

SCHEDULE 8

TRANSITIONAL, TRANSITORY AND SAVING PROVISIONS

PART 4

TRANSFER OF STAFF, RIGHTS AND LIABILITIES

26.—(1) The contract of employment of an eligible employee transferred by virtue of a direction made under paragraph 24(1)—

- (a) is not terminated by the transfer; and
- (b) has effect from the date of the transfer as if originally made between the employee and the transferee.

(2) Without prejudice to the generality of sub-paragraph (1), where an employee is transferred pursuant to a direction mentioned in that sub-paragraph—

- (a) all the rights, powers, duties and liabilities of the old employers under or in connection with the contract of employment are, by virtue of this paragraph, transferred to the transferee on the date of transfer; and
- (b) anything done in respect of that contract or employee in relation to the old employer is to be treated from that date as having been done by or in relation to the new employer.

(3) Sub-paragraphs (2)(a) and (b) do not transfer an employee's contract of employment, or the rights, powers, duties and liabilities under or in connection with it, if he informs his old employer that he objects to the transfer.

(4) Where an employee objects as mentioned in sub-paragraph (3), his contract of employment with the old employer is terminated immediately before the date of transfer, but he is not to be treated for any purpose as having been dismissed by that employer.

(5) This paragraph does not prejudice any right of an employee to terminate his contract of employment if a substantial change is made to his detriment in his working conditions but no such right arises by reason only that, by virtue of this paragraph, the identity of his employer changes unless the employee shows that, in all the circumstances, the change is a significant change and is to his detriment.

(6) In this paragraph, "the date of transfer" means, in relation to an eligible employee, the date of the transfer determined under a direction made under paragraph 24(1).