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STATUTORY INSTRUMENTS

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**1998 No. 449**

**LOCAL GOVERNMENT, ENGLAND AND WALES**

**The Kent County Council (Borough of Gillingham and City of Rochester upon Medway) (Staff Transfer) Order 1998**

*Made* - - - - 25th February 1998  
*Laid before Parliament* 4th March 1998  
*Coming into force* - - 1st April 1998

The Secretary of State, in exercise of his powers under sections 17(1) and 26(5)(b) of the Local Government Act 1992(1) and of all other powers enabling him in that behalf, hereby makes the following Order:

**Citation, commencement and application**

1.—(1) This Order may be cited as the Kent County Council (Borough of Gillingham and City of Rochester upon Medway) (Staff Transfer) Order 1998 and shall come into force on 1st April 1998.

(2) This Order makes provisions which are consequential on or supplementary to, the Kent (Borough of Gillingham and City of Rochester upon Medway) (Structural Change) Order 1996(2).

**Interpretation**

2. In this Order—

“contract of employment” means a contract under which a person works for another person whether under a contract of service or apprenticeship or otherwise but does not include a contract for services;

“designated list” means the list marked “The Kent County Council (Borough of Gillingham and City of Rochester upon Medway) (Staff Transfer) Order 1998 Designated List” which is signed by the Secretary of State for the Environment, one copy of which is deposited with the Gillingham Borough Council, one copy with the City of Rochester upon Medway Council, one copy with the Kent County Council and one in the offices of the Secretary of State for the Environment, Transport and the Regions;

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(1) 1992 c. 19.

(2) S.I.1996/1876. This Order gave effect (with modifications) to a Report of the Local Government Commission for England submitted in December 1995.

“employee” means a person employed under a contract of employment including a person employed under a fixed term contract the expiry date for which is after 31st March 1998, but does not include a person whose employment is on a temporary basis and who on 31st March 1998 has had a continuous period of employment (when calculated in accordance with sections 210 to 219 of the Employment Rights Act 1996<sup>(3)</sup>) of less than two years.

### **Transfer of Staff**

3.—(1) This article shall apply to any employee (a “designated employee”)—

- (a) who immediately before 1st April 1998 (“the reorganisation date”) is employed either by the Kent County Council, or the Gillingham Borough Council or the City of Rochester upon Medway Council;
- (b) whose employment would continue but for the transfer of functions to the Medway Towns District Council and the abolition of the Councils of Gillingham Borough and City of Rochester upon Medway; and
- (c) whose name is mentioned, or who falls within a class or description of employees which is mentioned, in the designated list.

(2) The contract of employment of a designated employee shall not be terminated on the reorganisation date but shall have effect—

- (a) in the case of an employee whose name is mentioned in, or who falls within a class or description of employees mentioned in any section of Part I, Part II or Part III of the designated list, as if originally made between that employee and the Medway Towns District Council;

(3) This article is without prejudice to any provision of the Transfer of Undertakings (Protection of Employment) Regulations 1981<sup>(4)</sup>.

Signed by authority of the Secretary of State

*Hilary Armstrong*  
Minister of State,  
Department of the Environment, Transport and  
the Regions

25th February 1998

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<sup>(3)</sup> 1996 c. 18.

<sup>(4)</sup> S.I. 1981/1974 as amended by section 33 of the Trade Union Reform and Employment Rights Act 1993 c. 19.

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order is supplemental to the Kent (Borough of Gillingham and City of Rochester upon Medway) (Structural Change) Order 1996 which alters the structure of local government in the county of Kent. This Order provides for the employment of staff employed by the Kent County Council to be transferred to the Medway Towns District Council. It also provides for the employment of staff of the former boroughs of Gillingham and City of Rochester to be transferred to the new District of the Medway Towns.

This Order refers to a designated list of employees and a copy of the list may be inspected at any of the offices of the councils referred to and at the office of the Secretary of State for the Environment, Transport and the Regions, Eland House, Bressenden Place, London SW1E 5DU.