1975 No. 800 (S.134)

LOCAL GOVERNMENT, SCOTLAND

The Local Authorities (Transfer of Social Work Staff from Health Boards) (Scotland) Order 1975

Made - - - -	*9th May* 1975
Laid before Parliament	*15th May* 1975
Coming into Operation	*16th May* 1975

In exercise of the powers conferred on me by section 34 of the Local Government (Scotland) Act 1975(a), and of all other powers enabling me in that behalf, I hereby make the following order:-

Title and commencement

1. This order may be cited as the Local Authorities (Transfer of Social Work Staff from Health Boards) (Scotland) Order 1975 and shall come into operation on 16th May 1975.

Interpretation

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

"Appeals Memorandum" means the Memorandum on Staff Appeals appended to the Scottish Local Government Staff Commission Circular 7/75 dated 13th February 1975;

"Health Board" means a board constituted under section 13 of the National Health Service (Scotland) Act 1972(b);

"local authority" means a regional or islands council;

"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);

"Staff Appeals Tribunal" means a staff appeals tribunal set up in accordance with the arrangements described in the Appeals Memorandum.

(2) In this order any reference to an article shall be construed as a reference to an article contained in this order; and any reference in an article to a paragraph shall be construed as a reference to a paragraph of that article.

(3) In this order a reference to any enactment shall be construed as a reference to that enactment as amended extended or applied by any subsequent enactment.

(4) The Interpretation Act 1889(c) shall apply for the interpretation of this order as it applies for the interpretation of an Act of Parliament.

(a) 1975 c. 30. (b) 1972 c. 58. (c) 1889 c. 63.

Transfer of social workers to employment of local authorities

3.—(1) Any person who immediately before 16th May 1975 was employed wholly or mainly, whether whole time or part time, as a social worker by a Health Board shall on that date 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 such transfer, and a statement of such transfer shall be issued to him by the Health Board as soon as practicable.

(2) Where any person was on 15th May 1975 absent from his normal duties for the purpose of undergoing training, paragraph (1) shall apply—

(*a*) if it was part of the arrangements under which he was so absent that at the completion of such training he should be transferred to employment different to that in which he was engaged immediately prior to the commencement of the training, as if he was, on 15th May 1975, so employed; or

(*b*) in the absence of such arrangements, as if he was on 15th May 1975 in the employment in which he was engaged immediately prior to the commencement of such training.

(3) If on or after 16th May 1975 the local authority to the employment of which a social worker has been transferred by virtue of paragraph (1), after consultation with—

(*a*) that social worker;

(*b*) some other local authority, and

(*c*) the Health Board 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 provision of social work services that the social worker should be transferred to the employment of that other local authority, they may issue a statement not later than 16th November 1975 to that social worker stating 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 statement and, subject to any rights of appeal, such transfer shall take effect on the date specified in the statement.

Protection of social workers transferred

4.—(1) While any person transferred by virtue of Article 3 to the employment of a local authority is in the employment of that authority and has not been issued with a statement in writing stating that it is issued for the purposes of section 34(3) of the Local Government (Scotland) Act 1975 and specifying such new terms and conditions of employment as are mentioned in the following paragraph, the scale of his remuneration and, taken as a whole, the other terms and conditions of his employment by that authority shall be not less favourable to him than were immediately before the transfer those of the employment with the Health Board from which the transfer was made.

(2) Any such new terms and conditions shall be such that—

(*a*) so long as he is engaged in duties reasonably comparable to the duties in which immediately before the transfer he was engaged in the employment with the Health Board, the scale of his remuneration and, taken as a whole, the other terms and conditions of his employment by the authority to whose employment he has been transferred shall be not less favourable to him than were, immediately before the transfer, those of the employment with the Health Board, and

(*b*) so long as he is engaged in duties not so comparable, the terms and conditions of his employment by the authority to whose employment he has been transferred (excluding terms as to remuneration) shall be, taken as a whole, not less favourable to him than were, immediately before the transfer, those of the employment with the Health Board.

(3) For the purposes of—

(*a*) Part I of the Redundancy Payment Act 1965(**a**);

(*b*) Part I of the Contracts of Employment Act 1972(**b**);

(*c*) the Trade Union and Labour Relations Act 1974(**c**)

the employments from which and to which a social worker is transferred by virtue of Article 3 shall be treated as one continuous employment.

(4) A statement such as is referred to in paragraph (1) specifying new terms and conditions of employment shall not be issued—

(*a*) to any person who has appealed on grounds of hardship to a Staff Appeals Tribunal—

(i) if his appeal is allowed, until an alternative transfer or employment has been arranged; or if no alternative transfer or employment is arranged, until the expiration of three months from the determination of the Tribunal or 15th November 1975, whichever is the later;

(ii) in any other case, until the determination of the appeal has been notified;

(*b*) to a person to whom Article 3(2)(*a*) applies, unless such person otherwise agrees, until he has been in the employment therein referred to for one month.

(5) A statement such as is referred to in paragraph (1) specifying new terms and conditions of employment shall be issued before 16th May 1976 to every person transferred by virtue of Article 3.

(6) If after issue to him of a statement specifying new terms and conditions of employment a person appeals on grounds of hardship as aforesaid to a Staff Appeals Tribunal that statement shall cease to have effect, paragraph (1) shall have effect as if the statement had not been issued, and a new statement shall be issued only in accordance with paragraph (4)(*a*).

(7) Where between 16th May 1975 and the issue of a statement of new terms and conditions of employment to any person transferred by virtue of Article 3, the scale of the salary or remuneration which such person enjoyed immediately before 16th May 1975 is improved, paragraph (2) shall have effect as if the scale as improved had been so enjoyed.

(8) Where the new terms and conditions of employment involve a diminution of the scale of the salary or remuneration of a person they shall not come into effect until the date, not earlier than the expiration of 3 months from the issue of the statement thereof, specified in that statement.

(9) In this article "terms and conditions of employment" includes any restriction arising under any Act or any instrument made under any Act on the termination of the employment of any person.

(10) A written statement given in accordance with section 4(1) of the Contracts of Employment Act 1972 shall not be regarded as a statement of new terms and

(**a**) 1965 c. 62 (**b**) 1972 c. 53. (**c**) 1974 c. 52.

conditions of employment for the purposes of this article unless the statement so indicates.

Saving for training arrangements

5. Where any person transferred by virtue of Article 3 is undergoing training under arrangements which have not been discharged before 16th May 1975 those arrangements shall continue to apply with the substitution, for the Health Board in whose employment the person was prior to the commencement of the training, of the local authority to whose employment he has been transferred.

Saving for authorisations to vary

6. Any variation in remuneration or other conditions of service authorised by the Secretary of State under the National Health Service (Remuneration and Conditions of Service) (Scotland) Regulations 1974(a) in relation to any person transferred by virtue of Article 3 shall have effect for the purposes of determining, in accordance with Article 4, the remuneration and terms and conditions of employment of that person following transfer.

Commencing points on scales

7. Where, in relation to any person—

(*a*) on the scale of salary or remuneration applicable to him immediately before 16th May 1975 he would have become entitled to an increment on that date; and

(*b*) by reason of any appointment effective as from 16th May 1975 made by the local authority to whom he is transferred, any other scale of salary or remuneration becomes applicable to him as from that date,

any term of his employment as to his commencing point on such other scale shall be applicable as if his employment before, and on and after, the said date were continuous employment.

Appeals

8.—(1) Any person may appeal in respect of his transfer under Article 3 or in respect of any matter which relates to Article 4 (protection of social workers transferred) and any such appeal shall be determined in accordance with the arrangements set out in the Appeals Memorandum.

(2) Any statement issued under this order shall contain a reference to the order and a reference to this article, and copies of the Appeals Memorandum shall be made available to transferred persons by the local authority to whose employment they have been transferred.

William Ross,

One of Her Majesty's Principal Secretaries of State.

New St. Andrew's House,
Edinburgh.
9th May 1975.

(a) S.I. 1974/276 (1974 I, p.914)

EXPLANATORY NOTE

(This Note is not part of the Order.)

As from 16th May 1975 social work services in Scottish Health Service establishments will cease to be provided by Health Boards and will fall within the responsibility of regional and islands councils in exercise of their functions under the Social Work (Scotland) Act 1968 (1968 c.49). This Order makes provision for the transfer of social work staff from Health Board employment to the employment of regional and islands councils and includes provisions to protect the interests of staff so transferred.

Copies of the "Appeals Memorandum" referred to in the Order may be obtained from the Scottish Local Government Staff Commission, Croythorn House, 23 Ravelston Terrace, Edinburgh EH4 3TW.