

*Status: Point in time view as at 01/09/2004.*

*Changes to legislation: Courts Act 2003, Part 1 is up to date with all changes known to be in force on or before 20 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 2

#### ABOLITION OF MAGISTRATES' COURTS COMMITTEES: TRANSFERS

##### PART 1

###### PROPERTY TRANSFER SCHEMES

###### *Property transfer schemes: general*

- 1 (1) The Lord Chancellor may make a scheme or schemes for the transfer to him or another Minister of the Crown of any property, rights or liabilities—
- (a) to which magistrates' courts committees are entitled or subject immediately before the appointed day, or
  - (b) to which any of the persons specified in sub-paragraph (2) is entitled or subject immediately before the appointed day and which then subsist for the purposes of, or in connection with, or are otherwise attributable to, magistrates' courts.
- (2) The persons are—
- (a) an authority which is a responsible authority for the purposes of the Justices of the Peace Act 1997;
  - (b) the Receiver for the Metropolitan Police District;
  - (c) the council of an outer London borough;
  - (d) the Common Council of the City of London;
  - (e) a police authority established under section 3 of the Police Act 1996;
  - (f) a local probation board;
  - (g) any other body which acts under any enactment or instrument for public purposes and not for its own profit.
- (3) Without prejudice to the generality of paragraph (b) of sub-paragraph (1), any property, rights or liabilities are to be treated as falling within that paragraph if the Lord Chancellor issues a certificate to that effect.
- (4) In this Schedule “property transfer scheme” means a scheme under sub-paragraph (1).
- (5) In this Part of this Schedule “the appointed day” means—
- (a) in the case of the transfer of property, rights or liabilities to which magistrates' courts committees are entitled or subject, the day immediately before the abolition day;
  - (b) in any other case, the day specified in the scheme.

*Status: Point in time view as at 01/09/2004.*

*Changes to legislation: Courts Act 2003, Part 1 is up to date with all changes known to be in force on or before 20 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (6) On the day which is the appointed day in relation to property, rights or liabilities to which provisions of a property transfer scheme apply, the property, rights and liabilities are transferred and vest in accordance with those provisions.
- (7) In this Schedule “the abolition day” means the day appointed under section 110(1) for the coming into force of section 6(1) (abolition of magistrates' courts committees).

*Property transfer schemes and terminated contracts of employment*

- 2 A property transfer scheme may not transfer rights or liabilities under a contract of employment, except where the rights or liabilities—
- (a) are those to which a magistrates' courts committee is entitled or subject, and
  - (b) relate to a person whose contract of employment was terminated before the appointed day.

*Property transfer schemes: supplementary*

- 3 (1) A property transfer scheme may provide for the creation of rights, or the imposition of liabilities, in relation to property transferred by the scheme.
- (2) A property transfer scheme may provide for the apportionment or division of any property, rights or liabilities.
- (3) A property transfer scheme may—
- (a) specify property, rights or liabilities to be transferred under or in accordance with the scheme, or
  - (b) provide for property, rights or liabilities to be transferred to be determined in accordance with the scheme.
- 4 (1) A property transfer scheme has effect in relation to the property, rights and liabilities to which it applies despite any provision (of whatever nature) which would otherwise prevent, penalise or restrict the transfer of any of the property, rights and liabilities.
- (2) A right of pre-emption, right of reverter or other similar right is not to operate or become exercisable as a result of a transfer under a property transfer scheme.
- (3) In the case of such a transfer, any such right has effect as if the transferee were the same person in law as the transferor and as if the transfer had not taken place.
- 5 (1) Such compensation as is just is to be paid to a third party in respect of any right which would, apart from paragraph 4, have operated in favour of, or become exercisable by, him but which, in consequence of the operation of that paragraph, cannot subsequently operate in his favour or become exercisable by him.
- (2) Any compensation payable by virtue of sub-paragraph (1) is to be paid by the transferor, by the transferee or by both.
- (3) A property transfer scheme 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 (1), and
  - (b) the person to whom or by whom it is to be paid.
- (4) “Third party” means a person other than the transferor or the transferee.

---

*Status: Point in time view as at 01/09/2004.*

*Changes to legislation: Courts Act 2003, Part 1 is up to date with all changes known to be in force on or before 20 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

---

- 6 Paragraphs 4 and 5 apply in relation to the creation of rights in relation to property as they apply in relation to a transfer of property; and references to the transferor and the transferee are to be read accordingly.
- 7 A certificate issued by the Lord Chancellor that any property, rights or liabilities have, or have not, been transferred under or in accordance with a property transfer scheme is conclusive evidence of the transfer, or of the fact that there has not been a transfer.

#### *Stamp duty*

- 8 (1) Stamp duty is not chargeable in respect of a transfer or grant effected under or in accordance with a property transfer scheme.
- (2) No instrument made or executed for the purposes of such a transfer or grant is to be treated as duly stamped unless—
- (a) it has, in accordance with section 12 of the Stamp Act 1891, been stamped with a particular stamp denoting that it is not chargeable with that duty or that it is duly stamped, or
  - (b) it is stamped with the duty to which it would be liable, apart from this paragraph.

#### *Supplementary provisions in property transfer scheme*

- 9 A property transfer scheme may make such supplemental, consequential or transitional provision for the purposes of, or in connection with, a transfer made by the scheme as the Lord Chancellor considers appropriate.

**Status:**

Point in time view as at 01/09/2004.

**Changes to legislation:**

Courts Act 2003, Part 1 is up to date with all changes known to be in force on or before 20 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.