



# Health and Care Act 2022

## 2022 CHAPTER 31

### PART 3

#### SECRETARY OF STATE'S POWERS TO TRANSFER OR DELEGATE FUNCTIONS

#### **106 Transfer schemes in connection with regulations**

- (1) The Secretary of State may, in connection with regulations under section 103 or 104, make one or more schemes for the transfer of property, rights and liabilities (“transfer schemes”).
- (2) A transfer scheme in connection with regulations under section 103 may provide for the transfer of property, rights or liabilities to any appropriate person from the relevant body from which functions are transferred by the regulations.
- (3) A transfer scheme in connection with regulations under section 104 may provide for the transfer of property, rights or liabilities to any appropriate person from—
  - (a) the Secretary of State,
  - (b) a Special Health Authority, or
  - (c) any relevant body ceasing to exercise functions of the Secretary of State as a result of the regulations.
- (4) The things that may be transferred under a transfer scheme include—
  - (a) property, rights and liabilities that could not otherwise be transferred;
  - (b) property acquired, and rights and liabilities arising, after the making of the scheme;
  - (c) criminal liabilities.
- (5) A transfer scheme may—
  - (a) create rights, or impose liabilities, in relation to property or rights transferred;
  - (b) make provision about the continuing effect of things done by, on behalf of or in relation to the transferor in respect of anything transferred;

*Status: Point in time view as at 01/07/2022.*

*Changes to legislation: There are currently no known outstanding effects for the Health and Care Act 2022, Section 106. (See end of Document for details)*

- (c) make provision about the continuation of things (including legal proceedings) in the process of being done by, on behalf of or in relation to the transferor in respect of anything transferred;
  - (d) make provision for references to the transferor in an instrument or other document in respect of anything transferred to be treated as references to the transferee;
  - (e) make provision for the shared ownership or use of property;
  - (f) make provision which is the same as or similar to the TUPE regulations;
  - (g) make other consequential, supplementary, incidental or transitional provision.
- (6) A transfer scheme may provide—
- (a) for modifications by agreement;
  - (b) for modifications to have effect from the date when the original scheme came into effect.
- (7) In subsection (5)(f), “the TUPE regulations” means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246).
- (8) For the purposes of this section—
- (a) references to rights and liabilities include rights and liabilities relating to a contract of employment;
  - (b) references to the transfer of property include the grant of a lease.
- (9) For the purposes of subsection (8)(a)—
- (a) an individual who holds employment in the civil service of the State is to be treated as employed by virtue of a contract of employment, and
  - (b) the terms of the individual’s employment in the civil service of the State are to be treated as constituting the terms of the contract of employment.
- (10) In this section “appropriate person” means—
- (a) any relevant body,
  - (b) the Secretary of State,
  - (c) an integrated care board,
  - (d) a Special Health Authority, or
  - (e) an NHS trust established under section 25 of the National Health Service Act 2006.

**Commencement Information**

**11** S. 106 not in force at Royal Assent, see [s. 186\(6\)](#)

**12** S. 106 in force at 1.7.2022 by [S.I. 2022/734](#), [reg. 2\(a\)](#), [Sch.](#) (with [regs. 13, 29, 30](#))

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