
STATUTORY INSTRUMENTS

2013 No. 235

**The National Treatment Agency (Abolition) and the
Health and Social Care Act 2012 (Consequential,
Transitional and Saving Provisions) Order 2013**

PART 2

Abolition of the National Treatment Agency

Transfer of staff to the Secretary of State

- 4.—(1) This paragraph applies in relation to any person who—
- (a) is employed by the Agency immediately before the transfer date; and
 - (b) has been notified in writing by the Agency prior to the transfer date that they are to be transferred to the employment of the Secretary of State.
- (2) Any person to whom paragraph (1) applies is, on the transfer date, transferred to the employment of the Secretary of State.
- (3) The contract of employment of a person whose employment transfers to the Secretary of State under paragraph (2)—
- (a) is not terminated by that transfer; and
 - (b) has effect on and after the transfer date as if originally made between that person and the Secretary of State.
- (4) Without prejudice to paragraph (3)—
- (a) all the rights, powers, duties and liabilities of the Agency under or in connection with the contract of employment of any person whose employment transfers to the Secretary of State under paragraph (2), are transferred to the Secretary of State; and
 - (b) any act or omission before the transfer date by, or in relation to, the Agency, in respect of that person or that person's contract of employment, is deemed to have been an act or omission of, or in relation to, the Secretary of State.
- (5) Paragraphs (2) to (4) do not operate to transfer the contract of employment of a person to whom paragraph (1) applies, or any rights, powers, duties and liabilities under or in connection with that contract, if, before the transfer date, the person informs the Agency that they object to becoming employed by the Secretary of State.
- (6) Where a person to whom paragraph (1) applies has objected to the transfer of that person's contract of employment as described in paragraph (5), the transfer operates so as to terminate that person's contract of employment with the Agency.
- (7) Subject to paragraph (8), a person whose contract of employment is terminated in accordance with paragraph (6) is not to be treated, for any purpose, as having been dismissed by the Agency.
- (8) Where the transfer involves or would involve a substantial change in working conditions to the material detriment of a person whose employment is or would have transferred under paragraph (2),

Changes to legislation: There are currently no known outstanding effects for the The National Treatment Agency (Abolition) and the Health and Social Care Act 2012 (Consequential, Transitional and Saving Provisions) Order 2013, Section 4. (See end of Document for details)

that person may treat the contract of employment as having been terminated, and that person is to be treated for any purpose as having been dismissed.

(9) No damages are payable by the employer as a result of a dismissal falling within paragraph (8) in respect of any failure by the employer to pay wages to a person in respect of a notice period which the person has failed to work.

(10) Paragraphs (2), (3) and (5) to (8) are without prejudice to any right of a person arising apart from this article to terminate that person's contract of employment without notice in acceptance of a repudiatory breach of contract by the employer.

Changes to legislation:

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