

**1974 No. 265 (S.14)****NATIONAL HEALTH SERVICE, SCOTLAND  
The National Health Service (Transfer of Staff) (Scotland)  
Order 1974**

*Made* - - - 18th February 1974

*Laid before Parliament* 6th March 1974

*Coming into Operation* 18th March 1974

In exercise of the powers conferred on me by sections 31, 32, 33, 34, 35 and 61 of the National Health Service (Scotland) Act 1972(a) and of all other powers enabling me in that behalf, and after consultation with such bodies representative of local authorities as appear to me to be concerned and with any local authority with whom consultation appeared to me to be desirable, I hereby make the following order:—

*Citation, commencement and interpretation*

1.—(1) This order may be cited as the National Health Service (Transfer of Staff) (Scotland) Order 1974 and shall come into operation on 18th March 1974.

(2) In this order:—

“the Act” means the National Health Service (Scotland) Act 1972;

“the Act of 1947” means the National Health Service (Scotland) Act 1947(b);

“the Agency” means the Common Services Agency for the Scottish Health Service constituted under section 19 of the Act;

“Health Board” means a board constituted under section 13 of the Act.

(3) Unless the context otherwise requires, references in this order to any enactment shall be construed as references to that enactment as amended or re-enacted by any subsequent enactment.

(4) The Interpretation Act 1889(c) shall apply for the interpretation of this order as it applies for the interpretation of an Act of Parliament.

(a) 1972 c. 58.

(b) 1947 c. 27.

(c) 1889 c. 63.

*Transfer of staff in accordance with schemes*

2.—(1) Each authority specified in column 1 of Schedule 1 to this order shall make a scheme providing for the transfer on 1st April 1974 of all persons employed by the authority immediately before that date who are specified in column 2 of that Schedule opposite the description of the authority to the employment of such Health Board as may be named in the scheme, or of the Agency, if so named, and subject to the provisions of the Act such persons shall be so transferred on that date by virtue of the scheme.

(2) Before making any such scheme an authority shall consult with the Health Board concerned or the Agency in respect of any persons proposed to be transferred to that Health Board or the Agency, as the case may be, and with such bodies representative of those persons as appear to the authority to be concerned.

*Transfer of other staff*

3. Subject to the provisions of the Act, there shall be transferred on 1st April 1974 to the employment of the Agency all persons who are employed immediately before that date—

- (a) by the St. Andrew's Ambulance Association in the provision of services to which section 16 of the Act of 1947 relates;
- (b) by the Scottish National Blood Transfusion Association in the provision of services to which section 19 of the Act of 1947 relates; and
- (c) by the bodies specified in Schedule 2 to this order.

*Protection of officers*

4.—(1) So long as any person transferred to the employment of any body by or under this order continues in the employment of that body by virtue of the transfer, and until he is served with a statement in writing referring to this order and specifying new terms and conditions of employment, he shall enjoy terms and conditions of employment not less favourable, taken as a whole, than those which he enjoyed immediately before the date of transfer.

(2) Without prejudice to the provisions of paragraph (1) of this article, until any person referred to in that paragraph is served with a statement in writing as aforesaid, the scale of his salary or remuneration shall remain not less favourable than that which he enjoyed immediately before the date of transfer.

(3) The said new terms and conditions of employment of a person transferred by or under this order shall be such that—

- (i) so long as he is engaged in duties reasonably comparable to those in which he was engaged immediately before the date of transfer, the scale of his salary or remuneration, and
- (ii) the other terms and conditions of his employment,

are not less favourable, taken as a whole, than those which he enjoyed immediately before the date of transfer.

- (4) For the purposes of—
- (a) The National Insurance Act 1965(a);
  - (b) The Redundancy Payments Act 1965(b);
  - (c) The Industrial Relations Act 1971(c);
  - (d) The Contracts of Employment Act 1972(d);

there shall be deemed to have been no break in the employment of any person who is transferred by virtue of sections 31 to 34 of the Act from the employment of one body to that of another body.

*Preservation of training arrangements*

5. Where a body from whose employment a person is transferred by or under this order to the employment of another body has made arrangements under which the person is undergoing, or is to undergo, a course of training, or has entered into, or is to enter into, an apprenticeship, and those arrangements have not been discharged before 1st April 1974, those arrangements shall continue in force on and after that date as if they had been made by that other body.

*Application to other staff*

6. The provisions of articles 4 and 5 of this order shall apply to those persons who are transferred to the Agency by virtue of section 30(3) of the Act.

*Gordon Campbell,*  
One of Her Majesty's  
Principal Secretaries of  
State.

St. Andrew's House,  
Edinburgh.

18th February 1974.

## SCHEDULE 1

## Article 2

## AUTHORITIES REQUIRED TO MAKE SCHEMES FOR THE TRANSFER OF STAFF

<i>Column 1</i>	<i>Column 2</i>
<i>Description of authority</i>	<i>Persons employed by the authority</i>
1. Each local health authority	All persons employed by the authority wholly or mainly for the purposes of its health functions within the meaning of section 27(1) of the Act.
2. Each education authority	All persons employed by the authority wholly or mainly for the purposes of its school health functions within the meaning of section 27(1) of the Act.
3. Each local authority as defined in section 32(5) of the Act	All the persons specified in section 32(3) of the Act employed by the authority wholly or mainly for the purposes of its public health functions within the meaning of section 32(5) of the Act.

## SCHEDULE 2

## Article 3

## BODIES FROM WHOM PERSONS ARE TO BE TRANSFERRED TO THE AGENCY

- (1) Scottish Hospital Administrative Staffs Committee
- (2) Administrative Medical Staff Training Committee
- (3) Scottish Nursing Staffs Committee
- (4) Scottish Hospital Catering School
- (5) Scottish Hospital Centre
- (6) Central Legal Office for the Scottish Hospital Service

## EXPLANATORY NOTE

*(This Note is not part of the Order.)*

This Order provides that the date on which persons are to be transferred by virtue of sections 31 to 34 of the National Health Service (Scotland) Act 1972 to the employment of health authorities established under the Act shall be 1st April 1974. The authorities listed in column 1 of Schedule 1 are required to make schemes for the transfer of some or all of their employees. Provision is also made for the protection of the terms and conditions of service of persons who are required to change their employment.

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