
STATUTORY INSTRUMENTS

2022 No. 1012

The Transfer of Undertakings (Protection of Employment) (Transfer of Staff to the Scottish Courts and Tribunals Service) Regulations 2022

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 Transferee.

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- (b) has effect from the transfer date as if originally made between that person and the Transferee.

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

(4) Any act or omission before the transfer date of, or in relation to, the Transferor, 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 Transferee.

(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 Transferor that they object to becoming employed by the Transferee.

(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 Transferor.

(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 Transferor or Transferee.

(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 their contract of employment as having been terminated, and
- (b) that person is to be treated for all purposes as having been dismissed by the Transferee.

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

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(11) This regulation does not affect any right of a person arising other than under 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.