

SCHEDULE 3 THE SCOTTISH COURT SERVICE

Transfer of property and liabilities

- 20 (1) The Scottish Ministers may by order provide for the transfer to the SCS of any property or liabilities to which sub-paragraph (2) applies.
- (2) This sub-paragraph applies to—
- (a) property of the Scottish Ministers which is held or used by them for or in connection with—
 - (i) the purposes of the Scottish courts or the judiciary of those courts,
 - (ii) the purposes referred to in section 62(1), and
 - (b) liabilities of the Scottish Ministers incurred in connection with those purposes.
- (3) An order under sub-paragraph (1) may in particular—
- (a) provide for the creation of rights or interests, or the imposition of liabilities or conditions, in relation to property transferred, or rights or interests acquired, by virtue of the order,
 - (b) provide for any property, liabilities or conditions to be determined under the order.
- (4) An order under sub-paragraph (1) has effect in relation to any property or liabilities to which it applies despite any provision (of whatever nature) which would otherwise prevent, penalise or restrict the transfer of the property or liabilities.
- (5) A right of pre-emption, right of irritancy, right of return or other similar right does not operate or become exercisable as a result of any transfer of property by virtue of an order under sub-paragraph (1).
- (6) Any such right has effect in the case of any such transfer as if the SCS were the same person in law as the Scottish Ministers and as if no transfer of the property had taken place.
- (7) Such compensation as is just is to be paid to any person in respect of any such right which—
- (a) would, apart from sub-paragraph (5), have operated in favour of, or become exercisable by, that person, but
 - (b) in consequence of the operation of that sub-paragraph, cannot subsequently operate in the person's favour or (as the case may be) become exercisable by the person.
- (8) Any compensation payable by virtue of sub-paragraph (7) is to be paid by the Scottish Ministers or by the SCS or by both.
- (9) An order under sub-paragraph (1) may provide for the determination of any disputes as to—
- (a) whether and, if so, how much, compensation is payable by virtue of sub-paragraph (7), and
 - (b) the person to whom or by whom it is to be paid.

Status: This is the original version (as it was originally enacted).

- (10) Sub-paragraphs (4) to (9) apply in relation to the creation of rights or interests, or the doing of anything else, in relation to property as they apply in relation to a transfer of property.
- (11) A certificate issued by the Scottish Ministers that any property or liability has, or has not, been transferred by virtue of an order under sub-paragraph (1) is conclusive evidence of the transfer or (as the case may be) the fact that there has not been a transfer.
- (12) In this paragraph, “right of return” means any right under a provision for the return or reversion of property in specified circumstances.