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## SCHEDULES

### SCHEDULE 2

#### TRANSFERS OF PROPERTY ETC AND STAFF IN CONNECTION WITH PROBATION SERVICES ARRANGEMENTS

##### *Staff transfer schemes*

- 5 (1) The Secretary of State may make a scheme (“the scheme”) for—
- (a) the transfer of employees of a local probation board to a relevant person or so as to become employed in the civil service of the state;
  - (b) the transfer of employees of one relevant person to another relevant person or so as to become employed in the civil service of the state;
  - (c) the transfer of persons employed in the civil service of the state so as to become employees of a relevant person.
- (2) The scheme may—
- (a) be expressed to apply to any description of person (or, in the case of a transfer from a local probation board or relevant person, all its employees) or to any individual person;
  - (b) provide for the Secretary of State or any other person nominated by or in accordance with the scheme to determine any matter requiring determination under or in consequence of the scheme;
  - (c) make supplementary, incidental, transitional and consequential provision.
- (3) The scheme may not be made unless any directions about consultation given by the Secretary of State have been complied with in relation to each person to be transferred by virtue of the scheme.

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#### **Commencement Information**

**II** Sch. 2 para. 5 in force at 1.3.2008 by S.I. 2008/504, art. 2(b)

- 6 (1) This paragraph applies to an employee of a probation board or a relevant person who is to be transferred to a relevant person by virtue of a staff transfer scheme.
- (2) The contract of employment is not terminated by the transfer and has effect from the date of transfer as if originally made between the employee and the transferee.
- (3) Where the employee is transferred under the scheme—
- (a) all the rights, duties and liabilities of the transferor under or in connection with the contract of employment are by virtue of this sub-paragraph transferred to the transferee on the date of the transfer; and
  - (b) anything done before that date by, or in relation to, the transferor in respect of that contract or the employee is to be treated from that date as having been done by or in relation to the transferee.

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This sub-paragraph does not prejudice the generality of sub-paragraph (2).

- (4) But if the employee informs the transferor or the transferee that he objects to the transfer—
- (a) sub-paragraphs (2) and (3) do not transfer the contract of employment (or the rights, powers, duties and liabilities under or in connection with it); and
  - (b) the contract of employment is terminated immediately before the date of transfer.
- (5) The employee is not to be treated, for the purposes of the Employment Rights Act 1996 (c. 18), as having been dismissed by the transferor by reason of—
- (a) the transfer of the contract of employment under the scheme; or
  - (b) the termination of the contract of employment under sub-paragraph (4)(b).
- (6) In this paragraph “transferor” and “transferee” refer to the employer from whom or to whom the employee is or would be transferred under the scheme.

#### Commencement Information

**I2** Sch. 2 para. 6 in force at 1.3.2008 by S.I. 2008/504, art. 2(b)

- 7 (1) This paragraph applies where an employee of a probation board or a relevant person is to become employed in the civil service of the state by virtue of a staff transfer scheme.
- (2) The employee's period of employment with the transferor counts as a period of employment in his Crown employment and the change of employment does not break the continuity of that employment.
- (3) So far as may be consistent with employment in the civil service of the state, the terms and conditions of his employment have effect after the transfer as if they were terms and conditions of his Crown employment.
- (4) Where the employee is transferred under the scheme—
- (a) all the rights, duties and liabilities of the transferor under or in connection with the contract of employment are by virtue of this sub-paragraph transferred to the Crown on the date of the transfer; and
  - (b) anything done before that date by, or in relation to, the transferor in respect of that contract or the employee is to be treated from that date as having been done by or in relation to the Crown.

This sub-paragraph does not prejudice the generality of sub-paragraphs (2) and (3).

- (5) But if the employee informs the transferor or the Secretary of State that he objects to the transfer—
- (a) the transfer shall not take place (and so sub-paragraphs (2) to (4) do not apply); and
  - (b) the contract of employment is terminated immediately before the date of transfer.
- (6) The employee is not to be treated, for the purposes of Part 9 of the Employment Rights Act 1996, as having been dismissed by reason of—
- (a) his transfer to Crown employment; or

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- (b) the termination of the contract of employment by virtue of sub-paragraph (5)(b).

- (7) In this paragraph “transferor” refers to the employer from whom the employee is or would be transferred under the scheme.

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**Commencement Information**

**I3** Sch. 2 para. 7 in force at 1.3.2008 by S.I. 2008/504, art. 2(b)

- 8 (1) This paragraph applies to an individual who is to be transferred from employment in the civil service of the state so as to become an employee of a relevant person by virtue of a staff transfer scheme.
- (2) The individual's employment is not terminated by the transfer.
- (3) The terms and conditions of the individual's Crown employment (so far as consistent with employment under a contract of employment with a person other than the Crown) have effect from the date of transfer as the terms and conditions of a contract of employment originally made between the individual and the transferee.
- (4) Where the individual is transferred under the scheme—
- (a) all the rights, duties and liabilities of the Crown under or in connection with his employment are by virtue of this sub-paragraph transferred to the transferee on the date of the transfer; and
- (b) anything done before that date by, or in relation to, the Crown in respect of that employment or the individual is to be treated from that date as having been done by or in relation to the transferee.

This sub-paragraph does not prejudice the generality of sub-paragraphs (2) and (3).

- (5) But if the individual informs the Secretary of State or the transferee that he objects to the transfer—
- (a) the transfer shall not take place (and so sub-paragraphs (2) to (4) do not apply); and
- (b) his employment is terminated immediately before the date of transfer.
- (6) For the purposes of Part 9 of the Employment Rights Act 1996, the individual is not to be regarded as having been dismissed by reason of—
- (a) his transfer from Crown employment under the scheme; or
- (b) the termination of his employment by virtue of sub-paragraph (5)(b).
- (7) In this paragraph “transferee” refers to the employer to whom the person is or would be transferred under the scheme.

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**Commencement Information**

**I4** Sch. 2 para. 8 in force at 1.3.2008 by S.I. 2008/504, art. 2(b)

- 9 (1) Nothing in this Schedule prejudices any right of an employee to terminate his contract of employment if a substantial change is made to his detriment in his working conditions.

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- (2) But no such right arises by reason only that (by virtue of paragraph 6, 7 or 8) the identity of his employer changes unless the employee shows that in all the circumstances the change is a significant change and is to his detriment.

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**Commencement Information**

**I5** Sch. 2 para. 9 in force at 1.3.2008 by S.I. 2008/504, art. 2(b)

- 10 (1) Where an employee's contract of employment with—
- (a) a local probation board,
  - (b) a probation trust which is to be dissolved,
- is not transferred under a staff transfer scheme, it is terminated immediately before the date on which the board or probation trust ceases to exist (and the employee is to be treated, for the purposes of the Employment Rights Act 1996 (c. 18), as having been dismissed by the board or probation trust).

- (2) Sub-paragraph (1) has effect subject to paragraphs 6(5), 7(6) and 8(6).

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**Commencement Information**

**I6** Sch. 2 para. 10 in force at 1.3.2008 by S.I. 2008/504, art. 2(b)

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 14(2)(da) inserted by [2015 c. 2 Sch. 3 para. 15](#)