

## SCHEDULES

### SCHEDULE 4

Section 26

#### TRANSITIONAL PROVISION RELATING TO PART 2

##### *Transfer of property etc*

- 1 (1) Before the appointed day the Comptroller and Auditor General must—
  - (a) determine the property, rights and liabilities of the Comptroller and Auditor General that are to be transferred to NAO in consequence of the provision made by this Part, and
  - (b) prepare a scheme describing, in the way the Comptroller and Auditor General considers appropriate, that property and those rights and liabilities.
- (2) The scheme must be approved by the Public Accounts Commission.
- (3) On the appointed day the property, rights and liabilities described in the scheme are transferred to NAO.
- (4) Sub-paragraph (3) operates in relation to property, rights and liabilities—
  - (a) whether or not they would otherwise be capable of being transferred,
  - (b) without any instrument or other formality being required, and
  - (c) irrespective of any kind of requirement for consent that would otherwise apply.
- (5) In sub-paragraph (1) the references to rights and liabilities include references to rights and liabilities under or in connection with contracts of employment with staff that were appointed under section 3(2) of the National Audit Act 1983.
- (6) For any purpose relating to a person who becomes an employee of NAO by virtue of sub-paragraph (3)—
  - (a) a period of employment under section 3(2) of the National Audit Act 1983 (including a period that was counted as such a period by virtue of paragraph 2(3) of Schedule 2 to that Act) is to be treated as a period of employment with NAO, and
  - (b) the transfer to NAO is not to be treated as a break in service.
- (7) Anything done by, on behalf of or in relation to the Comptroller and Auditor General in relation to anything transferred by sub-paragraph (3) has effect as if done by, on behalf of or in relation to NAO, so far as necessary or appropriate for continuing its effect on and after the appointed day.
- (8) Anything (including legal proceedings) which, immediately before the appointed day, is in the process of being done by, on behalf of or in relation to the Comptroller and Auditor General in relation to anything transferred by sub-paragraph (3) may be continued by, on behalf of or in relation to NAO.

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*Status: This is the original version (as it was originally enacted).*

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- (9) So far as necessary or appropriate in consequence of sub-paragraphs (3) to (8), a reference to the Comptroller and Auditor General in any agreement (whether written or not) or instrument or other document is to be treated as a reference to, or as including a reference to, NAO.
- (10) Before the appointed day a person's employment under section 3(2) of the National Audit Act 1983 is to be treated for the purposes of paragraph 1(2)(c) and Part 4 of Schedule 2 as if it were employment with NAO.
- (11) In this paragraph "the appointed day" means the day appointed for the purposes of this paragraph by an order made by the Treasury by statutory instrument.

*Tax consequences of transfers by virtue of paragraph 1(3)*

- 2 (1) For the purposes of the application of Part 5 of the Corporation Tax Act 2009 (loan relationships) in relation to a transfer by virtue of paragraph 1(3), the Comptroller and Auditor General and NAO are to be treated as if, at the time of the transfer, they were members of the same group.
- (2) In sub-paragraph (1) the reference to being members of the same group is to be read in accordance with section 335(6) of that Act.
- 3 (1) For the purposes of Part 8 of the Corporation Tax Act 2009 (intangible fixed assets) a transfer by virtue of paragraph 1(3) of a chargeable intangible asset of the Comptroller and Auditor General is to be treated as a tax-neutral transfer.
- (2) Part 4 of the Taxation (International and Other Provisions) Act 2010 (transfer pricing) does not apply in relation to a transfer to which sub-paragraph (1) applies.
- (3) For the purposes of section 882 of the Corporation Tax Act 2009 (application of Part 8 to assets created or acquired on or after 1 April 2002) assets acquired by NAO on a transfer by virtue of paragraph 1(3) are to be treated as if they were acquired from a person who at the time of the acquisition was a related party in relation to NAO.
- (4) Expressions used in this paragraph and in Part 8 of the Corporation Tax Act 2009 have the same meaning in this paragraph as they have in that Part.
- 4 For the purposes of the Taxation of Chargeable Gains Act 1992 a disposal constituted by virtue of a transfer by paragraph 1(3) is to be taken (in relation to both the Comptroller and Auditor General and NAO) to be for a consideration such that no gain or loss accrues to the Comptroller and Auditor General.

*Old Comptroller and Auditor General to continue to be Comptroller and Auditor General*

- 5 (1) This paragraph applies to the person who is the Comptroller and Auditor General immediately before the appointed day.
- (2) On and after the appointed day the person—
  - (a) continues to be the Comptroller and Auditor General and is treated as having been appointed to that office under this Part, and
  - (b) holds the office for 10 years less a period equal to that during which the person was the Comptroller and Auditor General before the appointed day.
- (3) The person's remuneration arrangements under section 13 are to be determined jointly by the Prime Minister and the person who chairs the Committee of Public

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Accounts before the appointed day (but are not to cover any period before the appointed day).

- (4) In this paragraph “the appointed day” means the day appointed for the purposes of this paragraph by an order made by the Treasury by statutory instrument.

#### *Provision of services*

- 6 (1) This paragraph applies in relation to anything done by or on behalf of the Comptroller and Auditor General under a power that ceases to be exercisable upon the coming into force of section 16 of this Act.
- (2) So far as necessary or appropriate for continuing its effect after the coming into force of section 16, the thing is treated as having been done by or on behalf of the Comptroller and Auditor General under that section.
- 7 (1) Paragraph 3 of Schedule 3 does not apply in relation to the provision of any services which, at the time that paragraph comes into force, the Comptroller and Auditor General has a contractual duty to provide.
- (2) But paragraph 8 of that Schedule applies in relation to any such services as if they were NAO-approved services.

#### *Indemnification*

- 8 (1) The liabilities covered by section 24 of this Act include liabilities that—
- (a) arise before the coming into force of that section, or
  - (b) arise in relation to any act or omission occurring before the coming into force of that section.
- (2) For this purpose section 24(3)(d) covers former members of the staff of the National Audit Office established by section 3 of the National Audit Act 1983.

#### *NAO’s procedural rules before rules made under paragraph 18 of Schedule 2*

- 9 (1) This paragraph applies until the first rules under paragraph 18 of Schedule 2 are made.
- (2) It applies in relation to any matter to be decided by NAO for the purpose of preparing or making those rules or for the purposes of paragraph 10 of Schedule 3.
- (3) The matter is to be decided—
- (a) at a meeting of NAO at which the person who chairs NAO and at least six other members are present, and
  - (b) by the majority of votes of the members present and voting on the matter.
- (4) But the matter may not be decided unless a majority of the members voting on the matter are non-executive members.
- (5) If the votes are tied, the person who chairs NAO is to have the casting vote, whether or not that person has already voted on the matter.
- (6) It is for the person who chairs NAO to call a meeting of NAO by giving written notice to the other members of the date, time and venue of the meeting.