



# Health and Social Care Act 2012

## 2012 CHAPTER 7

### PART 11

#### MISCELLANEOUS

##### *Transfer schemes*

#### **301 Transfer schemes: supplemental**

- (1) The things that may be transferred under a property transfer scheme or a staff transfer scheme include—
  - (a) property, rights and liabilities that could not otherwise be transferred;
  - (b) property acquired, and rights and liabilities arising, after the making of the scheme;
  - (c) criminal liabilities but only where the transfer is to a person mentioned in subsection (2).
- (2) Those persons are—
  - (a) the National Health Service Commissioning Board;
  - (b) a clinical commissioning group;
  - (c) a local authority;
  - (d) the Care Quality Commission;
  - (e) Monitor;
  - (f) the National Institute for Health and Care Excellence;
  - (g) the Health and Social Care Information Centre;
  - (h) the Health and Care Professions Council;
  - (i) a public authority other than a Minister of the Crown.
- (3) A property transfer scheme or a staff transfer scheme may make supplementary, incidental, transitional and consequential provision and may in particular—
  - (a) create rights, or impose liabilities, in relation to property or rights transferred;

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*Status: This is the original version (as it was originally enacted).*

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- (b) make provision about the continuing effect of things done by the transferor in respect of anything transferred;
  - (c) make provision about the continuation of things (including legal proceedings) in the process of being done by, on behalf of or in relation to the transferor in respect of anything transferred;
  - (d) make provision for references to the transferor in an instrument or other document in respect of anything transferred to be treated as references to the transferee.
- (4) A property transfer scheme may make provision for the shared ownership or use of property.
- (5) A staff transfer scheme may make provision which is the same or similar to the TUPE regulations.
- (6) A property transfer scheme or a staff transfer scheme may provide—
  - (a) for the scheme to be modified by agreement after it comes into effect, and
  - (b) for any such modifications to have effect from the date when the original scheme comes into effect.
- (7) Where a Primary Care Trust, a Strategic Health Authority or a Special Health Authority is abolished by this Act, the Secretary of State must exercise the powers conferred by section 300 and this section so as to secure that all the body's liabilities (other than criminal liabilities) are dealt with.
- (8) In this section, "TUPE regulations" means the Transfer of Undertakings (Protection of Employment) Regulations 2006 ([SI 2006/246](#)).