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STATUTORY INSTRUMENTS

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**2021 No. 1353**

**The Transfer of Undertakings (Protection of Employment) (Transfer of Staff to the Office for Environmental Protection) Regulations 2021**

**Transfer of employment**

3.—(1) Subject to paragraph (6), any person to whom these Regulations apply is on the transfer date transferred to the employment of the OEP.

(2) The contract of employment of a person whose employment has transferred to the OEP under paragraph (1)—

(a) is not terminated by the transfer; and

(b) has effect from the transfer date as if originally made between that person and the OEP.

(3) All the rights, powers, duties and liabilities of DEFRA under, or in connection with, the contract of employment of any person whose employment transfers to the OEP under paragraph (1), are transferred to the OEP on the transfer date.

(4) Any act or omission before the transfer date of, or in relation to, DEFRA, in respect of that person or that person's contract of employment is on and after the transfer date deemed to have been an act or omission of, or in relation to, the OEP.

(5) Paragraphs (3) and (4) do not transfer, or otherwise affect, the liability of any person to be prosecuted for, convicted of or sentenced for any offence.

(6) Paragraph (1) does not operate to transfer the contract of employment of a person to whom these Regulations apply, or any rights, powers, duties and liabilities under or in connection with that contract, if, before the transfer date, the person informs DEFRA that they object to becoming employed by the OEP.

(7) Where a person to whom these Regulations apply has objected as described in paragraph (6), the transfer operates so as to terminate that person's contract of employment with DEFRA.

(8) Subject to paragraph (9), a person whose contract of employment is terminated in accordance with paragraph (7) is not to be treated, for any purpose, as having been dismissed by DEFRA.

(9) Where the transfer involves or would involve a substantial change in working conditions to the material detriment of a person whose employment is or would have transferred under paragraph (1) —

(a) that person may treat the contract of employment as having been terminated; and

(b) that person is to be treated for any purpose as having been dismissed by their employer.

(10) No damages are to be payable by DEFRA or the OEP as a result of the dismissal falling within paragraph (9), in respect of any failure by DEFRA or the OEP to pay wages to a person in respect of a notice period which the person has failed to work.

(11) This regulation does not affect any right of a person arising apart from this regulation to terminate that person's contract of employment without notice in acceptance of a repudiatory breach of contract by that person's employer.