



National Health Service (Scotland) Act 1978

1978 CHAPTER 29

PART I

ORGANISATION

Trusts

[^{F1}12C Supplementary provisions as to transfer of staff.

- (1) In the case of a person who falls within subsection (1)(b) of section 12B, a scheme under that section may provide that, with effect from the NHS trust's operational date, his contract of employment (in this section referred to as "his original contract") shall be treated in accordance with the scheme as divided so as to constitute—
 - (a) a contract of employment with the NHS trust; and
 - (b) a contract of employment with the transferor authority by whom he was employed before that date.
- (2) Where a scheme makes provision as mentioned in subsection (1)—
 - (a) the scheme shall secure that the benefits to the employee under the two contracts referred to in that subsection, when taken together, are not less favourable than the benefits under his original contract;
 - (b) section 12B shall apply in relation to the contract referred to in subsection (1) (a) as if it were a contract transferred under that section from the transferor authority to the NHS trust;
 - (c) so far as necessary to preserve any rights and obligations, the contract referred to in subsection (1)(b) shall be regarded as a continuation of the employee's original contract; and
 - (d) for the purposes of section 146 of and Schedule 13 to the Employment Protection (Consolidation) Act ^{M1}1978, the number of hours normally worked, or, as the case may be, the hours for which the employee is employed in any

Status: Point in time view as at 08/03/1991. This version of this provision has been superseded.

Changes to legislation: National Health Service (Scotland) Act 1978, Section 12C is up to date with all changes known to be in force on or before 24 July 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)

week under either of those contracts shall be taken to be the total of the hours normally worked or, as the case may be, for which he is employed under the two contracts taken together.

- (3) Where, as a result of the provisions of section 12B, by virtue of his employment during any period after the NHS trust's operational date—
- (a) an employee has contractual rights against an NHS trust to benefits in the event of his redundancy, and
 - (b) he also has statutory rights against the NHS trust under Part VI of the Employment Protection (Consolidation) Act 1978 (redundancy payments),
- any benefits provided to him by virtue of the contractual rights referred to in paragraph (a) shall be taken as satisfying his entitlement to benefits under Part VI of that Act.]

Textual Amendments

F1 Ss. 12A–12F inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 31

Marginal Citations

M1 1978 c.44(43:1).

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