

Changes to legislation: Financial Services Act 2012, SCHEDULE 21 is up to date with all changes known to be in force on or before 10 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) View outstanding changes

SCHEDULES

SCHEDULE 21

Section 119(2)

TRANSFER SCHEMES

PART 1

PROPERTY, RIGHTS AND LIABILITIES OF FINANCIAL SERVICES AUTHORITY

Interpretation

- 1 In this Part of this Schedule—
- “the Bank” means the Bank of England;
 - “the FSA” means the Financial Services Authority.

Commencement Information

- 11** Sch. 21 para. 1 in force at 24.1.2013 by S.I. 2013/113, art. 2(1)(a), Sch. Pt. 1

Transfer schemes

- 2 (1) The FSA must make one or more schemes under this paragraph for the transfer of property, rights and liabilities of the FSA—
- (a) to the PRA or the Bank,
 - (b) to the PRA and the Bank, to be held jointly, or
 - (c) to the FSA and either the PRA or the Bank or both, to be held jointly.
- (2) A scheme under this paragraph made by the FSA is not to be capable of coming into force unless it is approved by the Treasury.
- (3) The FSA may not submit a scheme under this paragraph to the Treasury for their approval without the consent of the Bank.
- (4) Sub-paragraph (5) applies if—
- (a) the FSA fails, before such time as may be notified to it by the Treasury as the latest time for submission of a scheme under this paragraph in connection with the transfer by or under this Act of specified functions of the FSA to the PRA, to the Bank, or to the FSA and the PRA, to submit such a scheme to the Treasury for their approval, or
 - (b) the Treasury decide not to approve a scheme that has been submitted to them by the FSA (either with or without modifications).
- (5) Where this sub-paragraph applies, the Treasury may, after consultation with the FSA and the Bank, make a scheme under this paragraph for the transfer of such of the FSA's property, rights and liabilities as appear to them appropriate to be transferred

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as mentioned in sub-paragraph (1) in consequence of the transfer of functions by or under this Act.

- (6) The property, rights and liabilities which are the subject of a scheme under this paragraph are transferred in accordance with the provisions of the scheme on such day as the scheme may specify.
- (7) The FSA must provide the Treasury with all such information and other assistance as they may reasonably require for the purposes of, or otherwise in connection with, the exercise of any power conferred on the Treasury by this paragraph.
- (8) In the following provisions of this Part of this Schedule a scheme under this paragraph is referred to as a “transfer scheme”.

Commencement Information

I2 Sch. 21 para. 2 in force at 24.1.2013 by S.I. 2013/113, art. 2(1)(a), Sch. Pt. 1

- 3 The property, rights and liabilities that may be the subject of a transfer scheme include—
- (a) any that would otherwise be incapable of being transferred or assigned, and
 - (b) rights and liabilities under a contract of employment.

Commencement Information

I3 Sch. 21 para. 3 in force at 24.1.2013 by S.I. 2013/113, art. 2(1)(a), Sch. Pt. 1

- 4 A transfer scheme may—
- (a) apportion, or provide for the apportionment of, property, rights and liabilities,
 - (b) define the property, rights and liabilities to be transferred by specifying them or by describing them (including describing them by reference to functions that are transferred by or under this Act);
 - (c) contain provision for the payment of compensation by the PRA or the Bank to the FSA;
 - (d) contain provision for the payment of compensation by the FSA, the PRA or the Bank to any person whose interests are adversely affected by the scheme;
 - (e) contain supplemental, incidental, transitional and consequential provision.

Commencement Information

I4 Sch. 21 para. 4 in force at 24.1.2013 by S.I. 2013/113, art. 2(1)(a), Sch. Pt. 1

- 5 A transfer scheme which relates to rights and liabilities under a contract of employment—
- (a) must provide for the transfer to which the scheme relates to be treated as if it were a relevant transfer for the purposes of the Transfer of Undertakings (Protection of Employment) Regulations 2006 (“TUPE”), but
 - (b) may, in connection with functions becoming exercisable (alone or jointly) by the PRA—

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- (i) provide for the transfer of rights and liabilities under a contract of employment to the Bank, and
- (ii) provide for TUPE to have effect as if the relevant transfer were a transfer to the Bank.

Commencement Information

I5 Sch. 21 para. 5 in force at 24.1.2013 by S.I. 2013/113, art. 2(1)(a), Sch. Pt. 1

PART 2

PROPERTY, RIGHTS AND LIABILITIES OF OFFICE OF FAIR TRADING

Interpretation

- 6 In this Part of this Schedule “the OFT” means the Office of Fair Trading.

Commencement Information

I6 Sch. 21 para. 6 in force at 24.1.2013 by S.I. 2013/113, art. 2(1)(a), Sch. Pt. 1

Transfer schemes

- 7 (1) This paragraph applies if after the passing of this Act the Treasury make an order under section 22 of FSMA 2000 which has the effect that an activity—
- (a) ceases to be an activity in respect of which a licence under section 21 of the Consumer Credit Act 1974 is required or would be required but for the exemption conferred by subsection (2), (3) or (4) of that section or paragraph 15(3) of Schedule 3 to FSMA 2000, and
 - (b) becomes a regulated activity for the purposes of FSMA 2000.
- (2) The OFT must make one or more schemes under this paragraph for the transfer of property, rights and liabilities of the OFT to the FCA.
- (3) A scheme under this paragraph made by the OFT is not to be capable of coming into force unless it is approved by the Treasury and the Secretary of State.
- (4) The OFT may not submit a scheme under this paragraph to the Treasury or the Secretary of State for their approval without the consent of the FCA.
- (5) Sub-paragraph (6) applies if—
- (a) the OFT fails, before such time as may be notified to it by the Treasury as the latest time for submission of a scheme under this paragraph in connection with an order falling within sub-paragraph (1), to submit such a scheme to the Treasury and the Secretary of State for their approval, or
 - (b) the Treasury or the Secretary of State decide not to approve a scheme that has been submitted to them by the OFT (either with or without modifications).
- (6) Where this sub-paragraph applies, the Treasury may, with the approval of the Secretary of State, make a scheme under this paragraph for the transfer to the FCA of such of the OFT's property, rights and liabilities as appear to the Treasury

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appropriate to be transferred to the FCA in consequence of the order falling within sub-paragraph (1).

- (7) The property, rights and liabilities which are the subject of a scheme under this paragraph are transferred in accordance with the provisions of the scheme on such day as the scheme may specify.
- (8) The OFT must provide the Treasury or the Secretary of State with all such information and other assistance as either of them may reasonably require for the purposes of, or otherwise in connection with, the exercise of any power conferred on the Treasury or the Secretary of State by this paragraph.
- (9) In the following provisions of this Part of this Schedule a scheme under this paragraph is referred to as a “transfer scheme”.

Commencement Information

I7 Sch. 21 para. 7 in force at 24.1.2013 by S.I. 2013/113, art. 2(1)(a), Sch. Pt. 1

- 8 The property, rights and liabilities that may be the subject of a transfer scheme include—
- (a) any that would not otherwise be capable of being transferred or assigned, and
 - (b) rights and liabilities under a contract of employment.

Commencement Information

I8 Sch. 21 para. 8 in force at 24.1.2013 by S.I. 2013/113, art. 2(1)(a), Sch. Pt. 1

- 9 A transfer scheme may—
- (a) apportion, or provide for the apportionment of, property, rights and liabilities,
 - (b) define the property, rights and liabilities to be transferred by specifying them or by describing them (including describing them by reference to functions that are transferred by the order falling within paragraph 7(1));
 - (c) contain provision for the payment of compensation by the FCA to the OFT;
 - (d) contain provision for the payment of compensation by the OFT or the FCA to any person whose interests are adversely affected by the scheme;
 - (e) contain supplemental, incidental, transitional and consequential provision.

Commencement Information

I9 Sch. 21 para. 9 in force at 24.1.2013 by S.I. 2013/113, art. 2(1)(a), Sch. Pt. 1

- 10 A transfer scheme which relates to rights and liabilities under a contract of employment must provide for the transfer to which the scheme relates to be treated as if it were a relevant transfer for the purposes of the Transfer of Undertakings (Protection of Employment) Regulations 2006.

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Commencement Information

I10 [Sch. 21 para. 10](#) in force at 24.1.2013 by [S.I. 2013/113](#), art. 2(1)(a), [Sch. Pt. 1](#)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act power to apply conferred (temp.) by [2014 c. 21 s. 79\(4\)](#)
- Act power to apply conferred (temp.) by [2014 c. 21 s. 81\(10\)](#)