
STATUTORY INSTRUMENTS

1995 No. 520

LOCAL GOVERNMENT, ENGLAND AND WALES

The Local Government Changes for
England (Staff) Regulations 1995

<i>Made</i>	- - - -	<i>28th February 1995</i>
<i>Laid before Parliament</i>		<i>9th March 1995</i>
<i>Coming into force</i>	- -	<i>31st March 1995</i>

The Secretary of State for the Environment, in exercise of the powers conferred upon him by sections 19 and 26 of the Local Government Act 1992⁽¹⁾, and all other powers enabling him in that behalf, hereby makes the following regulations:—

Citation, commencement and application

1.—(1) These Regulations may be cited as the Local Government Changes for England (Staff) Regulations 1995 and shall come into force on the 31st March 1995.

(2) These Regulations make incidental, consequential, transitional and supplementary provisions of general application in relation to the transfer of staff, and other staffing matters for the purposes of, and in consequence of, orders made by the Secretary of State under section 17 of the Local Government Act 1992 with respect to local government changes in England.

Interpretation

2. In these Regulations—

“abolished authority” means a local authority which is wound up and dissolved on the reorganisation date;

“contract of employment” means a contract under which a person works for another person whether under a contract of service or apprenticeship or otherwise, but does not include anyone who provides services under a contract for services, and any reference to an “employer” or “employee” and to “employment” shall be construed accordingly;

“newly established authority” means an authority (not being a shadow authority) established by an order made under section 17 of the 1992 Act;

“preliminary date” is a reference to the earliest date on which any action is required to be taken in pursuance of an order made under section 17 of the 1992 Act;

(1) 1992 c. 19.

“principal council” means a council elected for a principal area as defined in section 270 of the Local Government Act 1972(2);

“the reorganisation date” is the date on which a structural change or a boundary change (or both such changes) in pursuance of an order made under section 17 of the 1992 Act comes into effect;

“shadow authority” means an authority (not being a local authority) which will become a local authority on the reorganisation date;

“transferor authority” means a principal council (other than an abolished authority) from which functions are transferred to a unitary authority by virtue of a structural change effected by an order made under section 17 of the 1992 Act;

“unitary authority” means an authority which is the sole principal council for its local government area;

“the 1992 Act” means the Local Government Act 1992;

“the 1978 Act” means the Employment Protection (Consolidation) Act 1978(3).

Continuity of Employment

3.—(1) This regulation applies to a person who at any time ceases to be employed by an abolished authority or a transferor authority where—

- (a) the termination of his employment is attributable—
 - (i) in the case of an abolished authority, to the winding-up and dissolution of that authority,
 - (ii) in the case of a transferor authority, to the transfer of local government functions from that authority to a unitary authority;
- (b) not later than four weeks from the termination of the employment mentioned in subparagraph (a) above he is employed by a principal council (“the new employer”); and
- (c) by virtue of section 84 of the 1978 Act (renewal or re-engagement) that subsequent employment precludes his receiving any redundancy payment under Part VI of that Act with respect to his terminated employment.

(2) Schedule 13 to the 1978 Act (computation of period of employment for the purposes of that Act) shall have effect in relation to an employee to whom this regulation applies as if it provided—

- (a) for the period of his employment by the abolished authority or the transferor authority to count as a period of employment with the new employer; and
- (b) for the change of employer not to break the continuity of the period of his employment.

(3) An employee to whom this regulation applies shall be entitled to count the period of his employment with the abolished authority or the transferor authority as a period of employment with his new employer for the purposes of any provision of his contract of employment which depends on his length of service.

Transfers of Staff

4.—(1) This regulation applies to any person (“a designated employee”) who—

- (a) immediately before the reorganisation date is employed by an abolished authority or a transferor authority;

(2) 1972 c. 70. The definition of principal area was amended by section 102(1) of and Schedule 16 paragraph 8 to, the Local Government Act 1985. There are other amendments not relevant to these Regulations.

(3) 1978 c. 44, to which there are amendments not relevant to these regulations.

- (b) whose employment would continue—
 - (i) in the case of an abolished authority, but for the winding up and dissolution of that authority,
 - (ii) in the case of a transferor authority, but for the transfer of local government functions from that authority to a unitary authority; and
 - (c) whose employment is transferred by an order made under the 1992 Act for the transfer of staff from that authority to a principal council (“the new employer”) specified in the order.
- (2) The contract of employment between a designated employee and an abolished authority or a transferor authority shall have effect on the reorganisation date as if originally made between him and the new employer specified in the order.
- (3) Without prejudice to paragraph (2)—
- (a) on the reorganisation date all the rights, powers, duties and liabilities of the abolished authority or the transferor authority under, or in connection with, that authority’s contract of employment with a designated employee shall by virtue of this regulation be transferred to the new employer; and
 - (b) anything done by or in relation to the abolished authority or the transferor authority before the reorganisation date with respect to the designated employee or his contract of employment shall be deemed after that date to have been done by or in relation to the new employer.
- (4) Neither this regulation nor any order for the transfer of staff made under the 1992 Act shall operate to transfer the contract of employment of a designated employee and the rights, powers, duties and liabilities under, or in connection with it, if before the reorganisation date that employee informs the abolished authority or the transferor authority that he objects to becoming employed by the new employer.
- (5) Where a designated employee so objects, his employment with the abolished or transferor authority shall be treated as having terminated on the reorganisation date, but he shall not be treated for any purpose as having been dismissed by that authority.
- (6) Nothing in this regulation affects any right of a designated employee to terminate his contract of employment if a substantial change is made in his working conditions, to his detriment, but no such right shall arise by reason only of the change of employer effected by an order for the transfer of staff made under the 1992 Act.

Redundancy Payments

- 5.—(1) This regulation applies to any person—
- (a) who immediately before the reorganisation date is employed by an abolished authority under a contract of employment which would continue but for the winding-up and dissolution of that authority;
 - (b) whose employment is not transferred by an order for the transfer of staff made under the 1992 Act; and
 - (c) whose employment is not otherwise transferred by operation of law to a new employment upon the winding-up and dissolution of the abolished authority.
- (2) A person to whom this regulation applies shall be treated as having been entitled immediately before the reorganisation date to receive from the abolished authority any redundancy payment under Part VI of the 1978 Act and any compensation payable by virtue of regulations made under section 24 of the Superannuation Act 1972⁽⁴⁾ which he would otherwise have been entitled to receive from

(4) 1972 c. 22, to which there are amendments not relevant to these regulations.

that authority if they had not been wound up and dissolved but had dismissed him by reason of redundancy immediately before the reorganisation date.

Transfer or Appointment of Staff by Unitary Authorities

6. A former member or member of a local authority, or member of a shadow authority which on the reorganisation date is to become a unitary authority shall not be disqualified by virtue of section 116 of the Local Government Act 1972⁽⁵⁾ from being transferred or appointed to a paid office if—

- (a) he is transferred to, or appointed by, that authority not later than twelve months after the reorganisation date; and
- (b) he is, or has been, at any time within a period of twelve months before the reorganisation date, in the employment of an abolished authority or a transferor authority.

Appointment of Chief Officers

7.—(1) The Local Authorities (Standing Orders) Regulations 1993⁽⁶⁾ shall apply to a relevant authority for the relevant period subject to the following amendments—

- (a) In paragraph 1 of Part I of Schedule 1 to those regulations (appointment of Chief Officer) there shall be omitted the words “and it is not proposed that the appointment be made exclusively from amongst their existing officers”; and
- (b) paragraph 3(a) of Part II of Schedule 1 shall be omitted.

(2) In this Regulation—

“relevant authority” means a local authority which on the reorganisation date is a newly established authority or a unitary authority; and

“relevant period” means the period from the preliminary date until the expiry of twelve months after the reorganisation date.

Signed by authority of the Secretary of State

28th February 1995

Robert Jones
Parliamentary Under Secretary of State,
Department of the Environment

(5) 1972 c. 70, to which there are amendments not relevant to these regulations.

(6) S.I.1993/202.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Part II of the Local Government Act 1992 makes provision for changes to local government in England. Where recommendations for change are made by the Local Government Commission for England, the Secretary of State may make an order giving effect to them with or without modifications. These Regulations make incidental, consequential, transitional and supplementary provisions of general application in relation to staff matters for the purposes of an in consequence of such orders.

Regulation 3 provides that employees whose employment is transferred from an abolished authority or a transferor authority to a new employer are entitled to count the former employment and the new employment as a period of continuous employment.

Regulation 4 provides that any rights, powers, duties and liabilities of an abolished authority or a transferor authority in respect of a contract of employment of a transferred employee become rights, powers, duties etc of the new employer.

Regulation 5 provides that staff who are not transferred either by a staff transfer order made under the 1992 Act, or in accordance with the Transfer of Undertakings (Protection of Employment) Regulations 1981, and whose employment would have continued but for the winding up and abolition of the employing authority are entitled to treat themselves for the purposes of Part VI of the Employment Protection (Consolidation) Act 1978 and any regulations made under section 24 of the Superannuation Act 1972, as having been dismissed on grounds of redundancy.

Regulation 6 ensures that elected members of a continuing or shadow authority who on reorganisation are employed by the successor authority are not disqualified from continuing in employment with the successor authority by virtue of section 116 of the Local Government Act 1972.

Regulation 7 requires that all new Chief Officer posts are filled by open competition by disapplying certain parts of the Local Authorities (Standing Orders) Regulations 1993.

Separate regulations will deal with compensation for staff.