Courts Act 2003 (c. 39)
SCHEDULE 2 – Abolition of magistrates' courts committees: transfers
Document Generated: 2024-04-24

1

S C H E D U L E S

SCHEDULE 2

ABOLITION OF MAGISTRATES' COURTS COMMITTEES: TRANSFERS

PART 2

STAFF TRANSFERS

Interpretation

10 In this Part of this Schedule—

 (a) "TUPE" means the Transfer of Undertakings (Protection of Employment) Regulations 1981 (S.I. 1981/1794),

 (b) "the appointed day" means the day immediately before the abolition day,

 (c) references to a responsible authority are to an authority which is a responsible authority under the Justices of the Peace Act 1997,

 (d) references to a responsible authority's relevant functions are to its functions under that Act, and

 (e) references to a transferred employee are to an employee transferred to the Lord Chancellor's employment by virtue of paragraph 11 or 12.

Application of TUPE

11 For the purposes of TUPE—

 (a) the functions of each magistrates' courts committee are to be treated as transferred on the appointed day from the committee to the Lord Chancellor, and

 (b) each such transfer is to be treated as the transfer of an undertaking.

12 (1) For the purposes of TUPE—

 (a) the relevant functions of each responsible authority are to be treated as transferred on the appointed day from the authority to the Lord Chancellor,

 (b) each such transfer is to be treated as the transfer of an undertaking, and

 (c) each person falling within sub-paragraph (2) (but no other person) is to be treated as employed in the undertaking immediately before the appointed day.

(2) A person falls within this sub-paragraph if—

 (a) immediately before the appointed day he is employed by the responsible authority under a contract of employment,

 (b) he spends a substantial part of his time on duties connected with the relevant functions of the authority, and

2

Courts Act 2003 (c. 39)
SCHEDULE 2 – Abolition of magistrates' courts committees: transfers
Document Generated: 2024-04-24

    (c)   the Lord Chancellor certifies that in his opinion it is expedient that the person be transferred to the Lord Chancellor's employment.

(3) Where TUPE applies by virtue of this paragraph, it applies as if regulation 5(4B) were omitted.

13   A reference in any enactment to a person appointed under section 2(1) includes a transferred employee.

Restrictions on employment of aliens not to apply to transferred employees

14   Nothing in—

    (a)   section 3 of the Act of Settlement,

    (b)   section 6 of the Aliens Restriction (Amendment) Act 1919, or

    (c)   any rules prescribing requirements as to nationality which must be satisfied in the case of persons employed in a civil capacity under the Crown,

applies to the employment of a transferred employee by the Lord Chancellor following his transfer by virtue of paragraph 11 or 12.

Compensation for responsible authorities

15   The Lord Chancellor may, to the extent he thinks fit, compensate a responsible authority in respect of costs incurred by the authority as a result of this Act in respect of a person who—

    (a)   immediately before the appointed day is employed by the authority under a contract of employment, and

    (b)   spends part of his time on duties connected with the relevant functions of the authority,

but who is not transferred to the Lord Chancellor's employment by virtue of paragraph 12.

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

Changes to legislation:
Courts Act 2003, Part 2 is up to date with all changes known to be in force on or before 24 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.