



National Health Service and Community Care Act 1990

1990 CHAPTER 19

PART I

THE NATIONAL HEALTH SERVICE: ENGLAND AND WALES

National Health Service trusts

6 Transfer of staff to NHS trusts

- (1) Subject to subsection (5) below, this section applies to any person who, immediately before an NHS trust's operational date—
 - (a) is employed by a health authority to work solely at, or for the purposes of, a hospital or other establishment or facility which is to become the responsibility of the trust; or
 - (b) is employed by a health authority to work at, or for the purposes of, such a hospital, establishment or facility and is designated for the purposes of this section by a scheme made by the health authority specified as mentioned in paragraph 3(1)(f) of Schedule 2 to this Act.
- (2) A scheme under this section shall not have effect unless approved by the Secretary of State.
- (3) Subject to section 7 below, the contract of employment between a person to whom this section applies and the health authority by whom he is employed shall have effect from the operational date as if originally made between him and the NHS trust.
- (4) Without prejudice to subsection (3) above—
 - (a) all the health authority's rights, powers, duties and liabilities under or in connection with a contract to which that subsection applies shall by virtue of this section be transferred to the NHS trust on its operational date; and

Status: This is the original version (as it was originally enacted).

- (b) anything done before that date by or in relation to the health authority in respect of that contract or the employee shall be deemed from that date to have been done by or in relation to the NHS trust.
- (5) In any case where—
 - (a) an order under section 5(1) above provides for the establishment of an NHS trust with effect from a date earlier than the operational date of the trust, and
 - (b) on or after that earlier date but before its operational date the NHS trust makes an offer of employment by the trust to a person who at that time is employed by a health authority to work (whether solely or otherwise) at, or for the purposes of, the hospital or other establishment or facility which is to become the responsibility of the trust, and
 - (c) as a result of the acceptance of the offer, the person to whom it was made becomes an employee of the NHS trust,

subsections (3) and (4) above shall have effect in relation to that person's contract of employment as if he were a person to whom this section applies and any reference in those subsections to the operational date of the trust were a reference to the date on which he takes up employment with the trust.
- (6) Subsections (3) and (4) above are without prejudice to 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 shall arise by reason only of the change in employer effected by this section.
- (7) A scheme under this section may designate a person either individually or as a member of a class or description of employees.