STATUTORY INSTRUMENTS

1974 No. 318

NATIONAL HEALTH SERVICE, ENGLAND AND WALES

The National Health Service (Transfer of Social Services Staff) Order 1974

Made - - -	*28th February* 1974
Laid before Parliament	*7th March* 1974
Coming into Operation	*8th March* 1974

The Secretary of State for Social Services, after consulting with respect to the Order such bodies as he recognises as representing persons who in his opinion are likely to be transferred or affected by transfers in pursuance of the Order in exercise of his powers under section 18(4) and section 19(2) and (4) of the National Health Service Reorganisation Act 1973(**a**) and of all other powers enabling him in that behalf, hereby makes the following Order:—

PART I
GENERAL

Citation and commencement

1. This Order may be cited as the National Health Service (Transfer of Social Services Staff) Order 1974 and shall come into operation on 8th March 1974.

Interpretation

2.—(1) In this Order unless the context otherwise requires—

"the Act" means the National Health Service Reorganisation Act 1973;

"local authority" means a local authority for the purposes of the Local Authority Social Services Act 1970(**b**);

"relevant staff" has the meaning assigned to it by section 18(7) of the Act, that is to say persons of any of the following categories, namely, medical practitioners, persons registered or enrolled within the meaning of the Nurses Act 1957(**c**) and persons registered by a board in respect of a profession in pursuance of the Professions Supplementary to Medicine Act 1960(**d**);

"social worker" means a person who comes within the description of a class of officers whose grades are described as Principal Social Workers, Senior Social Workers, Social Workers or Social Work Assistants in PTA Circular No. 166 issued in February 1973 by the Professional and Technical Council "A" of the Whitley Councils for the Health Services (Great Britain).

(2) The rules for the construction of an Act of Parliament contained in the Interpretation Act 1889(**e**) shall apply for the purposes of the interpretation

(**a**) 1973 c. 32.
(**b**) 1970 c. 42.
(**c**) 1957 c. 15.
(**d**) 1960 c. 66.
(**e**) 1889 c. 63.

of this Order as they apply for the purposes of the interpretation of an Act of Parliament.

PART II

TRANSFER TO EMPLOYMENT OF LOCAL AUTHORITIES

Transfer of Social Workers to employment of local authorities

3.—(1) This article applies to a social worker who immediately before 1st April 1974 is employed by a Regional Hospital Board or Board of Governors wholly or mainly for the purposes of functions which stand referred to social services committees by virtue of section 2 of the Local Authority Social Services Act 1970.

(2) Subject to the following paragraphs of this article any such social worker shall on 1st April 1974 be transferred to the employment of the local authority in the area of which is situated the place or places at which that person was wholly or mainly engaged immediately before 1st April 1974, and notice of such transfer shall be served on him as soon as practicable.

(3) If before 1st April 1974 the Board by which a social worker is employed after consultation with—

(*a*) that social worker,

(*b*) that local authority referred to in paragraph (2) above, and

(*c*) some other local authority,

considers that it would be in the interests of the more effective exercise of the functions referred to in paragraph (1) above that the social worker should be transferred to the employment of that other local authority, the Board shall give notice to the social worker concerned that he will be transferred to the employment of that other local authority and, subject to any rights of appeal or to make representations, such transfer shall take effect on 1st April 1974.

(4) If on or after 1st April 1974 the local authority to the employment of which a social worker has been transferred by virtue of paragraph (2) or (3) above, after consultation with—

(*a*) that social worker;

(*b*) some other local authority, and

(*c*) the Area Health Authority which controls and manages the place or places where the social worker is wholly or mainly engaged,

considers that it would be in the interests of the more effective exercise of the functions referred to in paragraph (1) above that the social worker should be transferred to the employment of that other local authority, they may serve a notice not later than 1st October 1974 on the social worker that he will be transferred to the employment of that other local authority on the expiration of one month beginning with the date of the notice and, subject to any rights of appeal or to make representations, such transfer shall take effect on the date specified in the notice.

PART III

TRANSFER TO EMPLOYMENT OF HEALTH AUTHORITIES

Transfer of officers to health authorities

4.—(1) Subject to paragraph (2) of this article there shall be transferred on 1st April 1974 to the employment of such Area Health Authority as is determined in accordance with article 5 of this order all relevant staff and speech therapists employed immediately before 1st April 1974 by a local authority wholly or mainly for the purposes of functions which stand referred to social services committees by virtue of section 2 of the Local Authority Social Services Act 1970.

(2) This article shall apply to an occupational therapist if and only if—

(*a*) he is employed wholly or mainly in providing occupational therapy services under medical supervision as treatment for persons who are receiving or have received medical treatment under the health service, or

(*b*) he is working without supervising or being supervised by another occupational therapist.

Health authorities to whom officers are to be transferred

5.—(1) Subject to the following paragraphs of this article, a person transferred by virtue of article 4 of this order shall be transferred to the employment of the Area Health Authority the area of which includes all or the largest part of the area of the local authority by whom he was employed immediately before 1st April 1974, and notice of such transfer shall be served on him as soon as practicable.

(2) If before 1st April 1974 the local authority by which an officer transferred by virtue of article 4 of this order is employed after consultation with—

(*a*) that officer,

(*b*) the Area Health Authority referred to in paragraph (1) of this article, and

(*c*) some other Area Health Authority,

considers that it would be in the interests of the more effective exercise of the functions of the officer that he should be transferred to the employment of that other Area Health Authority, the local authority shall give notice to that officer that he will be transferred to the employment of that other Area Health Authority and, subject to any rights of appeal or to make representations, such transfer shall take effect on 1st April 1974.

(3) If on or after 1st April 1974 the Area Health Authority to the employment of which an officer has been transferred by virtue of paragraph (2) or (3) above after consultation with—

(*a*) that officer,

(*b*) some other Area Health Authority, and

(*c*) the local authority within whose area the officer is wholly or mainly engaged,

considers that it would be in the interests of the more effective exercise of the functions of the officer that he should be transferred to the employment of that other Area Health Authority they may serve a notice not later than 1st October 1974 on that officer that he will be transferred to the employment of that other Area Health Authority on the expiration of one month beginning with the date of the notice, and, subject to any rights of appeal or to make representations, such transfer shall take effect on the date specified in the notice.

PART IV

MISCELLANEOUS

Notices to officers

6. Any notice served under this order on an officer shall contain particulars of any rights of appeal or representations available in relation to that notice to the officer to whom it is addressed.

Protection of interests of officers

7. Article 5 (Preservation of Training Arrangements), article 6 (Protection of Officers) and article 7 (Exception) of the National Health Service (Staff Transfer Schemes) Order 1974(**a**) shall have effect in relation to officers transferred by virtue of this order as they have effect in relation to officers transferred by or under that order.

Determination of questions and consideration of representations

8.—(1) If any question—

(*a*) whether an individual is a person liable to be transferred by virtue of section 18(4) of the Act,

(*b*) as to which authority is the authority to whose employment such a person is to be transferred,

(*c*) whether a person is or was employed in a particular capacity,

(*d*) whether a person is or was employed wholly or mainly for particular purposes,

is raised in relation to a person who immediately before 1st April 1974 was in the employment of a local authority, that question shall be determined in accordance with the arrangements set out in the Memorandum on Staff Appeals enclosed with Circular LGSC 15/73 (Local Government Staff Commission for England), LGSC(W) 12/73 (Local Government Staff Commission for Wales) dated 13th September 1973, as amended.

(2) If any such question is raised in relation to a person who immediately before 1st April 1974 was in the employment of a Regional Hospital Board or Board of Governors, that question shall be determined as if it were a question raised in relation to a person who was transterred under section 18(1) or (2) of the Act.

(**a**) S.I. 1974/35, (1974 I, p.109).

(3) If on or after 1st April 1974—

(*a*) any question is raised with respect to a notice of new terms and conditions of employment under section 19(2)(*a*) of the Act served on an officer, or

(*b*) representations are made by any person that he should be transferred to the employment of some other body to the employment of which he could be transferred in pursuance of this order,

then that officer may—

(i) if he is in the employment of a local authority, refer that question for determination in accordance with the Memorandum on Staff Appeals referred to in paragraph (1) above; or

(ii) if he is in the employment of an Area Health Authority, refer that question for determination in accordance with the arrangements made for determining questions arising under section 18(1) or (2) of the Act.

(4) If any representations are made by any person on the ground that he will suffer hardship, then—

(i) if at the time at which the representations are made the person concerned is an employee of a local authority, those representations shall be considered in accordance with the Memorandum on Staff Appeals referred to in paragraph (1) above; or

(ii) if at the time at which those representations are made the person concerned is an employee of a Regional Hospital Board, a Board of Governors or an Area Health Authority, those representations shall be dealt with in accordance with arrangements made for dealing with representations in respect of persons transferred under section 18(1) or (2) of the Act.

Savings

9. The provisions of this order are subject to any provisions—

(*a*) for the protection of the interests of officers;

(*b*) as to appeals or representations by officers, and

(*c*) as to the second transfer of officers,

which may be contained in any other order made under sections 18 or 19 of the Act or regulations made under paragraph 10(2) of Schedule 1 to the Act.

Keith Joseph,

Secretary of State for Social Services.

28th February 1974.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order—

(*a*) transfers NHS hospital social workers to the employment of local authorities for the purposes of the Local Authority Social Services Act 1970, and

(*b*) transfers certain categories of persons employed by such local authorities to the employment of new health authorities.

The circular mentioned in article 2(1) may be obtained from Committee B., P.T.A. Whitley Council, No. 1, Alexander Fleming House, Elephant and Castle, London, S.E.1.

The memorandum on Staff Appeals mentioned in article 8(1) may be obtained from the Local Government Staff Commission for England, 20, Grosvenor Hill, London, W.1, or the Local Government Staff Commission for Wales, Pearl Assurance House, Greyfriars Road, Cardiff.

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