



Criminal Justice and Courts Services Act 2000

2000 CHAPTER 43

PART I

THE NEW SERVICES

CHAPTER III

GENERAL

Property and staff

18 Definitions

- (1) This section applies for the purposes of sections 19 to 21 and Schedule 3.
- (2) “Eligible employee” means—
 - (a) in relation to a local authority or the Official Solicitor or the Receiver for the Metropolitan Police District, a person who is employed under a contract of employment with the authority, the solicitor or the receiver on work which would have continued but for this Part,
 - (b) in relation to a probation committee, a person (other than a chief probation officer) who is employed under a contract of employment with the committee.
- (3) “New employer” means a local probation board or the Service.
- (4) “Old employer” means a local authority, a probation committee, the Official Solicitor or the Receiver for the Metropolitan Police District.
- (5) “Property” includes rights and interests of any description, other than—
 - (a) those under a contract of employment,
 - (b) land, in the case of transfers to a local board.

19 Property

- (1) The appropriate Minister may by order make a scheme—
 - (a) for the transfer to the Minister or the Service of any property belonging to the old employer,
 - (b) for the transfer to the Minister or the Service of any liabilities to which the old employer is subject,
 - (c) for the transfer of property or liabilities to a new employer after an initial transfer to the Minister under paragraph (a) or (b),
 - (d) for the Service to have any rights or interests which the Minister considers appropriate in relation to any property transferred to the Minister under the scheme.
- (2) Stamp duty is not chargeable in respect of any transfer or grant to the Service effected by virtue of this section.
- (3) No instrument made or executed under or in pursuance of the scheme for the purposes of such a transfer or grant is to be treated as duly stamped unless—
 - (a) it is stamped with the duty to which it would, but for this section, be liable, or
 - (b) it has, in accordance with the provisions of section 12 of the Stamp Act 1891, been stamped with a particular stamp denoting that it is not chargeable with any duty or that it has been duly stamped.
- (4) Schedule 3 (contents of schemes) applies in relation to a scheme under this section.

20 Transfer of staff

- (1) The appropriate Minister may by order make a scheme for the transfer to a new employer of any eligible employee.
- (2) A scheme may also provide for any persons who are employed as chief probation officer under a contract of employment with a probation committee to be appointed (under paragraphs 2 and 3 of Schedule 1) as chief officer of a local probation board.
- (3) A scheme may apply—
 - (a) to all, or any description of, eligible employees or persons so employed, or
 - (b) to any individual eligible employee or person so employed.
- (4) A scheme may be made only if any directions about consultation given by the appropriate Minister have been complied with in relation to each of the eligible employees and chief probation officers to be transferred or appointed in pursuance of the scheme.

21 Effect of transfer of eligible employees

- (1) The contract of employment of an employee transferred under a scheme—
 - (a) is not terminated by the transfer,
 - (b) has effect from the date of transfer as if originally made between the employee and the transferee.
- (2) Where an employee is transferred under a scheme—

- (a) all the rights, powers, duties and liabilities of the old employer under or in connection with the contract of employment are by virtue of this subsection transferred to the transferee on the date of transfer, and
- (b) anything done before that date by or in relation to the old employer in respect of that contract or the employee is to be treated from that date as having been done by or in relation to the transferee.

This subsection does not prejudice the generality of subsection (1).

- (3) But if the employee informs the old employer or the transferee that he objects to the transfer—

- (a) subsections (1) and (2) do not transfer his contract of employment, or the rights, powers, duties and liabilities under or in connection with it, and
- (b) the contract of employment is terminated immediately before the date of transfer.

- (4) An employee is not to be treated, for the purposes of the Employment Rights Act 1996, as having been dismissed by the old employer by reason of—

- (a) the transfer of his contract of employment under a scheme, or
- (b) the termination of his contract of employment by virtue of subsection (3).

- (5) Subject to subsection (4), where an employee's contract of employment with a probation committee is not transferred under a scheme, it is terminated immediately before the date on which the committee ceases to exist; and the employee is to be treated, for the purposes of the Employment Rights Act 1996, as having been dismissed by the committee.

- (6) This section does not prejudice any right of an employee to terminate his contract of employment if a substantial change is made to his detriment in his working conditions.

But no such right arises by reason only that, by virtue of this section, the identity of his employer changes unless the employee shows that, in all the circumstances, the change is a significant change and is to his detriment.

- (7) In this section—

“date of transfer” means the date of transfer determined under the scheme in relation to the employee,

“scheme” means a scheme made by virtue of section 20,

“transferee” means the new employer to whom the employee is or would be transferred under the scheme.

22 Effect of transfer of chief probation officers

- (1) This section applies where a scheme made by virtue of section 20 provides for a person who is employed as chief probation officer under a contract of employment with a probation committee to be appointed as chief officer of a local probation board.
- (2) The officer's period of employment with the committee counts as a period of employment in his Crown employment and the appointment does not break the continuity of that employment.
- (3) So far as it is consistent with appointment under paragraphs 2 and 3 of Schedule 1, the terms and conditions of the officer's contract of employment have effect on and after his appointment as if they were terms and conditions of his Crown employment.

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

- (4) Section 21(2) applies, with the necessary modifications, in relation to the officer as it applies in relation to an employee of a probation committee whose contract of employment is transferred to the local probation board.
- (5) The officer is not to be treated, for the purposes of the Employment Rights Act 1996, as having been dismissed by the probation committee by reason of his appointment.
- (6) But if the officer informs the probation committee or the Secretary of State that he objects to the appointment, subsections (2) to (5) do not apply.
- (7) Where the officer is not appointed as chief officer of a local probation board (whether because he objects to the appointment or for any other reason), his contract of employment is terminated immediately before the date on which the committee ceases to exist; and he is to be treated, for the purposes of the Employment Rights Act 1996, as having been dismissed by the committee.
- (8) In this section, “Crown employment” means the employment which the chief officer of a local probation board is to be treated as employed in, for the purposes of the Employment Rights Act 1996, by virtue of paragraph 3(5) of Schedule 1 to this Act.

23 Transfer of staff in consequence of arrangements under Part I

- (1) This section applies where, by reason of the implementation or termination of any arrangements under section 5, 8 or 13, any functions exercisable by any person (the “old employer”) become exercisable by another person (whether on behalf, or instead, of the old employer).
- (2) The appropriate Minister may by order make a scheme for the transfer to the other person (the “transferee”) of any person (an “eligible employee”) employed under a contract of employment with the transferor on work which would have continued but for the implementation or termination of the arrangements.
- (3) A scheme may apply—
 - (a) to all, or any description of, eligible employees, or
 - (b) to any individual eligible employee.
- (4) A scheme may be made only if any directions about consultation given by the appropriate Minister have been complied with in relation to each of the eligible employees to be transferred in pursuance of the scheme.
- (5) Section 21 (except subsection (5) and the definitions of “scheme” and “transferee”) applies to a scheme made by virtue of this section as it applies to a scheme made by virtue of section 20, and as if “old employer” and “transferee” had the same meanings as in this section.

Provision for the protection of children

24 Provision for the protection of children

- (1) The Protection of Children Act 1999 (“the 1999 Act”) shall have effect as if the Service were a child care organisation within the meaning of that Act.

- (2) Arrangements which the Service makes with an organisation under section 13(1) must provide that, before selecting an individual to be employed under the arrangements in a child care position, the organisation—
- (a) must ascertain whether the individual is included in any of the lists mentioned in section 7(1) of the 1999 Act, and
 - (b) if he is included in any of those lists, must not select him for that employment.
- (3) Such arrangements must provide that, if at any time the organisation has power to refer a relevant individual to the Secretary of State under section 2 of the 1999 Act (inclusion in list on reference following disciplinary action etc.), the organisation must so refer him.
- In this subsection, “relevant individual” means an individual who is or has been employed in a child care position under the arrangements.
- (4) In this section, “child care position” and “employment” have the same meanings as in the 1999 Act.

Interpretation

25 Interpretation of Part I

In this Part—

- “appropriate Minister” means the Lord Chancellor or the Secretary of State,
- “approved premises” means premises approved under section 9,
- “by virtue of” includes by or under,
- “organisation” includes a public body and a private or voluntary organisation,
- “prescribed” means prescribed by regulations,
- “regulations” means—
 - (a) in relation to Chapter I, regulations made by the Secretary of State,
 - (b) in relation to Chapter II, regulations made by the Lord Chancellor.