

---

*Changes to legislation: There are currently no known outstanding effects for the Public Audit (Wales) Act 2004, SCHEDULE 3. (See end of Document for details)*

---

## SCHEDULES

### SCHEDULE 3

Section 68

#### TRANSFER SCHEMES

##### *Preparation of transfer schemes*

- 1 (1) The Secretary of State may, with the consent of the Assembly, by order—
- (a) make one or more schemes for the transfer to the [<sup>F1</sup>Wales Audit Office] of defined property, rights and liabilities of the Comptroller and Auditor General, <sup>F2</sup>...
  - <sup>F2</sup>(b) .....
- (2) The property, rights and liabilities which may be the subject of a scheme include—
- (a) any that would otherwise be incapable of being transferred or assigned, and
  - (b) rights and liabilities under a contract of employment.
- (3) For the purpose of dividing any property, rights or liabilities in connection with a scheme, the scheme may—
- (a) create in favour of the transferor an interest in, or right over, any property transferred in accordance with the scheme;
  - (b) create in favour of the [<sup>F1</sup>Wales Audit Office] an interest in, or right over, any property retained by the transferor;
  - (c) create new rights and liabilities as between the [<sup>F1</sup>Wales Audit Office] and the transferor; or
  - (d) in connection with provision made under paragraph (a), (b) or (c), make incidental provision as to the interests, rights and liabilities of persons other than the transferor and the [<sup>F1</sup>Wales Audit Office] with respect to the subject-matter of the scheme;
- and references in this Schedule (other than this sub-paragraph) or section 68 to the transfer of property, rights or liabilities (so far as relating to transfers provided for in a scheme) are accordingly to be construed as including references to the creation of any interests, rights or liabilities by virtue of paragraph (a), (b) or (c) or the making of provision by virtue of paragraph (d).
- (4) A scheme may define the property, rights and liabilities to be transferred by specifying or describing them (including describing them by reference to a specified part of the transferor's undertaking).
- (5) A scheme may include supplementary, incidental, transitional and consequential provision.
- (6) The provision that may be made by virtue of sub-paragraph (3)(c) includes—
- (a) provision for treating any person who is entitled by virtue of an order under this paragraph to possession of a document as having given another person

*Changes to legislation: There are currently no known outstanding effects for the Public Audit (Wales) Act 2004, SCHEDULE 3. (See end of Document for details)*

- an acknowledgement in writing of the right of that other person to the production of the document and to delivery of copies of it, and
  - (b) provision applying section 64 of the Law of Property Act 1925 (c. 20) (production and safe custody of documents) in relation to any case in relation to which provision within sub-paragraph (3)(a) has effect.
- (7) Sub-paragraph (8) applies in the case of a scheme which contains provision for the transfer of rights or liabilities under the contract of employment of an individual (“the employee”).
- (8) The provision that may be made in the scheme by virtue of sub-paragraph (5) includes provision with respect to—
- (a) the employee’s eligibility to become a member of any pension scheme by virtue of his employment with the transferee if the rights or liabilities relating to his contract of employment are transferred in accordance with the scheme, and
  - (b) rights of, or rights or liabilities in respect of, the employee under—
    - (i) any pension scheme of which he may become a member by virtue of his employment with the transferee, or
    - (ii) any pension scheme of which he is a member by virtue of his employment immediately before the transfer,
 (and for the purposes of this sub-paragraph “pension scheme” includes any scheme made under section 1 of the Superannuation Act 1972 (c. 11) (superannuation schemes as respects civil servants etc)).
- (9) The power to make an order under this paragraph is exercisable by statutory instrument, and any such instrument is subject to annulment in pursuance of a resolution of either House of Parliament.

**Textual Amendments**

**F1** Words in Sch. 3 substituted (1.4.2014) by [The Public Audit \(Wales\) Act 2013 \(Consequential Amendments\) Order 2014 \(No. 77\)](#), arts. 1(1), **3(4)**

**F2** Sch. 3 para. 1(1)(b) and preceding word omitted (1.4.2015) by virtue of [Local Audit and Accountability Act 2014 \(c. 2\)](#), s. 49(1), **Sch. 12 para. 65(2)** (with Sch. 12 para. 66); S.I. 2015/841, art. 3(x)

- 2 Before making an order under paragraph 1, the Secretary of State must consult—
- (a) the [<sup>F1</sup>Wales Audit Office], [<sup>F3</sup>and]
  - (b) <sup>F4</sup>... the Comptroller and Auditor General, <sup>F5</sup>...
  - <sup>F5</sup>(c) .....

**Textual Amendments**

**F1** Words in Sch. 3 substituted (1.4.2014) by [The Public Audit \(Wales\) Act 2013 \(Consequential Amendments\) Order 2014 \(No. 77\)](#), arts. 1(1), **3(4)**

**F3** Word in Sch. 3 para. 2(a) inserted (1.4.2015) by [Local Audit and Accountability Act 2014 \(c. 2\)](#), s. 49(1), **Sch. 12 para. 65(3)(a)** (with Sch. 12 para. 66); S.I. 2015/841, art. 3(x)

**F4** Words in Sch. 3 para. 2(b) omitted (1.4.2015) by virtue of [Local Audit and Accountability Act 2014 \(c. 2\)](#), s. 49(1), **Sch. 12 para. 65(3)(b)** (with Sch. 12 para. 66); S.I. 2015/841, art. 3(x)

**F5** Sch. 3 para. 2(c) and preceding word omitted (1.4.2015) by virtue of [Local Audit and Accountability Act 2014 \(c. 2\)](#), s. 49(1), **Sch. 12 para. 65(3)(c)** (with Sch. 12 para. 66); S.I. 2015/841, art. 3(x)

---

*Changes to legislation: There are currently no known outstanding effects for the Public Audit (Wales) Act 2004, SCHEDULE 3. (See end of Document for details)*

---

### *Transfer of employees*

- 3 (1) This paragraph has effect in any case where the rights and liabilities relating to an individual's contract of employment are transferred in accordance with a scheme.
- (2) The transfer does not break the continuity of the individual's employment, and accordingly—
- (a) he is not to be regarded for the purposes of Part 11 of the Employment Rights Act 1996 (c. 18) (redundancy) as having been dismissed by virtue of the transfer,
  - (b) his period of employment with the transferor counts as a period of employment with the transferee for the purposes of that Act.
- (3) The terms and conditions of the individual's employment with the transferee (taken as a whole) must not be less favourable to the individual than the terms and conditions on which he is employed immediately before the transfer.
- 4 (1) This paragraph has effect in any case where—
- (a) a scheme contains provision for the transfer of rights or liabilities under the contract of employment of any individual (“the employee”), but
  - (b) the employee informs the transferor or the [F1Wales Audit Office] that he objects to becoming employed by the [F1Wales Audit Office].
- (2) Section 68—
- (a) does not operate to transfer any rights, powers, duties or liabilities under or in connection with the contract of employment, but
  - (b) operates to terminate that contract on the day preceding the transfer date.
- (3) The employee is not, by virtue of that termination, to be treated for any purpose as having been dismissed.
- (4) In this paragraph “the transfer date”, in relation to a scheme, means the date on which (but for this paragraph) any rights, powers, duties or liabilities under the employee's contract of employment would have been transferred in accordance with the scheme.

#### **Textual Amendments**

- F1** Words in Sch. 3 substituted (1.4.2014) by [The Public Audit \(Wales\) Act 2013 \(Consequential Amendments\) Order 2014 \(No. 77\)](#), arts. 1(1), 3(4)

### *Continuity*

- 5 (1) Anything done by or in relation to the transferor for the purposes of or in connection with anything transferred by section 68 which is in effect immediately before it is transferred is to be treated as if done by or in relation to the [F1Wales Audit Office].
- (2) There may be continued by or in relation to the [F1Wales Audit Office] anything (including legal proceedings) relating to anything so transferred which is in the process of being done by or in relation to the transferor immediately before it is transferred.
- (3) A reference to the transferor in any document relating to anything so transferred is to be taken (so far as necessary for the purposes of or in consequence of the transfer) as a reference to the [F1Wales Audit Office].

---

*Changes to legislation: There are currently no known outstanding effects for the Public Audit (Wales) Act 2004, SCHEDULE 3. (See end of Document for details)*

---

- (4) A transfer under section 68 does not affect the validity of anything done by or in relation to the transferor before the transfer takes effect.

**Textual Amendments**

- F1** Words in Sch. 3 substituted (1.4.2014) by [The Public Audit \(Wales\) Act 2013 \(Consequential Amendments\) Order 2014 \(No. 77\)](#), arts. 1(1), **3(4)**

**Changes to legislation:**

There are currently no known outstanding effects for the Public Audit (Wales) Act 2004,  
SCHEDULE 3.