

## SCHEDULES

### SCHEDULE 2

Section 4.

#### EMPLOYMENT

- 1 Subject to paragraph 2, no scheme may provide for the transfer of rights or liabilities relating to a person's employment.
- 2 (1) This paragraph applies where a scheme contains provision under section 1(1)(a) [<sup>F1</sup>for a transfer that is a relevant transfer for the purposes of the 2006 regulations].
- (2) In their application to the transfer, the [<sup>F2</sup>2006 regulations] shall not have effect so as to transfer any right to restrain the political activities of an employee or to dismiss an employee at pleasure, but (subject to that) the regulations shall have effect as nearly as the circumstances permit, having regard to the fact that the transfer is from Her Majesty or a Minister.
- (3) The scheme may include provision that persons falling within sub-paragraph (4) shall be treated for the purposes of [<sup>F3</sup>the 2006 regulations as if, immediately before the appointed day, they were employed in the entity subject to the transfer] as if they were employed immediately before the appointed day in the undertaking or part.
- (4) A person falls within this sub-paragraph if—
- (a) he is employed in the civil service of the State immediately before the appointed day,
  - (b) in the Secretary of State's opinion his connection [<sup>F4</sup>with the entity subject to the transfer] is such as to make it expedient to treat him for the purposes of [<sup>F5</sup>the 2006 regulations as if he were employed in the entity subject to the transfer], and
  - (c) he is prescribed for the purposes of this sub-paragraph.
- (5) On the appointed day, any provision made by virtue of sub-paragraph (3) shall have effect in accordance with the scheme.
- (6) Sub-paragraph (2) shall not affect any question as to the application or effect of the [<sup>F6</sup>2006 regulations] in the case of—
- (a) a transfer from Her Majesty or a Minister apart from this Act, or
  - (b) a transfer under a provision made by virtue of section 1(1)(b) or (c).
- (7) In this paragraph—
- “appointed day” means the day on which the scheme comes into force;
  - “prescribed” means specified or described in or determined in accordance with the scheme;
  - [<sup>F7</sup>“the 2006 regulations” means the Transfer of Undertakings (Protection of Employment) Regulations 2006.]

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*Changes to legislation: There are currently no known outstanding effects for the Ordnance Factories and Military Services Act 1984, SCHEDULE 2. (See end of Document for details)*

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### Textual Amendments

- F1** Words in Sch. 2 para. 2(1) substituted (6.4.2006 with application in accordance with reg. 21(1)) by [The Transfer of Undertakings \(Protection of Employment\) Regulations 2006 \(S.I. 2006/246\)](#), reg. 1(2), [Sch. 2 para. 3\(2\)](#)
- F2** Words in Sch. 2 para. 2(2) substituted (6.4.2006 with application in accordance with reg. 21(1)) by [The Transfer of Undertakings \(Protection of Employment\) Regulations 2006 \(S.I. 2006/246\)](#), reg. 1(2), [Sch. 2 para. 3\(3\)](#)
- F3** Words in Sch. 2 para. 2(3) substituted (6.4.2006 with application in accordance with reg. 21(1)) by [The Transfer of Undertakings \(Protection of Employment\) Regulations 2006 \(S.I. 2006/246\)](#), reg. 1(2), [Sch. 2 para. 3\(4\)](#)
- F4** Words in Sch. 2 para. 2(4)(b) substituted (6.4.2006 with application in accordance with reg. 21(1)) by [The Transfer of Undertakings \(Protection of Employment\) Regulations 2006 \(S.I. 2006/246\)](#), reg. 1(2), [Sch. 2 para. 3\(5\)\(a\)](#)
- F5** Words in Sch. 2 para. 2(4)(b) substituted (6.4.2006 with application in accordance with reg. 21(1)) by [The Transfer of Undertakings \(Protection of Employment\) Regulations 2006 \(S.I. 2006/246\)](#), reg. 1(2), [Sch. 2 para. 3\(5\)\(b\)](#)
- F6** Words in Sch. 2 para. 2(6) substituted (6.4.2006 with application in accordance with reg. 21(1)) by [The Transfer of Undertakings \(Protection of Employment\) Regulations 2006 \(S.I. 2006/246\)](#), reg. 1(2), [Sch. 2 para. 3\(3\)](#)
- F7** Words in Sch. 2 para. 2(7) substituted (6.4.2006 with application in accordance with reg. 21(1)) by [The Transfer of Undertakings \(Protection of Employment\) Regulations 2006 \(S.I. 2006/246\)](#), reg. 1(2), [Sch. 2 para. 3\(6\)](#)

- 3 (1) Where a person employed in the civil service of the State is to become employed by a company, and would not do so if it were not for a scheme made under section 1(1), none of the agreed redundancy procedures applicable to persons employed in that service shall apply to him.
- (2) Where—
- (a) a person ceases to be employed in that service on becoming employed by a company, and
  - (b) he would not have so ceased if it were not for a scheme made under section 1(1),
- he shall not, on so ceasing, be treated for the purposes of any scheme under section 1 of the <sup>M1</sup>Superannuation Act 1972 as having been retired on redundancy.

### Marginal Citations

- M1** 1972 c. 11.

**Changes to legislation:**

There are currently no known outstanding effects for the Ordnance Factories and Military Services Act 1984, SCHEDULE 2.