

SCHEDULE 3 THE SCOTTISH COURT SERVICE

Transfer of staff

- 19 (1) Sub-paragraph (2) applies to persons who, on the coming into force of this paragraph—
- (a) hold any of the offices mentioned in section 63(2), or
 - (b) are members of the staff of the Scottish Ministers employed in the Executive Agency of the Scottish Ministers known as the Scottish Court Service Agency (referred to in this paragraph as “the Agency”), other than excepted staff.
- (2) On the coming into force of this paragraph, those officers and staff transfer to, and become members of the staff of, the SCS (as well as, in the case of the holders of the offices referred in sub-paragraph (1)(a), continuing to hold those offices).
- (3) The excepted staff are—
- (a) the Chief Executive of the Agency, and
 - (b) staff on secondment or loan to the Agency from another part of the Scottish Administration.
- (4) The contract of employment of a person who becomes a member of the staff of the SCS by virtue of sub-paragraph (2)—
- (a) is not terminated by the transfer, and
 - (b) has effect from the date this paragraph comes into force as if originally made between the person and the SCS.
- (5) Without prejudice to sub-paragraph (4)—
- (a) all the rights, powers, duties and liabilities of the Scottish Ministers under or in connection with the person’s contract of employment are by virtue of this sub-paragraph transferred to the SCS on the date on which this paragraph comes into force, and
 - (b) anything done before that date by or in relation to the Scottish Ministers in respect of that contract of employment or that person is to be treated from that date as having been done by or in relation to the SCS.
- (6) This paragraph does not prejudice any right of any person to terminate that person’s contract of employment if the terms and conditions of employment are changed substantially to the detriment of the person; but such a change is not to be taken to have occurred by reason only that the identity of the person’s employer changes by virtue of this paragraph.
- (7) The Scottish Ministers must appoint, on such terms and conditions as they may determine, a person to act as the Chief Executive of the SCS until the first Chief Executive is appointed by the SCS under paragraph 14(1).
- (8) A determination by the Scottish Ministers that any member of their staff is—
- (a) employed as mentioned in sub-paragraph (1)(b), or
 - (b) excepted staff by virtue of sub-paragraph (3),
- is conclusive of that fact for the purposes of this paragraph.