

SCHEDULES

SCHEDULE 3

TRANSFER SCHEMES

Continuity of employment etc

- 9 (1) Where in accordance with a scheme a person employed by a transferor becomes an employee of a transferee—
- (a) that person is not to be regarded for the purposes of Part 11 (redundancy payments etc) of the Employment Rights Act 1996 as having been dismissed by virtue of the transfer,
 - (b) that person's period of employment with the transferor counts for the purposes of that Act as a period of employment with the transferee, and
 - (c) the change of employment does not break the continuity of the period of employment for the purposes of that Act.
- (2) Where in accordance with a scheme a person employed by a transferor becomes an employee of a transferee, the scheme must provide for the transfer of all the rights and liabilities relating to the person's contract of employment.
- (3) Where a transfer scheme contains provision for the transfer of rights and liabilities relating to a person's contract of employment but, before the transfer takes effect, the person informs the transferor or the transferee that the person objects to the transfer—
- (a) those rights and liabilities are not transferred under the transfer scheme,
 - (b) the person's contract of employment is terminated immediately before the day on which the transfer would occur, and
 - (c) the person is not, for any purpose, to be regarded as having been dismissed.
- (4) Nothing in sub-paragraph (3) affects the person's right to terminate the contract of employment if, apart from the change of employer, a substantial change is made to the person's detriment in the person's working conditions.
- (5) No damages are payable by virtue of a constructive dismissal occurring under sub-paragraph (4) in respect of unpaid wages relating to a notice period which the employee has not worked.
- (6) Where a transfer scheme contains provision for the transfer of rights and liabilities relating to a person's contract of employment, it may include provision with respect to—
- (a) the person's eligibility to become a member of a pension scheme by virtue of employment with the transferee;
 - (b) the rights of, or rights or liabilities in respect of, the person under a pension scheme of which the person may become a member by virtue of employment with the transferee;

Status: This is the original version (as it was originally enacted).

- (c) the rights of, or rights or liabilities in respect of, the person under a pension scheme of which the person is a member by virtue of employment immediately before the transfer.