
STATUTORY INSTRUMENTS

1996 No. 1023

TERMS AND CONDITIONS OF EMPLOYMENT

The Employment Protection (Continuity of Employment of National Health Service Employees) (Modification) Order 1996

Made - - - - *29th March 1996*
Coming into force - - *1st April 1996*

In exercise of the powers conferred on me by sections 149(1)(b) and 154(3) of the Employment Protection (Consolidation) Act 1978⁽¹⁾ and of all other powers enabling me in that behalf, I hereby make the following Order, a draft of which has been laid before, and approved by resolution of, each House of Parliament:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Employment Protection (Continuity of Employment of National Health Service Employees) (Modification) Order 1996 and shall come into force on 1st April 1996.

(2) In this Order—

- (a) “relevant employment” is employment by a health service employer as a medical practitioner or dental practitioner in the grade of Registrar, Senior Registrar, Specialist Registrar, Registrar (Public Health), Senior Registrar (Public Health) or Specialist Registrar (Public Health) while undergoing professional training which involves that person being employed successively by a number of different health service employers;
- (b) “health service employers” are—
 - (i) a Health Board and Special Health Board established under section 2 of the National Health Service (Scotland) Act 1978⁽²⁾;
 - (ii) the Common Services Agency established under section 10 of the National Health Service (Scotland) Act 1978;
 - (iii) a National Health Service trust established under section 12A of the National Health Service (Scotland) Act 1978⁽³⁾;
 - (iv) the Scottish Dental Practice Board;

⁽¹⁾ 1978 c. 44.

⁽²⁾ Section 2 was amended by the National Health Service and Community Care Act 1990 (c. 19) (“the 1990 Act”), section 28.

⁽³⁾ Section 12A was inserted by the 1990 Act, section 31.

- (v) a Health Authority established under section 8 of the National Health Service Act 1977(4);
 - (vi) a Special Health Authority established under section 11 of that Act(5);
 - (vii) a National Health Service trust established under section 5 of the National Health Service and Community Care Act 1990;
 - (viii) the Dental Practice Board;
 - (ix) the Public Health Laboratory Service Board;
 - (x) a NHS Trust established under section 11 of the Health and Personal Social Services (Northern Ireland) Order 1991(6); and
 - (xi) a Health Board established under section 16 of the Health and Personal Social Services (Northern Ireland) Order 1972(7);
- (c) the “1978 Act” means the Employment Protection (Consolidation) Act 1978.

Persons prescribed by this Order

2. The persons prescribed by this Order are those who are employed in relevant employment.

Application of provisions of the 1978 Act to prescribed persons

3. In their application to a prescribed person, sections 20(1) and (2), 31(2), 39(1), 49(1) to (4A), 53(2) and 64(1) and (2) of the 1978 Act(8) shall have effect subject to the modification specified in article 4 below.

Modification of provisions

4. The modification referred to in article 3 is as follows:—

If a prescribed person employed in relevant employment by a health service employer is taken into relevant employment by another such employer, his period of employment at the time of the change of employer shall count as a period of employment with the second-mentioned employer and the change of employer shall not break the continuity of the period of employment.

Transitional, supplementary and incidental provisions

5.—(1) Any reference to the 1978 Act in any enactment shall have effect as a reference to that Act as modified by this Order in relation to persons to whom this Order applies.

(2) Any reference to an enactment which is, whether specifically or by means of a general description, modified by any provision of this Order shall, except so far as the context otherwise requires, be construed as referring, or as including a reference, to that provision as so modified.

(3) Subject to paragraph (4) this Order has effect in relation to any period of employment whether falling wholly or partly before or after its coming into force.

(4) Section 8 was substituted by the Health Authorities Act 1995 (c. 17) (“the 1995 Act”), section 1.

(5) Section 11 was amended by the 1990 Act, section 66(2) and Schedule 10 and by the 1995 Act, Schedule 1, paragraph 2.

(6) S.I. 1991/194 (NI 1).

(7) S.I. 1972/1265 (NI 14).

(8) Section 20(1) and (2) was inserted by the Employment Act 1982 (c. 46) (the “1982 Act”), section 20 and Schedule 2, paragraph 2; section 39(1) was substituted by the Trade Union Reform and Employment Rights Act 1993 (c. 19), section 23 and Schedule 2; section 49(1) was amended and subsection (4A) inserted by the 1982 Act, section 20 and Schedule 2, paragraph 3; section 53(2) was amended by the 1982 Act, section 20 and Schedule 2, paragraph 4, and by the Employment Act 1989 (c. 38), section 15(1); section 64(1) was amended by S.I. 1985/782, article 5, the Sex Discrimination Act 1986 (c. 59), section 3(1) and by the Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52), section 300(1) and Schedule 1; section 64(2) was amended by S.I. 1985/782, article 5.

(4) In the application of the modification set out in article 4 of this Order to any period of relevant employment occurring wholly before the date of coming into force of this Order, the modifications will not apply to any such period except where the prescribed person has been taken into relevant employment by another health service employer immediately upon the termination of the period of relevant employment first referred to, and where the period of relevant employment second referred to continues after that date.

St Andrew's House,
Edinburgh
29th March 1996

James Douglas-Hamilton
Minister of State, The Scottish Office

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Order)

The Order provides that a doctor or dentist in the training grades of registrar, senior registrar or specialist registrar will have his or her employment with a health service employer treated as being continuous for the purposes of the Employment Protection (Consolidation) Act 1978 when he or she has moved to a different health service employer.