



# National Health Service and Community Care Act 1990

## 1990 CHAPTER 19

### PART III

#### COMMUNITY CARE: ENGLAND AND WALES

##### *General provisions concerning community care services*

#### **49 Transfer of staff from health service to local authorities.**

- (1) In connection with arrangements relating to community care services made by virtue of this Part of this Act, the Secretary of State may make regulations with respect to the transfer to employment by a local authority of persons previously employed by a National Health Service body.
- (2) Regulations under this section may also make provision with respect to the return to employment by a National Health Service body of a person to whom the regulations previously applied on his transfer (whether from that or another National Health Service body) to employment by a local authority.
- (3) Without prejudice to the generality of subsections (1) and (2) above, regulations under this section may make provision with respect to—
  - (a) the terms on which a person is to be employed by a local authority or National Health Service body;
  - (b) the period and continuity of a person's employment for the purposes of [<sup>F1</sup>the Employment Rights Act 1996];
  - (c) superannuation benefits; and
  - (d) the circumstances in which, if a person declines an offer of employment made with a view to such a transfer or return as is referred to in subsection (1) or subsection (2) above and then ceases to be employed by a National Health Service body or local authority, he is not to be regarded as entitled to benefits in connection with redundancy.

**Changes to legislation:** National Health Service and Community Care Act 1990, Section 49 is up to date with all changes known to be in force on or before 02 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (4) In this section—
- (a) “local authority” and “community care services” have the same meaning as in section 46 above; and
  - (b) “National Health Service body” means a <sup>F2</sup>... <sup>F3</sup>... [<sup>F4</sup>Health Authority [<sup>F5</sup>, Local Health Board] or Special Health Authority] or a National Health Service trust.
- (5) Regulations under this section may make different provision with respect to different cases or descriptions of case, including different provision for different areas.

#### Textual Amendments

- F1** Words in s. 49(3)(b) substituted (22.8.1996) by 1996 c. 18, ss. 240, 243, **Sch. 1 para. 45(3)(b)** (with ss. 191-200, 202)
- F2** Words in s. 49(4)(b) omitted (1.4.2013) by virtue of **Health and Social Care Act 2012 (c. 7)**, s. 306(4), **Sch. 5 para. 60(a)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F3** Words in s. 49(4)(b) omitted (1.4.2013) by virtue of **Health and Social Care Act 2012 (c. 7)**, s. 306(4), **Sch. 5 para. 60(b)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F4** Words in s. 49(4)(b) substituted (1.4.1996 subject to s. 8 of the amending Act) by 1995 c. 17, s. 2(1) (3), **Sch. 1 Pt. II para. 82** (with Sch. 2 paras. 6, 16)
- F5** Words in s. 49(4)(b) inserted (10.10.2002 for W. and otherwise in force immediately before the **National Health Service Act 2006 (c. 41)** (which Act came into force on 1.3.2007 in accordance with s. 227(1) (subject to s. 277(2)-(5) of that Act))) by **National Health Service Reform and Health Care Profession Act 2002 (c. 17)**, ss. 6(2), 42(3), **Sch. 5 para. 34**; S.I. 2002/2532, art. 2, **Sch**; S.I. 2006/1407, art. 1(1), **Sch. 1**. Pt. 2 {para. 12(c)}

#### Commencement Information

- I1** S. 49 wholly in force at 10.12.1992 see s. 67(2) and S.I. 1992/2975, art. 2(1)(a).

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 4A(1)(c) and word added by [S.I. 2006/1056 Sch. para. 5\(a\)\(ii\)](#) (This amendment comes into force on the day on which 2005 asp 13, s. 20 comes into force, see art. 1(2)(b))