



# Public Bodies (Joint Working) (Scotland) Act 2014

## 2014 asp 9

### PART 1

#### FUNCTIONS OF LOCAL AUTHORITIES AND HEALTH BOARDS

##### *Implementation of integration scheme*

#### **21 Transfer of staff: effect on contract of employment**

- (1) This section applies where by virtue of section 12(4), 16(1) or 48(3) a person is to be transferred from the employment of one person (“the original employer”) to another (“the new employer”).
- (2) If, before the day of the transfer, the person informs the original employer that the person does not wish to become an employee of the new employer, the person’s contract of employment is terminated on the day before the day of the transfer.
- (3) Otherwise—
  - (a) the contract of employment between the person and the original employer has effect on and after the day of the transfer as if originally made between the person and the new employer,
  - (b) the rights, powers, duties and liabilities of the original employer under or in connection with the contract of employment are by virtue of this section transferred to the new employer on the day of the transfer, and
  - (c) anything done before the day of the transfer by or in relation to the original employer in respect of the contract of employment or the person is to be treated on and after that day as having been done by or in relation to the new employer.
- (4) Nothing in subsection (3)—
  - (a) transfers to the new employer any liability for a share in any deficit in a pension scheme of the original employer that—
    - (i) is attributable to the person’s membership of the scheme, and
    - (ii) accrued before the day of the transfer, or

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*Status: This is the original version (as it was originally enacted).*

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- (b) transfers to the new employer any right in respect of a share in any surplus in such a pension scheme that is so attributable and that so accrued.
- (5) A person is not to be treated for any purpose as being dismissed by reason of the operation of any provision of this section in relation to the person.
- (6) Nothing in this section affects any right of a person to terminate the person's contract of employment if a substantial detrimental change in the person's working conditions is made.
- (7) No such right arises by reason only that, by virtue of this section, the identity of the person's employer changes.