversion of property in specified circumstances.

#### Commencement Information

**I2** Sch. 3 para. 11 in force at 1.4.2014 by S.I. 2013/1466, art. 3(1)

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