

2021 No. 595

TERMS AND CONDITIONS OF EMPLOYMENT

**The Transfer of Undertakings (Protection of Employment)
(Transfer of Staff to the Civil Aviation Authority) Regulations
2021**

<i>Made</i>	- - - -	<i>18th May 2021</i>
<i>Laid before Parliament</i>		<i>20th May 2021</i>
<i>Coming into force</i>	- -	<i>11th June 2021</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 38(1) of the Employment Relations Act 1999(a).

Citation, commencement, extent and interpretation

1.—(1) These Regulations may be cited as the Transfer of Undertakings (Protection of Employment) (Transfer of Staff to the Civil Aviation Authority) Regulations 2021.

(2) These Regulations come into force on 11th June 2021.

(3) These Regulations extend to England and Wales and Scotland.

(4) In these Regulations—

“the CAA” means the Civil Aviation Authority(b);

“transfer date” means the date when regulations made under the Space Industry Act 2018(c) to appoint the CAA as regulator under that Act come into force.

Application of Regulations

2. These Regulations apply to any person who—

(a) immediately before the transfer date, is employed by the UK Space Agency(d) for the purpose of carrying out activities connected to regulatory functions provided for in any of the following—

(i) the Space Industry Act 2018 and regulations made under that Act (whether before or after the making of these Regulations);

(ii) sections 4(1) and (2), 5, 6, 7 and 8 of the Outer Space Act 1986(e), and

(b) before the date when these Regulations come into force, has been notified by the UK Space Agency that they are transferring to the employment of the CAA.

(a) 1999 c. 26. Section 38 was amended by S.I. 2019/536; there is another amending instrument which is not relevant. The terms used in section 38(1) are defined in section 38(2).

(b) The Civil Aviation Authority is a body corporate established under section 2 of the Civil Aviation Act 1982 (c. 16).

(c) 2018 c. 5.

(d) The UK Space Agency is an executive agency of the Department for Business, Energy and Industrial Strategy.

(e) 1986 c. 38.

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 CAA.

(2) The contract of employment of a person whose employment has transferred to the CAA 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(b) has effect from the transfer date as if originally made between that person and the CAA.

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

(4) Any act or omission before the transfer date of, or in relation to, the UK Space Agency, 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 CAA.

(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 the UK Space Agency that they object to becoming employed by the CAA.

(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 the UK Space Agency.

(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 the UK Space Agency.

(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 the CAA.

(10) No damages are to be payable by the UK Space Agency or the CAA as a result of a dismissal falling within paragraph (9), in respect of any failure by the UK Space Agency or the CAA 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.

Pensions

4.—(1) A person whose contract of employment is transferred by regulation 3 is to be treated as if regulation 10 of the TUPE Regulations (pensions) applied in relation to that transfer, with the modification that for the reference to regulations 4 and 5 of the TUPE Regulations there were substituted a reference to regulation 3 of these Regulations.

(2) For the purposes of this regulation, "the TUPE Regulations" means the Transfer of Undertakings (Protection of Employment) Regulations 2006(a).

(a) S.I. 2006/246, as amended by S.I. 2014/16; there are other amending instruments but none is relevant.

18th May 2021

Amanda Solloway
Parliamentary Under Secretary of State
Department for Business, Energy and Industrial Strategy

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations concern the transfer of staff who are employed for the purpose of carrying out activities connected with the performance of functions under the Space Industry Act 2018 (c. 5), regulations made under that Act, and various provisions of the Outer Space Act 1986. The employment of the staff concerned is transferred from the UK Space Agency to the Civil Aviation Authority from the transfer date, as defined in regulation 1(4).

These Regulations provide for employment protection similar to that provided by certain provisions of the Transfer of Undertakings (Protection of Employment) Regulations 2006 (“the TUPE Regulations”).

Regulation 2 specifies the persons to whom these Regulations apply.

Regulation 3 provides for the effect of the transfer on the contracts of employment of those to whom the Regulations apply. It makes similar provision to that contained in paragraphs (1), (2), and (6) to (11) of regulation 4 of the TUPE Regulations.

Regulation 4 applies the provisions of regulation 10 of the TUPE Regulations in relation to pensions, so as to exclude certain rights and liabilities in relation to occupational pension schemes.

A full impact assessment has not been produced for this instrument, as no significant impact on the private or voluntary sectors is foreseen. An Explanatory Memorandum has been published alongside these Regulations on www.legislation.gov.uk.

© Crown copyright 2021

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Jeff James, Controller of Her Majesty’s Stationery Office and Queen’s Printer of Acts of Parliament.

£4.90

<http://www.legislation.gov.uk/id/uksi/2021/595>

ISBN 978-0-34-822375-0



9 780348 223750