

SCHEDULES

SCHEDULE 21

TRANSFER SCHEMES

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.

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

Status: This is the original version (as it was originally enacted).

- (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”.
- 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.
- 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.
- 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.