

2003 No. 2715

TERMS AND CONDITIONS OF EMPLOYMENT

**The Transfer of Undertakings (Protection of Employment)
(Transfer to OFCOM) Regulations 2003**

Made - - - - - 22nd October 2003

Laid before Parliament 24th October 2003

Coming into force - - 1st December 2003

The Secretary of State, in exercise of the powers conferred upon her by section 38 of the Employment Relations Act 1999^(a) hereby makes the following Regulations:

Citation, commencement, interpretation and extent

1.—(1) These Regulations may be cited as the Transfer of Undertakings (Protection of Employment) (Transfer to OFCOM) Regulations 2003 and shall come into force on 1st December 2003.

(2) In these Regulations—

“appointed day” means the day appointed for the purposes of section 2(1) of the 2003 Act;

“OFCOM related duties” means duties carried out by a person in employment where the duties of his employment consist of or include the doing of anything for purposes connected with the functions of the Secretary of State or a pre-commencement regulator—

(a) which will be transferred to OFCOM by the 2003 Act or

(b) which, on the appointed day, will be replaced by functions of OFCOM under the 2003 Act;

“pre-commencement regulator” and “OFCOM” have the same meaning as they do in the 2003 Act;

“the 1981 Regulations” means the Transfer of Undertakings (Protection of Employment) Regulations 1981^(b);

“the 2003 Act” means the Communications Act 2003^(c).

Treatment of Transferred Employees

2.—(1) These Regulations apply to—

(a) a person who is in employment with the Crown carrying out OFCOM related duties on the appointed day, and

(b) any other person who is in employment with a pre-commencement regulator on the appointed day.

(a) 1999 c. 26.

(b) S.I. 1981/1794, amended by section 33 of the Trade Union Reform and Employment Rights Act 1993 c. 19, S.I. 1987/442 and S.I. 1995/2587.

(c) 2003 c. 21.

(2) The persons to whom these Regulations apply shall be treated as from the appointed day in the same way as an employee in circumstances where the 1981 Regulations apply.

(3) For the purposes of these Regulations, the pre-commencement regulator or the Crown shall be treated as transferor and OFCOM shall be treated as the transferee.

Stephen Timms,
Minister of State for Energy, E-Commerce and Postal Services,
Department of Trade and Industry

22nd October 2003

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations concern the transfer of those in employment with the Broadcasting Standards Commission, the Independent Television Commission, the Radio Authority, the Radiocommunications Agency and the Director General of Telecommunications when their functions are transferred to the Office of Communications under the Communications Act 2003. The effect of these Regulations is to provide those transferring with the same protections afforded to employees by the Transfer of Undertakings (Protection of Employment) Regulations 1981 in circumstances to which those Regulations apply.

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