

SCHEDULE 12

(introduced by section 146)

ABOLITION OF WELSH LANGUAGE BOARD: OTHER PROVISION

*Staff of the Board*

- 1 (1) The Welsh Ministers may, by order, make provision for staff of the Board to be transferred to—
- (a) the Commissioner, or
  - (b) the Welsh Assembly Government.
- (2) The contract of employment of a person transferred by virtue of this paragraph—
- (a) is not terminated by the transfer, and
  - (b) has effect from the date of the transfer as if originally made between the transferred person and the transferee.
- (3) Without prejudice to sub-paragraph (2)—
- (a) where a person is transferred to the employment of the Commissioner—
    - (i) all the rights, powers, duties and liabilities of the Board under or in connection with the person's contract of employment are transferred to the Commissioner on the date of the transfer, and
    - (ii) anything done before that date by or in relation to the Board in respect of the person or the contract is to be treated from that date as having been done by or in relation to the Commissioner,
  - (b) where a person is transferred to the employment of the Welsh Assembly Government—
    - (i) all the rights, powers, duties and liabilities of the Board under or in connection with the person's contract of employment are transferred to the Welsh Ministers on the date of the transfer, and
    - (ii) anything done before that date by or in relation to the Board in respect of the person or the contract is to be treated from that date as having been done by or in relation to the Welsh Ministers.
- (4) Where a person is transferred by virtue of this paragraph, that person's period of employment with the Board immediately before the transfer date—
- (a) counts as a period of employment as a member of the staff of the transferee, and
  - (b) is to be treated as continuous employment as a member of the staff of the transferee for the purposes of section 218(3) of the Employment Rights Act 1996.
- (5) A contract of employment (or the rights, powers, duties and liabilities under or in connection with it) is not transferred under this paragraph if the employee objects to the transfer and informs the Board or the transferee of that objection.
- (6) If the employee informs the Board or the transferee of an objection under sub-paragraph (5)—
- (a) the contract of employment is terminated immediately before the date the transfer would occur, but
  - (b) the employee is not treated, for any purpose, as having been dismissed by the Board.

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

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- (7) Nothing in this paragraph affects any right of a person transferred to terminate his or her contract of employment if (apart from the change of employer) a substantial change is made to the person's detriment in his or her working conditions.
- (8) Provision may be made under sub-paragraph (1) in respect of all persons employed by the Board, any class or description of person, or any individual person.
- (9) In this paragraph "transferee" refers to the employer to whom the person is or would be transferred under this paragraph.

*Property, rights and liabilities of the Board*

- 2 (1) Without prejudice to paragraph 1, the Welsh Ministers may, by order, make provision about the property, rights and liabilities of the Board.
- (2) The power conferred by sub-paragraph (1) includes, but is not limited to, power to make provision for—
  - (a) property, rights and liabilities to be transferred to—
    - (i) the Commissioner, or
    - (ii) the Welsh Ministers;
  - (b) transfers of property, rights or liabilities of the Board to have effect subject to exceptions or reservations;
  - (c) transfers of property, rights or liabilities to have effect in spite of any provision (of whatever nature) which would otherwise prevent or restrict the transfer;
  - (d) the creation of interests in, or rights over, property of the Board or property transferred from the Board;
  - (e) the creation of rights and liabilities—
    - (i) between the Board and the Commissioner, or
    - (ii) between the Board and the Welsh Ministers.
- (3) In this paragraph—
  - "property" (*"eiddo"*) includes property situated outside the United Kingdom;
  - "rights and liabilities" (*"hawliau a rhwymedigaethau"*) includes rights and liabilities arising otherwise than under the law of England and Wales.

*Modification of 1993 Act in relation to functions transferred to Welsh Ministers*

- 3 If the functions conferred on the Board by section 3 of the 1993 Act are transferred to the Welsh Ministers (whether instead of, or in addition to, the functions being transferred to the Commissioner), the following provisions of the 1993 Act do not apply to the functions as they are exercisable by the Welsh Ministers—
  - (a) section 3(2)(a);
  - (b) section 3(3) and (4);
  - (c) section 4(1).

*References to the Board*

- 4 Any reference to the Board in the 1993 Act is to be construed—

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- (a) so far as it relates to a function of the Board that is transferred to the Commissioner, as being, or including, a reference to the Commissioner; and
- (b) so far as it relates to a function of the Board that is transferred to the Welsh Ministers, as being, or including, a reference to the Welsh Ministers.

*Continuation of legal proceedings, validity of acts etc*

- 5 (1) Anything (including legal proceedings) which relates to—
- (a) a transferred function, or
  - (b) transferred property, rights or liabilities,
- and which is in the process of being done by, or in relation to, the Board immediately before the transfer time may be continued by, or in relation to, the transferee.
- (2) Anything which was done by, or in relation to, the Board for the purpose of, or in connection with—
- (a) a transferred function, or
  - (b) transferred property, rights or liabilities,
- and which is in effect immediately before the transfer time, has effect after the transfer as if done by, or in relation to, the transferee.
- (3) In any instruments, contracts or legal proceedings which relate to—
- (a) a transferred function, or
  - (b) transferred property, rights or liabilities,
- and which are made or commenced before the transfer time, the transferee is substituted for the Board.
- (4) This paragraph does not apply in relation to rights and liabilities under a contract of employment of a member of the staff of the Board.
- (5) In this paragraph—
- “transfer time” (*“adeg y trosglwyddo”*), in relation to a transferred function, or transferred property, rights or liabilities, means the time of the transfer of the function, or property, rights or liabilities;
  - “transferred function” (*“swyddogaeth a drosglwyddwyd”*) means a function of the Board transferred to the Commissioner or Welsh Ministers under this Measure;
  - “transferred property, rights or liabilities” (*“eiddo, hawliau neu rwymedigaethau a drosglwyddwyd”*) means property, rights or liabilities of the Board transferred to the Commissioner or Welsh Ministers under this Measure.

*Interpretation*

- 6 In this Schedule—
- “1993 Act” (*“Deddf 1993”*) has the meaning given in section 147(5);
  - “Board” (*“y Bwrdd”*) has the meaning given in section 147(5).