

2003 No. 153

NATIONAL HEALTH SERVICE

**The NHS Health Scotland (Transfer of Officers) Regulations
2003**

Made 6th March 2003

Laid before the Scottish Parliament 10th March 2003

Coming into Force 1st April 2003

The Scottish Ministers, in exercise of the powers conferred by sections 105(7) and 108(1) of, and paragraph 7B of Schedule 5 to, the National Health Service (Scotland) Act 1978(a) as read with article 5 of, and Part I of the Schedule to the Health Education Board for Scotland Order 1990(b), and of all other powers enabling them in that behalf, and after consultation, in accordance with paragraph 8B of Schedule 5 of the said Act of 1978(c), with such bodies and organisations as appear to them to be concerned, hereby make the following Regulations:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the NHS Health Scotland (Transfer of Officers) Regulations 2003 and shall come into force on 1st April 2003.

(2) In these Regulations—

“the Board” means NHS Health Scotland(d);

“contracts of employment” means those contracts of employment mentioned in regulation 2(2) below;

Transfer of Officers

2.—(1) All officers employed by the Agency and who are immediately before 1st April 2003 engaged in functions in relation to the provision of research and development services in the field of public health shall transfer to the Board on 1st April 2003.

(2) The contracts of employment between the officers transferred by paragraph (1) above and the Agency shall not be terminated but shall continue to have effect on and after that transfer as if originally made between such officers and the Board.

(a) 1978 c.29; section 105(7) was amended by the Health Services Act 1980 (c.53), Schedule 6, paragraph 5(1) and Schedule 7, the Health and Social Services and Social Security Adjudications Act 1983 (c.41), Schedule 9, paragraph 24, and the Health Act 1999 (c.8), Schedule 4, paragraph 60; section 108(1) contains a definition of “regulations” relevant to the exercise of the statutory powers under which these Regulations are made; paragraph 7B of Schedule 5 was inserted by the National Health Service and Community Care Act 1990 (c.19) (“the 1990 Act”) Schedule 5, paragraph 11. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

(b) S.I. 1990/2639, amended by the Health Education Board for Scotland Amendment Order 2003 (S.S.I. 2003/) (“the 2003 Order”).

(c) Paragraph 8B of Schedule 5 was inserted by the 1990 Act, Schedule 5, paragraph 12.

(d) Established by article 3 of the Health Education Board for Scotland Order 1990; article 3 was amended by article 4 of the 2003 Order.

- (3) Without prejudice to paragraph (1) above, on 1st April 2003–
- (a) all the rights, powers, duties and liabilities of the Agency under or in connection with the contracts of employment shall be transferred by virtue of this regulation to the Board;
 - (b) anything done before the transfer of officers in accordance with paragraph (1) above by or in relation to the Agency in respect of the contracts of employment, shall be deemed to have been done by or in relation to the Board; and
 - (c) any right or liability which was enforceable by or against the Agency in respect of the employment by them of any officer who is transferred to the Board by virtue of paragraph (1) above shall be enforceable by or against the Board.

St Andrew's House,
Edinburgh
6th March 2003

MALCOLM CHISHOLM
A member of the Scottish Executive

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide in regulation 2(1) for the transfer on 1st April 2003 of those persons employed by the Common Services Agency and who are immediately before 1st April 2003 engaged in functions in relation to the provision of research and development services in the field of public health, to NHS Health Scotland. NHS Health Scotland is the new name by which the Special Health Board previously known as the Health Education Board for Scotland is to be known with effect from 1st April 2003.

Regulation 2(2) and (3) provides that the contracts of employment so transferred shall be transferred with continuity of the contracts together with all rights and liabilities pertaining thereto.

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