

SCHEDULES

SCHEDULE 4

Section 21.

TRANSITORY PROVISIONS FOR AMALGAMATION SCHEMES

Constables and cadets

- 1 (1) All members of a transferred force who are transferred by an amalgamation scheme shall be deemed to have been duly appointed as members of the new force under Part I of this Act, and to have been duly attested as such, and shall hold in that force the same ranks respectively as they held immediately before the date of transfer in the force from which they are transferred.
- (2) All special constables appointed for a transferred area who are transferred by an amalgamation scheme shall be deemed to have been appointed as special constables for the new area under Part I of this Act, and to have been duly attested as such.
- (3) All police cadets who are transferred by an amalgamation scheme shall be deemed to have been appointed under Part I of this Act to undergo training with a view to becoming members of the new force.
- 2 Where, immediately before the date of transfer—
- (a) section 43(1)(a) of this Act, or
 - (b) section 2 of the Police (Overseas Service) Act 1945,
- applied to any person as having been a member of a transferred force, that section shall, unless the amalgamation scheme otherwise provides, apply to him in relation to any period after the date of transfer, as if for any reference to the police force to which he was entitled to revert there were substituted a reference to the new force, and references in that section to the appropriate authority shall be construed accordingly.

Staff and assets

- 3 (1) Where any officers or servants, property, rights or liabilities have been transferred by virtue of an amalgamation scheme from one authority to another, or will be so transferred on the date of transfer, those authorities may by agreement provide for the making of such adjustments in relation to their respective property, rights and liabilities as appear to them to be desirable having regard to the transfer, and any such agreement may, in particular, provide for the making of payments by either party thereto.
- (2) If any question arises—
- (a) whether any persons, property, rights or liabilities have been or will on the date of transfer be transferred from one authority to another by virtue of an amalgamation scheme ; or
 - (b) whether any such adjustment as is mentioned in the foregoing sub-paragraph ought to be made between any authorities,

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that question shall, in default of agreement between the authorities concerned, be referred to a single arbitrator agreed upon between the parties, or in default of agreement appointed by the Secretary of State, and the award of the arbitrator with respect to any such question as is mentioned in paragraph (b) of this sub-paragraph may provide for any matter for which provision might have been made by an agreement under the foregoing sub-paragraph.

Pending proceedings

- 4 (1) Where, immediately before the date of transfer, proceedings were pending by or against any authority with respect to any property, rights or liabilities which are transferred by virtue of an amalgamation scheme, those proceedings may be carried on thereafter with the substitution for that authority of the authority to whom the property, rights or liabilities are so transferred.
- (2) Where, immediately before the date of transfer, a member of a transferred force is entitled to appeal to the Secretary of State under the provisions of section 37 of this Act, or of any corresponding provisions repealed by this Act, or where any such member has appealed to the Secretary of State under any of those provisions before the said date but the appeal has not been determined, then, unless the Secretary of State otherwise directs, the disciplinary authority for the new area shall be the respondent for the purposes of the appeal, and in the case of a pending appeal, shall be substituted as respondent for the disciplinary authority for the transferred force.

Superannuation

- 5 (1) This paragraph applies to any person who is transferred by virtue of an amalgamation scheme from the employment of one authority (in this paragraph referred to as the "transferor authority") to the employment of another authority (in this paragraph referred to as the "transferee authority").
- (2) Subject to the following provisions of this paragraph—
- (a) any statutory provision contained in or made or issued under the Local Government Superannuation Acts 1937 to 1953, any local Act under which any authority maintains a superannuation fund, the Superannuation (Miscellaneous Provisions) Act 1948 or the National Insurance Act 1959, which is in force at the date of transfer, and
 - (b) except as may be otherwise expressly provided therein, any enactment passed after that date whereby any of the Acts referred to in paragraph (a) above is amended, extended or superseded, and any statutory provision which after that date is made or issued under any of those Acts or such an enactment,

shall have effect in relation to any person to whom this paragraph applies as if his employment by the transferor authority and his employment by the transferee authority were one continuous employment.

- (3) In any case where the fund which is the superannuation fund in relation to a person to whom this paragraph applies immediately before the date of transfer is not the same as the fund which is the superannuation fund in relation to that person immediately after that date, the last foregoing sub-paragraph shall not have effect for the purposes of section 29 of the Local Government Superannuation Act 1937 (payment of transfer values); but, with respect to any transfer value which, apart from any direction under this sub-paragraph, would in such a case be payable under the said section 29, the

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Minister of Housing and Local Government, if in the circumstances he considers it equitable to do so, may give directions for securing that—

- (a) no such transfer value will be payable in consequence of the transfer;
- (b) the assets comprised in the fund out of which the transfer value would have been payable will be apportioned in such manner as the authorities concerned may agree or, in default of such agreement, the Minister may determine; and
- (c) in respect of such part of those assets as may be so agreed or determined, such financial adjustments (whether by way of the transfer of assets or the making of a payment or both) as may be so agreed or determined will be made;

and any directions given under this sub-paragraph may include such incidental, supplementary and consequential provisions as the Minister considers appropriate.

- (4) Sub-paragraph (2) of this paragraph shall not affect the power to make regulations under section 36(6) of the said Act of 1937 with respect to such administrative action to be taken by local authorities as is mentioned in Schedule 3 to that Act, and, except as may be expressly provided in the regulations, shall not affect the operation of any such regulations.
- (5) Any such statutory resolution as is mentioned in section 3(2) of the said Act of 1937 (designation of persons as contributory employees) which—
 - (a) was passed by the transferor authority ; and
 - (b) is in force in relation to any person to whom this paragraph applies immediately before the date of transfer ;shall continue in force in relation to that person and have effect as if it had been passed by the transferee authority.
- (6) Where immediately before the date of transfer it was the prevailing practice of the transferor authority to exercise beneficially (that is to say, so as to secure the payment of pensions or of increased pensions) any discretionary power exercisable by them by virtue of any statutory provision relating to pensions, it shall, in relation to any person to whom this paragraph applies, be the duty of the transferee authority to exercise that power (or any corresponding power under the statutory provisions relating to pensions for the time being in force) in a way which is not less beneficial than that practice; and section 35 of the said Act of 1937 shall apply to any question arising under this sub-paragraph.
- (7) In any case where the statutory provisions relating to pensions to which a person to whom this paragraph applies is subject immediately before the date of transfer by virtue of his employment by the transferor authority are not the same as those to which he becomes subject on that day by virtue of his employment by the transferee authority, the second-mentioned provisions shall have effect, in relation to that person, as if they required him to make the like contributions (if any) as he would have been liable to make, and conferred on him rights corresponding with those which he would have enjoyed, if he had remained subject to the first-mentioned provisions, and as if they conferred on the transferee authority any discretionary power to pay pensions or increased pensions which was exercisable under those provisions by the transferor authority.

Registers

- 6 Any register, or the appropriate part of any register, kept in pursuance of any enactment by the chief constable of a transferred area shall be transferred by him

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to the chief constable of the new area as soon as may be after the date of transfer, and as from that date shall be deemed to form part of the corresponding register kept by that chief constable.

Supplementary

7 Subject to the foregoing provisions of this Schedule, anything done before the date of transfer by, to or before the police authority of a transferred area, or by, to or before the chief constable of any such area, shall, in so far as may be necessary for the purpose or in consequence of the provisions of this Act or any amalgamation scheme, have effect after that date as if it had been done by, to or before the police authority for the new area, or the Chief constable of that area.

8 In this Schedule—

" date of transfer " means the date on which an amalgamation scheme comes into operation or, where different provisions of the scheme come into operation on different dates, the last of those dates ;

" pension " includes a lump sum and a gratuity ;

" statutory provision " means a provision, whether of a general or a special nature, contained in, or in any document made or issued under, any Act, whether of a general or a special nature;

" transferred area " means a police area which becomes comprised in a combined police area by virtue of an amalgamation scheme, or which is divided into two or more police areas by virtue of a scheme amending or revoking such a scheme;

" transferred force " means the police force of a transferred area;

" new area " means, in relation to any person or property, the police area in which a transferred area becomes comprised by virtue of an amalgamation scheme or, in the case of an area which is divided into two or more police areas by virtue of a scheme amending or revoking an amalgamation scheme, such of those areas as may be prescribed by that scheme;

" new force " means the police force of a new area.