



# Public Services Reform (Scotland) Act 2010 2010 asp 8

## PART 5

### SOCIAL CARE AND SOCIAL WORK: SCRUTINY AND IMPROVEMENT

#### CHAPTER 5

##### MISCELLANEOUS

#### **102      Transfer of staff etc.**

- (1) With effect from the date on which section 44 comes into force—
  - (a) any person employed by the Scottish Commission for the Regulation of Care immediately before that date is, subject to section 109, transferred into the employment of SCSWIS,
  - (b) all property (including rights) and liabilities of the Scottish Commission for the Regulation of Care subsisting immediately before that date are, subject to section 109, transferred to, and vest in, SCSWIS,
  - (c) subject to subsection (2), any person who is a member of staff of the Scottish Ministers employed in the Executive Agency of the Scottish Ministers known as the Social Work Inspection Agency immediately before that date is transferred into the employment of SCSWIS,
  - (d) any person to whom section 103 applies immediately before that date is transferred into the employment of SCSWIS.
- (2) Subsection (1)(c) does not apply to staff on secondment or loan to the Executive Agency of the Scottish Ministers known as the Social Work Inspection Agency from another part of the Scottish Administration.
- (3) The contract of employment of a person transferred by virtue of subsection (1)(a), (c) or (d)—
  - (a) is not terminated by the transfer, and

---

*Status: This is the original version (as it was originally enacted).*

---

- (b) has effect from the date of transfer as if originally made between the person and SCSWIS.
- (4) Without prejudice to subsection (3), where a person is transferred by virtue of subsection (1)(a), (c) or (d)—
- (a) all the rights, powers, duties and liabilities of the Scottish Commission for the Regulation of Care or, as the case may be, the Scottish Ministers, under or in connection with the person’s contract of employment are transferred to SCSWIS on the date of transfer, and
  - (b) anything done before that date by or in relation to the Scottish Commission for the Regulation of Care or, as the case may be, the Scottish Ministers, in respect of the person or the contract is to be treated from that date as having been done by or in relation to SCSWIS.
- (5) Subsections (1) to (4) do not affect any right of any person so transferred to terminate the person’s contract of employment if the terms and conditions of employment are changed substantially to the detriment of the person; but any such change is not to be taken to have occurred by reason only that the identity of the person’s employer changes by virtue of those subsections.