

## SCHEDULE 3

### TRANSITIONAL, SUPPLEMENTARY AND SAVING PROVISIONS

#### PART 3

#### TRANSFER OF FUNCTIONS ETC

##### *Dismissal in relation to transfer*

- 9 (1) Sub-paragraphs (2) and (3) apply—
- (a) to an employee of the Auditor General;
  - (b) to an employee of the WAO whose employment transferred under paragraph 5.
- (2) If an employee to whom this sub-paragraph applies is dismissed, that employee is to be treated as unfairly dismissed for the purposes of Part X of the Employment Rights Act 1996 if the sole or principal reason for the dismissal is—
- (a) the transfer mentioned in paragraph 5(1), or
  - (b) a reason connected with the transfer that is not an economic, technical or organisational reason entailing changes in the workforce.
- (3) If an employee to whom this sub-paragraph applies is dismissed, the reason for that dismissal is to be treated for the purposes of sections 98(1) and 135 of the Employment Rights Act 1996 (reason for dismissal) as having been for redundancy if the sole or principal reason for the dismissal is a reason connected with the transfer mentioned in paragraph 5(1) that is an economic, technical or organisational reason entailing changes in the workforce.
- (4) Sub-paragraph (3) does not prejudice the application of section 98(4) of the Employment Rights Act 1996 (test of fair dismissal).
- (5) But sub-paragraph (2) does not apply if the application of section 94 of the Employment Rights 1996 Act (right not to be unfairly dismissed) to the dismissal is excluded by or under any provision of that Act, the Employment Tribunals Act 1996 or the Trade Union and Labour Relations (Consolidation) Act 1992.