

HEALTH AND SOCIAL CARE ACT 2012

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1 – The Health Service in England

Further provision about clinical commissioning groups

Schedule 2 – Clinical commissioning groups

New Schedule 1A, Part 3

312. **Part 3** (paragraphs 22 to 26) of new Schedule 1A sets out further details in respect of property and staff transfer schemes that may be made under new section 14I. These schemes may transfer property, rights and liabilities, including those that could not otherwise be transferred, those arising after the making of the scheme, and criminal liabilities (paragraph 22).
313. A property or staff transfer scheme may also make supplementary, incidental, transitional and consequential provision (paragraph 23). New rights can be created, or liabilities imposed, in relation to the property or rights transferred. Provision may be made in the scheme about the continuing effect of things the person (“the transferor”- the person from whom the things are being transferred) has done in respect of the things transferred. Provision may also be made about the continuation of things that are being done by, on behalf of or in relation to the transferor in respect of the things transferred. Provision may also be made for references to “the transferor” in legal instruments and documents to be treated as references to “the transferee” (the person whom the things are being transferred to).
314. A property scheme may make provision for the shared ownership or use of property (paragraph 24). A staff transfer scheme may make provision that is the same or similar to the Transfer of Undertakings (Protection of Employment) Regulations 2006 ([SI 2006/246](#)) (paragraph 25). Both a property and staff transfer scheme can provide for the scheme to be modified by agreement after it comes into effect, and those modifications to have effect from the date when the original scheme comes into effect (paragraph 26).